

CASE STUDY

ECUADOR 2016–2018 / EARTHQUAKE

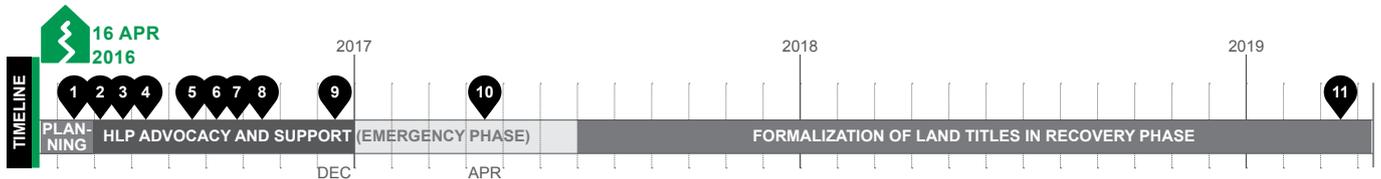
KEYWORDS: Advocacy, Security of tenure, HLP Rights, Coordination, Local authorities engagement

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| CRISIS | Ecuador Earthquake, 16 April 2016 |
| TOTAL PEOPLE AFFECTED | 386,985 individuals (on government register) |
| TOTAL HOUSES DAMAGED | 45,455 houses damaged or of restricted use |
| PROJECT LOCATIONS | Across the affected provinces of Manabí and Esmeraldas, plus concentrated activities in Pedernales and Jama municipalities |
| PROJECT BENEFICIARIES | Over 30,000 households were able to access reconstruction grants Over 5,000 households who received assistance from humanitarian partners were not disqualified from government subsidies |
| PROJECT OUTPUTS | Advocacy with the government and legal assistance to the Shelter Cluster, enabling affected people to receive shelter and housing support Around 420 families received land titles from the local authorities, as of March 2019 |



PROJECT SUMMARY

Housing Land and Property (HLP) rights were a primary area of concern during the humanitarian response to the earthquake in Ecuador in 2016. In recognition of this, the Protection and Shelter Clusters collaborated to set up an HLP Working Group in the early stages of the response. This group was able to identify potential barriers to assistance and managed to actively influence public policy in order to ensure that the humanitarian response and reconstruction process did not exclude the most vulnerable populations.



- 1 May 2016: The government releases its reconstruction plan. The HLP Working Group is set up jointly between the Shelter and Protection Clusters.
- 2 Jun 2016: First advocacy statement released.
- 3 Jun 2016: Adoption of Ministerial Agreement allowing those without legal titles to access reconstruction subsidies.
- 4 5 Jul 2016: HLP concept note published.
- 5 18 Jul 2016: Proposal of activities for regularization of land in rural zone released.
- 6 4 Aug 2016: Comments shared on the government housing recovery regulation for earthquake-affected communities.
- 7 Aug 2016: General guidelines and protocols for relocation processes distributed.
- 8 9 Sep 2016: Paper on the vulnerability criteria for the prioritization of assistance released.
- 9 Dec 2016: Regional training workshop conducted with representatives of humanitarian organizations, central and local government, and civil society.
- 10 Apr 2017: First legal land title delivered.
- 11 Mar 2019: Around 420 land titles delivered.

STRENGTHS

- + Wide impacts of the project which influenced government regulations.
- + Good collaboration between international and local actors.
- + Effective partnership between the Shelter and Protection Clusters.
- + Advocacy as a powerful tool in humanitarian response.
- + Dedicated HLP support for the shelter response.

WEAKNESSES

- Lack of buy-in and visibility of the project.
- The project could not address all land issues nor support all cases.
- Limited sustainability of the actions in the long term.
- Timeliness of the group's activation and involvement of local stakeholders.



Advocacy through the Shelter Cluster helped families receiving temporary shelter support not to be disqualified from government assistance.

LAND TENURE CONTEXT

For more information on the shelter response to the 2016 earthquake, see overview A.39 in Shelter Projects 2015–2016.

Problems associated with land tenure in Ecuador had existed for many years. A high proportion of the population in both rural and urban areas did not have access to formally recognized land titles. In urban areas, poor land-use planning had resulted in an increase of inadequate and informal settlements. In rural areas, the Law on Rural Lands and Ancestral Territories of March 2016 – which aimed to guarantee more land rights to rural communities – was still pending adoption, meaning these communities had limited legal protections.

SITUATION AFTER THE 2016 EARTHQUAKE

In the impact zone of the 2016 earthquake, several types of tenure were observed, including communal ownership rights. Based on information collected by agencies responding in the area, it was estimated that only between 20–30 per cent of people had formal land titles. In addition to this, even in places where land records were in place, these were lost or destroyed due to the earthquake itself.

GOVERNMENT RECONSTRUCTION PLAN

The government's reconstruction plan was released by the Ministry of Housing and Urban Development in early May, to provide housing repair and reconstruction support through financial assistance in the affected provinces. This incentive programme, when first offered by the government, only extended to legally recognized owners of land, who could provide proof of property ownership through a title registered at the property public office.

This approach would have excluded many vulnerable people, including entire villages. Many communities in rural areas affected by the earthquake found themselves in a bureaucratic limbo, waiting for the passing of the Law on Rural Lands and Ancestral Territories.

Even if people were not wishing to access the government assistance packages, rebuilding without legal security would have put them at risk in the future. Shelter actors that were intending to support the most vulnerable affected groups were also informed that any emergency or transitional assistance could exclude beneficiaries from future government subsidies.

There was a very real need to establish minimum legal evidentiary standards and mechanisms to provide security of tenure to affected communities, as well as minimum technical standards that allowed building in the affected area with sufficient legal certainty.



Many families in the affected areas did not have proof of land ownership. Rebuilding without legal certainty would have put them at risk.

THE HLP WORKING GROUP

The Shelter and Protection Clusters, recognizing the potential challenges in ensuring assistance to affected people, collaborated to establish the Housing, Land and Property (HLP) Working Group at the national level in late May 2016. The group was led by a national organization that had been working in collaboration with national authorities to strengthen disaster-related legislation since 2012. Although this work had mostly been focused on the facilitation of international disaster assistance, the establishment of the group allowed the organization to build on its previous experience.

The working group was initially made up of interested organizations from the two Clusters, including four international actors and other local organizations. Many of these actors had backgrounds in, or at least understanding of international disaster relief and humanitarian law. The group also made contacts with local organizations focused on human rights and environmental law, as well as with those working in property law from academic institutions.

At the local level, the lead organization hired a lawyer to support the local government, and HLP was placed on the agenda of subnational Cluster meetings.

EARLY RESEARCH AND ADVOCACY WORK

The early work of the group was to understand the HLP issues on the ground in the affected areas, along with the potential impacts and unintended consequences of response activities from government or humanitarian actors. This was done by a combination of desk research and interviews in the field with authorities and affected people, including a survey and collection of documents supporting land possession.

The group also undertook research into existing national legal frameworks, to have solid and informed advocacy to the government. It also relied on extensive research of past international experiences in response, such as Chile, Philippines and Haiti, which could help to inform the group's activities, guidance and advocacy positions for the Shelter sector.

The inclusion of local actors and links to local networks were extremely important to help triangulate information, give guidance on important points of law, and also to offer assistance in researching and reviewing the reports and recommendations that were sent to the authorities.

During the initial research by the group, Shelter and Protection actors were still supporting the government to deliver emergency assistance. Relief distributions of emergency shelter kits and tools – plus technical assistance – were being implemented, as these were seen as very temporary solutions.

Two months after the earthquake, the group developed a concept note to analyse possible legal strategies to support the affected populations and complement the Shelter Cluster strategy. This note, endorsed by the Deputy Minister of Housing, detailed HLP considerations in national legislation and in international experience, with the intention of influencing the post-earthquake reconstruction strategies at the national level. For instance, these included recommendations to the national government to implement regularization processes as part of the reconstruction; recommendations to local government to adopt general regularizations for neighbourhoods by municipal decrees; and suggesting conflict resolution mechanisms, such as mediation, in case of land disputes.

GUIDANCE AND TRAINING

The group worked with Cluster partners to continue developing guidance and advocating on issues such as relocation processes and vulnerability prioritization, to support the humanitarian response. Between July and September 2016, guidance notes on relocation, HLP principles and potential HLP issues were compiled and shared.¹

The group worked closely with national and municipal governments in the affected areas, identifying priority areas and affected groups, building awareness of HLP rights of affected persons and highlighting potential vulnerabilities.

The group also trained staff from NGOs, local and national authorities on HLP issues. This, in turn, supported communities themselves in understanding their HLP rights and responsibilities. As of October 2016, a total of 250 legal officials and 40 humanitarian actors had received training.

PROJECT OUTCOMES

The ongoing advocacy and collaborative approach with the authorities resulted in the government developing a regulation (adopted in June 2016) to recognize different forms of tenure as appropriate or relevant to the context. As an example, people who had occupied land for many years and did not possess legally recognized titles, but could nonetheless prove their link to the land, were granted tenure through “right of use”. This new regulation granted a grace period of three months after receiving the permanent housing grant from the government, to provide all required documents. The government was also responsible for supporting families to obtain such documents.

The HLP Working Group also supported the Shelter Cluster in clarifying permissions from the government to allow Cluster partners to provide temporary shelter (without negatively impacting the future prospects of the recipients), as well as to be accepted as providers of permanent housing in rural areas. This enabled the construction of 3,559 temporary shelters and the repair of 1,774 houses.

DIRECT SUPPORT TO AFFECTED COMMUNITIES

The HLP Working Group provided direct support to communities to help them understand their rights and fulfil the administrative procedures required to establish security of tenure.

In the emergency phase, this was mainly through workshops and engagement at municipal level. As a direct result, many affected people became eligible to receive humanitarian assistance.

In the recovery phase, funding was also offered to affected people to help them pay the fees required for the legalization of land title processes, such as notary expenses and payments for the municipal governments.

Supporting the legalization process and jointly advocating to local governments resulted in the lead organization delivering the first legal title to an affected family almost one year after the earthquake. By March 2019, 420 families had benefited from the land legalization process, as part of the recovery programme of the organization. However, other actors did not conduct regularization projects.

¹ These are available on the group’s page, at <https://bit.ly/2Few3rU>.



In the recovery phase, the lead organization of the HLP group provided support to families to access land titles.

MATCHING SHELTER AND HLP SUPPORT

All these activities supported the Cluster strategy and partners’ interventions, and helped as well to protect the rights of affected people in the wider reconstruction process from an early stage.

The HLP support to the Shelter Cluster varied on what was required by the shelter actors at the time and was a multi-step process, informed by how the response was progressing.

| SHELTER PHASE | TYPE OF HLP SUPPORT |
|--|---|
| Emergency shelter | Awareness raising and clarification of national laws |
| Transitional shelter solutions / access to government grants | Training and stronger advocacy at various levels, e.g. to influence change in regulations |
| Permanent housing solutions | Funding and technical assistance to secure land titles |

LA PROPIEDAD Y LA POSESIÓN
MANUALES INFORMATIVOS: VIVIENDA, TIERRA Y PROPIEDAD

¿Quién es el poseedor?
Se llama poseedor a la persona que tiene el bien o cosa en su poder, es decir, que tiene el bien bajo su control.

¿Cómo se adquiere o transmite la posesión?
La posesión se adquiere por la entrega/recepción del bien. Esta entrega se puede realizar en base a dos situaciones:

1. Puede adquirirse por acuerdo o contrato: a través de un contrato de alquiler o arrendamiento, una persona puede convertirse en poseedora de una cosa.
2. Puede adquirirse sin que haya acuerdo o contrato: La posesión se transfiere al tomar u ocupar un bien o cosa. Por ejemplo: La ocupación de un terreno, apoderándose de éste.

Booklets were produced on key HLP concepts to inform communities of their HLP rights and responsibilities.

MAIN CHALLENGES

Influencing government systems and processes took time, but it was important to have sustainable systemic effects around HLP issues and identify opportunities. This link was made easier through the engagement of the Shelter Cluster co-lead (Vice Minister of Housing). Other links were also possible through local networks, including academia.

The complexity of existing land titles meant that any on-going land occupation was difficult to understand and prove. For example, in one case, a complete neighbourhood was occupied by indigenous descendants, but they did not have land titles through many generations. To address this, the local government adopted a municipal ordinance which allowed the regularization of the complete neighbourhood, which included more than 400 families.

Communication and collaboration between humanitarian actors and lawyers was also challenging, as all had their own mandates and ways of working. To mitigate these challenges, the group worked with lawyers with a human rights background and lawyers from the local and national governments. The group’s coordinator participated in the meetings of the Shelter and Protection Clusters and vice versa. These meetings were very useful for identifying shared priorities and common solutions.

WIDER IMPACTS OF THE GROUP

The advocacy of the HLP Working Group resulted in many improvements to the shelter response in Ecuador and to people’s tenure security generally. The new government regulation not only improved the prospects for affected communities in this response, but also for future crises.

The experience of the group was shared at several international fora, at global meetings of the Protection and Shelter Clusters, as well as at a regional workshop in Ecuador. This not only enabled the group to share lessons, but also contributed to building capacity of humanitarian practitioners in this field. It also put greater focus on HLP preparedness, as well as the inclusion of more advocacy components in shelter programmes and beyond.

The workshop also served to institutionalize the lessons learned and tools developed in Ecuador for future use in other countries in Latin America.

This project inspired an initiative to develop HLP country profiles to help identify both potential vulnerabilities and in-country linkages before a crisis happens. This type of resource can be used to inform sector preparedness workshops, contingency planning with government, ongoing academic curricula and also build relationships in country.

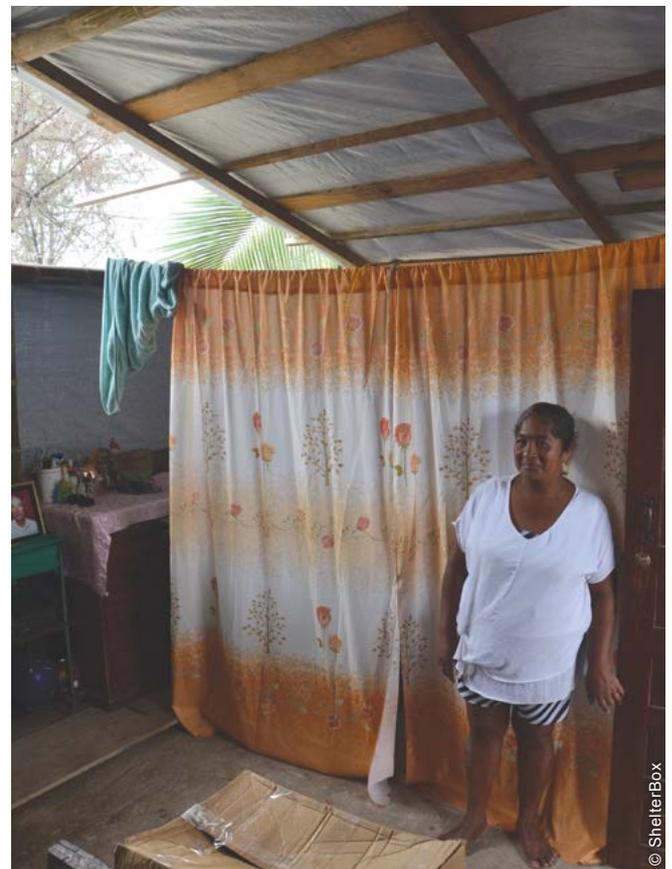
EXIT AND NEXT STEPS

The group did not have any formal handover process, mainly because activities continued as part of the lead organization’s programming. The other agencies left the group one after the other in 2017. This caused issues of sustainability of the project due to limited funding and uptake from national government, municipalities and other actors.

At the time of writing, the lead organization – in partnership with a local university – was planning a new project to influence public policy around land issues after disasters. As exit activities, the organization also planned to implement HLP workshops for community leaders.



As a direct outcome of this project, 420 land titles were distributed to earthquake-affected households. Support was provided in the form of funding and technical assistance in the process of land tenure regularization.



The project highlighted the need to advocate to national governments to include regulations and protections for people affected by disasters, and allow humanitarian actors to assist those without legal land titles.

STRENGTHS, WEAKNESSES AND LESSONS LEARNED



Initially, receiving transitional shelters could have disqualified households from government reconstruction subsidies. This was avoided through advocacy.

The project combined research and advocacy in the early phases, with direct support to communities to access secure land tenure in the recovery phase.

STRENGTHS

+ **The group's work had a wide effect** as it influenced government regulations impacting many earthquake-affected people, as well as any future responses to disasters in the country.

+ **Good collaboration** between international humanitarian organizations, local actors and national and local government meant that these actors shared an understanding of HLP issues and agreed on relatively quick policy changes to assist affected populations.

+ **Effective partnership** between the Shelter and Protection Clusters to achieve overall goals of assisting those most in need.

+ **Awareness of the importance of advocacy in humanitarian response.** Even when shelter actors were unable to implement activities, they could advocate for the rights of the affected populations through the HLP Working Group.

+ **It was extremely beneficial to have a dedicated group** working from the beginning on HLP issues alongside the Shelter Cluster to support coordination and advocacy activities, as well as helping shelter actors in the response and recovery phases.

WEAKNESSES

- **Lack of wider buy-in and visibility of the project.** Although it was a joint Cluster initiative, many NGOs were not part of the HLP Working Group, which relied on a core team of committed individuals who already understood and recognized the importance of the issues. The group could have worked harder on broader outreach and stronger advocacy messaging about the importance of tenure-related issues and subsequent vulnerabilities, through both the Shelter and Protection Clusters. However, due to the sensitive nature of HLP issues, outreach and advocacy should always be done carefully, especially with national governments.

- Even though tenure security was strengthened for many people, **there were still a number of land conflicts that were both difficult to understand and to support**, which the group was not able to assist.

- **The project could not be sustained in the long term** to continue supporting the granting of permanent titles. Most agencies responses lasted one year maximum (with many leaving earlier), while land related processes can take a long time. There was no plan to continue assisting the more difficult cases going forward. **The early closure of the Clusters** also impacted the ability to assist many affected families to achieve long-term outcomes.

- **The activation of the group could have been timelier**, and the involvement of academia and local legal practitioners should have been sought from the outset.

LESSONS LEARNED

- **Shelter response, advocacy and coordination activities after a disaster should include a focus on tenure security**, to avoid inadvertently doing harm or potentially excluding large vulnerable groups from post-disaster assistance. The 2018 edition of Sphere was updated to provide clear guidance on how to address this issue.
- **Local academia, legal offices and central and local authorities should be involved as early as possible**, not only humanitarian organizations and NGOs. This requires a multi-level approach that ensures national buy-in from the ministries involved in determining assistance packages and policies, local government understanding for those implementing the policies and assessing affected populations, and local practitioner awareness to guide on contextual issues. Involving these multiple levels of national actors early **would have sped up the work of the group**, providing useful support to response partners before plans had progressed too much. It would have ensured some groups were not excluded from initial assistance packages based on tenure status and **would have helped the response to be fully grounded in the local realities**.
- **Preparedness is essential.** A greater understanding of the context and the HLP issues affecting local communities helps moving quickly and anticipating challenges during a response to a disaster. Local organizations should be active before crises in supporting communities and local authorities in understanding HLP rights and potential issues. Going forward, the project showed **the importance of building strong relationships, frameworks and tools** in the preparedness phase.
- **HLP data collection.** The group should have provided inputs to initial joint needs assessments to capture data related to HLP issues and get a more comprehensive baseline to work from. If this type of information cannot be gathered through needs assessments, other sources could be explored, including engaging law school students in data collection.