

# Forced Evictions - Towards Solutions?

Second Report of the Advisory Group on Forced Evictions  
to the Executive Director of UN-HABITAT





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Sandra Baffoe-Bonnie of UN-HABITAT and Deanna Fowler of the Centre on Housing Rights and Evictions (COHRE) were responsible for the overall coordination and production of this report. Selman Erguden and Rasmus Precht (both UN-HABITAT) contributed to the updating and finalisation of this report.

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Our special thanks is to all of the communities with whom we work, and who share their problems, experiences, ideas and insights with us. This report is dedicated to them, and their ongoing struggle to realise their basic human rights.

### **FOREWORD BY YVES CABANNES, CONVENOR OF THE ADVISORY GROUP ON FORCED EVICTIONS**

Three years have passed since the Advisory Group on Forced Evictions (AGFE) held its inaugural meeting in Nairobi. Since then, the Group has identified, monitored and documented 30 cases of forced eviction and played a mediating and conciliatory role during four missions to cities where forced evictions were being carried out or where there was an imminent threat of large scale evictions. In addition to AGFE's own activities, several organisations that are linked to AGFE and form a global network, are working towards reducing and preventing forced evictions in all parts of the world. AGFE Members, their respective organisations and the wider AGFE Network have contributed to the information and experience exchange and for putting this report together.

After three years since the launch of AGFE, there are both good and bad news. The bad news is that forced evictions over the past three years have increased dramatically in frequency, in number and in the level of violence. Forced evictions appear to have become a common practice in lieu of sustainable urban planning and inclusive social policies, both in many developed and developing countries. Information gathered by AGFE shows that over the last three years evictions have been taking place or are to take place in at least 60 countries. Unlawful evictions affect the lives of millions of children, men, women and the elderly, most of them poor. Against this dramatic reality, finding solutions to this unjust practice remains a central challenge to meeting the Millennium Development Goals and to implementing the Habitat Agenda.

The good news is that despite the current scale and devastating effects of forced evictions, local initiatives at various levels and by different actors prove that alternative solutions can be found. AGFE has identified and documented cases where people, their organisations and their governments have successfully developed practices and tools to prevent evictions and attain security of tenure. When appropriately supported and resourced, such multi-actor and multi-dimensional initiatives are able to confront the negative and dominant local and global forces. These cases give real hope to hundreds of thousands of children, women and men all over the world who live in constant threat of evictions.

AGFE's Second Report to the Executive Director of UN-HABITAT is another contribution to increasing awareness and knowledge both within UN-HABITAT and the wider UN System on how to address the challenge of forced evictions in a timely and effective manner. By making this Report available also to the wider public, AGFE seeks to further disseminate successful practices in the fight against forced evictions that can be applied by relevant stakeholders in different local and national contexts.

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# 1 INTRODUCTION AND ACTIVITIES

Forced evictions are carried out in both developed and developing countries, in all regions of the world. Often these are large-scale evictions, where entire communities of tens or even hundreds of thousands of people are removed. They are usually directed at the poor, living in informal settlements. The effect on the lives of those evicted is catastrophic, leaving them homeless and subject to deeper poverty, discrimination and social exclusion. Such communities are invariably evicted against their will, and in most cases, without any compensation or alternative housing.

The term 'forced eviction' refers to the removal of people from their homes or lands against their will, directly or indirectly attributable to the State. It is a widespread practice annually affecting millions of persons in developed and developing countries.

Forced evictions can always be attributed to specific decisions, legislation or policies of States, or to the failure of States to intervene to halt forced evictions by third parties. Thus, States are always legally responsible for forced evictions occurring on territory under their jurisdiction.

Although international law has repeatedly declared forced evictions to be a gross and systematic violation of human rights, governments continue to use forced eviction as a tool of development. Part of the struggle against this widespread practice is clearly a need to change the mindset of such leadership. It is crucially important to get the message across to governments that forced evictions are unjust, illegal and invariably counterproductive to genuine human development; and that alternatives to eviction therefore urgently need to be identified and promoted.

## **The Advisory Group on Forced Evictions**

The Advisory Group on Forced Evictions (AGFE) was established at the request of the UN-HABITAT Governing Council during its 19<sup>th</sup> session, following recommendations of the first World Urban Forum to promote policy alternatives to forced evictions. Its mandate is to monitor, identify and, if so requested, promote alternatives to unlawful evictions. The group is composed of experts in the fields of urban development, community participation, human rights and forced evictions (a list of current members is attached as Annex 1). These experts have been drawn from slum dweller organisations, governments, local authorities, NGOs and private sector professional organizations and serve on the Advisory Group for a period of two years. The first Convenor of the Group is Yves Cabannes, Chair of the Development Planning Unit at University College London. The Advisory Group is supported by a Secretariat and this function is undertaken by the United Nations Housing Rights Programme (UNHRP) at UN-HABITAT in Nairobi.

In the two years of its existence, the Group has been engaged in several activities. The Advisory Group organized a debate during the Second Session of the World Urban Forum in September 2004 to discuss cases of ongoing or pending evictions that AGFE Members had documented during the period. In addition, the Group had the opportunity to interact with representatives of governments, local authorities and civil society; and welcomed partners (Ministers, Mayors, NGOs and community representatives) from Kenya, Ghana and Senegal to enter into a positive dialogue with a view to averting evictions and identifying countries and cities where such conciliatory missions should be undertaken.



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In early 2005, the Group undertook successful fact finding missions to Curitiba, Brazil; Santo Domingo, Dominican Republic; and Rome, Italy at the request of the authorities in those countries. The missions have resulted, for example, in the establishment of a Commission in the Dominican Republic to discuss the enactment of a law on forced evictions and secure tenure. This law was subsequently put before Parliament for debate and vote. A moratorium on forced evictions was imposed for 12 months in Rome. In Curitiba, City Hall requested AGFE to assist in the analysis of local housing legislation for further improvements.

During the 20<sup>th</sup> Session of the Governing Council of UN-HABITAT in April 2005, AGFE presented its first report to the Executive Director of UN-HABITAT which was received very positively. The report documented 15 cases of threats of eviction and cases where evictions had taken place. It also reported on the missions undertaken by AGFE Members, in addition to other matters regarding forced evictions internationally.

In April 2006, AGFE and UN-HABITAT fielded a joint mission to Accra in Ghana at the invitation of the Ghanaian Government to discuss the threatened eviction of the residents of Agbogbloshie/Old Fadama and its proposed relocation plan. This publication includes a report of the mission.

AGFE Members have been actively engaged in monitoring evictions globally and proposing solutions to address this increasingly prevalent infringement of human rights and tenure security globally. AGFE activities have been funded largely by the Global Campaign for Secure Tenure, but due to a shortage of funds since 2006, it has not been able to be as active as had been hoped.

## 2 A DECADE OF FORCED EVICTIONS

### In search of solutions to a growing global problem<sup>1</sup>

#### Introduction

One of the best definitions that I have heard of the concept of security of tenure is the 'freedom from fear of forced eviction'. Unfortunately, far too many people do not experience this freedom, and live instead in constant fear of eviction.

Every year millions of people around the world are forcibly evicted, leaving them homeless and subject to deeper poverty, discrimination and social exclusion. Often these are large-scale mass evictions, where entire communities of tens or even hundreds of thousands of people are removed. Such communities are invariably evicted against their will, in most cases without any compensation or alternative housing.

Forced evictions have various and often complex and interconnected causes, including:

- Tenure insecurity / absence of formal rights
- Development and infrastructure projects
- Large international events, such as the Olympic Games
- Urban redevelopment and 'beautification' initiatives
- Property market forces and 'gentrification'
- Absence of State support for the poor
- Political conflict, ethnic cleansing and war

Regardless of the actual cause, those who implement forced evictions generally justify the eviction in the name of 'development' – and, by implication, as intended for the general public good. Governments and other implementing agencies use compelling 'developmental' language, often backed up by complicated technical jargon, in an attempt to defend actions which are, in most cases, totally indefensible.

It must, therefore, be made unambiguously clear at the outset of any discussion of forced evictions, that the practice of eviction without consultation or adequate alternatives and compensation is **illegal** in terms of international law. It is also **unjust**, compromising fundamental human rights principles, with devastating consequences for those affected. Moreover, in terms of international experience and best practice, it is fundamentally **counterproductive** to the goal of human development.

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<sup>1</sup> This section was prepared by Jean du Plessis, the Acting Executive Director of COHRE. He also co-ordinates the COHRE Global Forced Evictions Programme. COHRE is an international NGO which strives to promote the right to adequate housing – including the right to protection from forced eviction – for everyone, everywhere. COHRE has its headquarters in Geneva, and has offices in a number of countries, including Brazil, the United States, Ghana, South Africa, Sri Lanka and Australia.



Evicted residents scramble to save and protect their possessions – Bree Street, Johannesburg, 2005  
(PHOTO: CALS, Johannesburg)

### Forced evictions are illegal

The International Covenant on Economic, Social and Cultural Rights (CESCR) is the key legal source of housing rights under international human rights law. Article 11(1) of the Covenant explicitly recognises the right to adequate housing. Article 11(1), as interpreted in General Comment No.4 and General Comment No.7, also prescribes legal protection against forced eviction, at least for those 150 countries that have signed and ratified the Covenant. General Comment No.7 indicates that 'the State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions'. It states that 'Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights'; and prescribes procedural protective mechanisms for evictees in those highly exceptional circumstances where eviction is unavoidable.<sup>2</sup>

In addition, in 1993, the UN Commission on Human Rights declared that 'forced evictions are a gross violation of human rights'.<sup>3</sup> And, in 1998, the UN Sub-Commission on the Protection and Promotion of Human Rights reaffirmed that 'the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment'.<sup>4</sup>

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<sup>2</sup> CESCR, General Comment No. 7 on the Right to Adequate Housing, (E/C.12/1997/4), para. 8.

<sup>3</sup> U.N. Commission on Human Rights, Resolution 1993/77, para. 1.

<sup>4</sup> U.N. Sub-Commission on the Protection and Promotion of Human Rights, Resolution 1998/9 on Forced Evictions, (E/CN.4/SUB.2/RES/1998/9), Aug. 20, 1998.

In many countries around the world, forced evictions are also unlawful or unconstitutional under domestic law, unless strict laws, policies, procedures and guidelines are followed. Despite these national protections of the rights of individuals and families against forced evictions, authorities will often try to circumvent the applicable laws and rules, in order to secure the speedy eviction of residents who, they argue, are obstructing development projects.<sup>5</sup>

### Forced evictions are unjust

The impact of forced eviction on families and communities, and particularly the poor, is severe and deeply traumatic. Property is often damaged or destroyed, productive assets are lost or rendered useless, social networks are broken up, livelihood strategies are compromised, access to essential facilities and services is lost, and violence including rape, physical assault and murder is often used to force people to comply with the eviction.

A recent example of this is found in an informal settlement on the outskirts of Harare, Zimbabwe: 'On 2 September 2004, riot police, war veterans and members of the youth "militia" reportedly went to Porta Farm to forcibly evict some 10,000 people, many of whom have been living there since 1991. The police were acting in defiance of a court order prohibiting the eviction. According to eye-witness testimony the police fired tear gas directly into the homes of the Porta Farm residents'.<sup>6</sup> In this incident, eleven people died, five of them children under the age of one.<sup>7</sup>

Tragically, this was only the beginning. These events were replicated on a much larger scale less than a year later, with the implementation by the Zimbabwe Government of 'Operation Murambatsvina' (or 'drive out trash'), commencing in mid-May 2005, which resulted in the decimation of Porta Farm and many other settlements in Harare and elsewhere.<sup>8</sup> In the end over 700,000 people lost their homes and were forced to live in areas far away from jobs, services and income opportunities.<sup>9</sup>

Indeed, the prospect of being forcibly evicted can be so terrifying that it is not uncommon for people to risk their lives in an attempt to resist, or even more extreme, to take their own lives

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<sup>5</sup> Municipal, state and national governments around the world regularly conduct evictions in violations of their own laws and constitutions. A recent example, from South Africa, is the City of Johannesburg's policy of evicting residents of buildings on the grounds of health and safety violations, as part of an 'inner city regeneration strategy' aimed at eliminating developmental 'sinkholes' and promoting investment and property values. This policy was recently ruled unconstitutional by the High Court of South Africa for failing to meet certain standards of protection of the rights of those being evicted. For more information see page 19. Similarly, while Sri Lanka has some model laws protecting persons from forced eviction, the State often cites security concerns in order to forcibly evict persons from what are considered High Security Zones. Courts in Sri Lanka have recently ruled that evictees have a right to return to those areas from which they were evicted without following the proper domestic legal requirements.

<sup>6</sup> Amnesty International, 'Zimbabwe: Another death at Porta Farm – 11 people now dead following police misuse of tear gas', [online press release], 1 October 2004, <http://web.amnesty.org/library/Index/ENGAFR460282004?open&of=ENG-2F3>.

<sup>7</sup> Ibid.

<sup>8</sup> Amnesty International, 'Zimbabwe: Satellite images provide shocking evidence of the obliteration of a community', [online report] 31 May 2006, <http://web.amnesty.org/library/Index/ENGAFR460082006>

<sup>9</sup> Amnesty International, Centre on Housing Rights and Evictions, Zimbabwe Lawyers for Human Rights and others, 'A Joint Appeal to African Leaders to address the human rights situation in Zimbabwe, 16 November 2005, <http://www.cohre.org/zimbabwe/1.html>.

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when it becomes apparent that the eviction cannot be prevented. According to Human Rights Watch (2004: 4), 'a wave of almost daily protests [in opposition to evictions] swept [through] cities across China from September to December 2003'. This opposition included a number of suicides and attempted suicides, including the following:

'In August a Nanjing city man who returned from a lunch break one day to find his home demolished, set himself afire and burned to death at the office of the municipal demolition and eviction department. In September, resident Wang Baoguan burned himself to death while being forcibly evicted in Beijing. On October 1, China's National Day, Beijing resident Ye Guoqiang attempted suicide by jumping from Beijing's Jinshui bridge to protest his forced eviction for construction related to the 2008 Beijing Olympics'.<sup>10</sup>

Similar incidents have occurred elsewhere. For example in Lahore, Pakistan, a man tried to burn himself to death in front of the Chief Justice, in despair at 'having lost his life savings when the highways department demolished his house as an encroachment'.<sup>11</sup>

And in South Africa, on 14 January 2005, a protesting Pietermaritzburg hawker drank almost a litre of paraffin fuel and swallowed some tablets, when she realised that the police were going to confiscate the shelter in which she ran her pavement tuck shop. The hawker had been trying for two years to get a trading license. Another hawker on the scene said 'I have been a target for so many years that I have lost count. I am not here out of boredom – I'm here because I have a family to support with the money I make'.<sup>12</sup>

### Forced evictions are counterproductive to the goal of human development

Forced evictions are often justified in the name of investment, development and promotion of the public good. In stark contrast to this, forced evictions invariably run counter to the goal of human development in a number of ways.

At the most basic level, forced evictions are spectacularly destructive, with their aftermath at times likened to a 'wasteland', 'war zone', or 'man-made tsunami'.<sup>13</sup> Forced evictions destroy the assets of already poor and vulnerable communities. These include immediate physical assets such as material possessions, plus those less tangible but vital 'social capital' assets such as survival networks painstakingly established over many years. In addition, loss of ready access to facilities and services can, due to prohibitive increases in transport costs, significantly add to already overwhelming monthly expenses for access to health, education, and other essential services. As a result, affected individuals, families and communities can be set back years in their struggle for survival and development.<sup>14</sup>

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<sup>10</sup> Human Rights Watch (2004) "Demolished: Forced Evictions and the Tenants' Rights Movement in China." [online report] 16(4):C, <http://www.hrw.org/reports/2004/china0304/china0304.pdf>.

<sup>11</sup> Dawn Newspaper Group, 15 September 2004.

<sup>12</sup> Bongani Hans, 'Suicide bid to save tuck shop', The Echo, 20 January 2005.

<sup>13</sup> See e.g. 'Zimbabwe: man-made tsunami engulfs urban poor', IRIN, [online report], 21 July 2005 [http://www.irinnews.org/S\\_report.asp?ReportID=48240&SelectRegion=Southern\\_Africa](http://www.irinnews.org/S_report.asp?ReportID=48240&SelectRegion=Southern_Africa).

<sup>14</sup> See COHRE, Forced evictions: Violations of human rights, Global Survey 9, (Geneva: COHRE, 2003); Jean du Plessis, 'Pom Mahakan: People of the Fort', in Social Sustainability in Historical Districts; UNESCO'S Round Table of Experts, 13 September 2004, World Urban Forum, United Nations Educational, Scientific and Cultural Organisation (Paris: UNESCO, 2005), pp. 46-54;

Scott Leckie, When push comes to shove: Forced evictions and human rights, Utrecht: Habitat International Coalition, 1995, pp. 27-30; UNHCHR, Fact Sheet No.25: Forced evictions and human rights. Geneva: United Nations Commissioner on Human Rights, 1996, available online: [www.unhcr.ch/html/menu6/2/fs25.htm](http://www.unhcr.ch/html/menu6/2/fs25.htm);



**Aftermath of a forced eviction, Lyari Expressway, Karachi, 2002**  
(Photo courtesy Urban Resource Center)

Forced evictions invariably fail to deliver the outcomes claimed for them by the implementing governments or agencies. In many instances, large-scale evictions are intended as an antidote to uncontrolled and unauthorised urban settlement, in the hope that this will encourage investment and development. However, the causes of rural-urban migration are so varied and deep-seated, the resulting population pressure on cities so overwhelming, that resorting to forced eviction as a solution to illegal settlement amounts to little more than a futile gesture. Evicted individuals, families and communities do not disappear. Nor do they tend to remain for long if relocated to far-flung areas. They tend to find their way back to unoccupied land closer to services and survival opportunities and to resettle and rebuild, as before. In addition, by focussing on the need to get people away from an area, governments often miss the very unique developmental opportunities presented by informal settlements. Properly conceived and implemented settlement upgrading, done in close consultation with the affected parties, has proven itself as a much more effective option in addressing urban development challenges, with great potential benefits for all concerned.<sup>15</sup>

Forced evictions also run directly counter to Millennium Development Goal 7, which aims to achieve 'significant improvement in the lives of at least 100 million slum dwellers by the year 2020'. The practice of forced evictions leads to the destruction of homes and housing stock, thereby frustrating the aim of improving current levels of access to housing. It is not surprising, therefore, that the first indicator for the MDG is 'security of tenure' and that the UN Secretary General's MDG Task Force noted that 'Meeting this challenge [of the MDG] requires a plan for secure tenure, affordable access to land, basic services, and housing

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Jane Weru, 'Kenya's urban tragedy', in *Habitat Debate*, 6(4), 2000. Available online: [www.unhabitat.org](http://www.unhabitat.org); and Stuart Wilson, *Out of site, out of mind: Relocation and access to schools in Sol Plaatje*, (Johannesburg: Centre for Applied Legal Studies, 2003), pp.26-27.

<sup>15</sup> This is clearly argued, with respect to the Agbogbloshie / Old Fadama settlement in Accra, Ghana, in COHRE, *A precarious future: The informal settlement of Agbogbloshie, Accra, Ghana*, (Geneva: COHRE, 2004), [www.cohre.org/downloads/FFMagbogbloshie.pdf](http://www.cohre.org/downloads/FFMagbogbloshie.pdf), pp. 61-63.

finance'.<sup>16</sup> Moreover, as one commentator has noted, 'slum upgrading projects usually fail in the absence of an institutional framework to ensure secure tenure since powerful interests are able to intervene and reap the benefits of the increases in land and housing values.'<sup>17</sup> During a fact-finding mission in Nairobi, Kenya, the Centre on Housing Rights and Evictions (COHRE) found that residents in Kibera, Africa's largest informal settlement, feared forced eviction from a slum upgrading project because it failed to establish the envisaged secure tenure zone, the decanting site was far from the current settlement and the financing formula would lead to high rents and unaffordable rents.<sup>18</sup>

### A decade of evictions

The recent forced eviction of over 700,000 residents and informal traders by the Government of Zimbabwe, as part of 'Operation Murambatsvina', was an extreme example of the harshness and inhumanity of evictions, and received more international media attention than most evictions do. However, this was not an isolated incident. Nor was it, by any means, the largest eviction to occur in the last decade. Indeed, information of large-scale forced evictions collected since 1995 by the COHRE and its partners from around the world, reveals that over the past decade there have been a disturbingly high number of large-scale forced evictions, that each involved tens of thousands of people.

Examples of such mass forced evictions, in a selection of seven countries indicating some of the worst reported violations over this period, are given in the table below. These figures show that **over ten million** forced evictions were reported in just these seven countries between 1995 and 2005. Some of these evictions were from a single site or area (e.g. Port Harcourt in 2000), others were from more than one site but the result of a particular government policy ('Operation Murambatsvina' in Zimbabwe, 2005-6), and others were the result of an absence of sufficient or effective protection to a particular category of person (farm dwellers in South Africa, 1995-2005). However, all of these evictions constituted gross violations of the right to adequate housing and other, attendant socio-economic rights.

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<sup>16</sup> See Task Force on Improving the Lives of Slum Dwellers, *A home in the city*, (New York: UN Millennium Project, 2005), p.3. The Task Force makes the following recommendation to States: 'Enact legislation against forced evictions and provide security of tenure. The forced demolition of urban slums has never reduced poverty – it creates poverty. Forced evictions have never reduced slums – they simply move slum formation elsewhere. Provision of secure tenure in existing settlements with the participation and contribution of existing residents is crucial to the process of slum upgrading. It is important to note that "security of tenure" describes a continuum of formal and informal legal arrangements that are highly context specific. They range from full land titling to local customary rights of tenure.

<sup>17</sup> Malcolm Langford, E-Discussion on MDGs and Human Rights, posted on 23 May 2006.

<sup>18</sup> See COHRE, *Listening to the Poor? Housing Rights in Nairobi, Kenya*, (Geneva: COHRE, 2005).

<b>REPORTED FORCED EVICTIONS<sup>19</sup></b>								
<b>SELECTION OF SEVEN COUNTRIES, 1995-2005</b>								
<b>Number of persons evicted</b>								
	<b>Zimbabwe</b>	<b>Indonesia<sup>20</sup></b>	<b>China<sup>21</sup></b>	<b>Bangladesh<sup>22</sup></b>	<b>Nigeria<sup>23</sup></b>	<b>India<sup>24</sup></b>	<b>South Africa<sup>25</sup></b>	<b>Totals</b>
<b>1995</b>	6 500	300	336 754		17 300	6 550	86 965	454 369
<b>1996</b>		272 182	336 754	25 580	253 105	156 790	112 151	1 156 562
<b>1997</b>	200	272 182	336 754	22 000	15 000	65 000	128 996	840 132
<b>1998</b>			336 754			172 000	65 771	574 525
<b>1999</b>			336 754	100 205	300	2 460	88 223	527 942
<b>2000</b>			336 754		1 201 100	177 455	57 230	1 772 539
<b>2001</b>	8 300	49 205	341 754	63 750	7 500	450	27 924	498 883
<b>2002</b>	250 000	3 000	439 754		165	950	62 878	756 747
<b>2003</b>		5 184	686 779		12 000	150 850	138 308	993 121
<b>2004</b>	5 000	39 184	467 058	21 552	7 550	20 715	56 813	617 872
<b>2005</b>	704 300	4 425	187 064	9 355	820 413	363 795	1 420	2 090 772
<b>Totals</b>	974 300	645 662	4 142 933	242 442	2 334 433	1 117 015	826 679	10 283 464

NOTE: Unless more specific data was available, estimates were constructed using the following equivalencies: 1 family = 5 persons; 1 community/area/village/town = 200 persons; 1 flat or house = 5 persons; 1 room = 3 persons; 1 apartment building = 100 persons; "thousands" or "hundreds" = 3 000 persons or 300 persons, respectively; 1 group of families = 50 persons; 1 settlement/neighbourhood/camp/encampment/quarter = 50 persons; entire region of a country = 10 000 persons; "a number of"/"several"/"many"/"numerous" = 5 persons or families, depending on the specification made within the text.

It is worth looking in more detail at some of these cases to get a sense of the scale and scope of the violations.

## **Nigeria**

### **Lagos**

Over the past decade Nigeria has proven itself to be one of the worst housing rights violators in Africa, if not the world. For example, in 1996, over 250,000 businesses and homes were demolished in Lagos as part of a three-week slum clearance operation directed by Major General Abdulkareem Adisa, the Minister of Works and Housing. Areas affected included

<sup>19</sup> The numbers are of reported evictions only (i.e. excluding threatened or pending evictions) and are drawn from a global database of forced evictions being compiled by the Centre on Housing Rights and Evictions, with the assistance of numerous partners around the world. Note that the absence of data for a particular year does not necessarily indicate zero or fewer evictions, but may be due to a lack of accurate information. Data was compiled from a number of primary and secondary sources.

<sup>20</sup> Numbers of evicted in Indonesia in 1996 and 1997 was averaged based on data that 108873 households were evicted over the 2 year period.

<sup>21</sup> Numbers of evicted in China use several averages: 250,000 evicted each year from 1995-2003, based on data that 2.5 million were evicted in Shanghai from 1993-2003; 100,000 evicted each year from 2002-2005, based on data that 400,000 have been evicted in Beijing since 2001 for the Olympics; and 86,754 were evicted each year for the Three Gorges Dam from 1995-2005, based on data that 1,127,800 were relocated from 1993-2006.

<sup>22</sup> Numbers of evicted in Bangladesh in 2004 include 10,868 "homes and businesses".

<sup>23</sup> Numbers of evicted in Nigeria in 1996 include 250,000 "traders, kiosks and residences".

<sup>24</sup> Numbers of evicted in India in 1995 include 150 "stalls and shanties" and in 2004 include 9350 "homes and businesses".

<sup>25</sup> Numbers of evicted in South Africa are mainly farm dwellers evicted by owners from private farms. The numbers for 2000 include 200 "homes and businesses".



## Forced Evictions - Towards Solutions?

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Ipaja town, Ijora, CMS/Apongbon, Ojuelegba, Oshodi market, Idumota, Obalende, Liverpool Apap-Oshodi (Wilmer end). This affected an estimated 750,000 people.<sup>26</sup>

Rainbow Town, Port Harcourt

This was followed four years later by an even larger eviction, when the Rivers State Government forcibly removed some 1.2 million people from Rainbow Town, Port Harcourt – a settlement dating from the 1960s. Using land conflicts and purported illegal occupation as a justification, the Rivers State Government announced plans to demolish the settlement and build modern housing units.<sup>27</sup> Evictions began in July 2000 and by the end some 1.2 million people had lost their homes. With bulldozers and 1,000 armed police, the State Government demolished housing, locally owned businesses, health clinics, private nurseries and primary schools, and a private secondary school. The State Government claimed that all this destruction was necessary for urban renewal. However, it provided no alternative housing or compensation and gave much of the land to wealthy local residents.<sup>28</sup>

Abuja

Then once again, in late 2005, another wave of forced evictions commenced in Nigeria, this time in the Federal Capital of Abuja. Amidst an extraordinary press silence, local organisations reported that between November 2005 and December 2006 more than 800,000 people were evicted from homes and businesses in Abuja. The evictions are part of the re-initiation of a Master Plan drawn up in 1976 and have included the demolition of homes, schools, hospitals, churches, mosques, and businesses without consultation with communities and without providing adequate notice, compensation or resettlement. These demolitions are still continuing, and reports are that the Government intends to evict approximately four million people from 49 communities.<sup>29</sup>

## China

Beijing

On 13 July 2003, Beijing was awarded the 2008 Olympic Games. Two days later, following the purchase of land by developers, the first wave of evictions began. In September 2003, in the wake of protests – including that of a farmer who committed suicide by setting himself on fire – the Government publicly denounced forced evictions as a policy. To date the Government has evicted over 400,000 people in preparation for the 2008 Olympics in Beijing, replacing well-established communities with shopping centres, office buildings, exclusive residential buildings and sports facilities. Residents have been relocated to the city outskirts, 25 to 60 kilometres from their previous homes and sources of employment. The Government has also destroyed an outdoor market, displacing over 270 vendors from their sources of livelihood.

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<sup>26</sup> Bashir Adigun, 'UN committee summons Nigeria over alleged illegal demolition', *The Guardian*, 13 May 1997, p. 51, quoted in COHRE, *Global Survey 7: Violations of Human Rights*, (Geneva: COHRE, 1998).

<sup>27</sup> *The Post Express*, 2 August 2000.

<sup>28</sup> Social Watch, *Country by Country Report 2004*.

<sup>29</sup> Women Environmental Programme, Justice Development and Peace Commission, Community Action for Popular Participation, and Social and Economic Rights Action Centre, International Alliance of Inhabitants, 'Break the silence on the evictions: defend housing rights in Nigeria!' [online evictions campaign], 2005, <http://www.habitants.org/article/articleview/1577/1/439/>.

The Chinese Government has argued that these evictions are legitimate because evictees are usually provided relocation and compensation. However, many evictees argue that this assistance has been grossly inadequate and located far from sources of employment. Moreover, relocations have been carried out despite insufficient consultation with affected persons, as further evidenced by numerous protests and suicides.<sup>30</sup>

### Shanghai

One of the fastest growing economies in the world, China has also been experiencing one of the largest building booms. To illustrate this, it is estimated that three-quarters of the world's construction cranes were working in China in the 1990s. Shanghai has been at the forefront of this building explosion, putting up 5,000 buildings higher than 15 floors in the last twenty years. This construction has been accompanied by forced evictions on a massive scale. In Shanghai alone, 2.5 million people have been forcibly evicted since 1990, and 40 million square metres of housing have been destroyed to make way for new buildings, with devastating consequences for those affected.<sup>31</sup>

### India

India is another of the world's worst housing rights violators, responsible for the eviction of many millions of people from their homes in Kolkata, New Delhi, the Narmada River Valley and Mumbai.

### Mumbai

The Government of Maharashtra State has been consciously following the Chinese example in developing its capital city. Having come to power in October 2004, in part on an election promise to provide security of tenure to the people, the Congress-NCP Government has evicted over 300,000 Mumbai residents in the past two years, as part of a development programme budgeted at US\$ 36 billion, which is designed to transform Mumbai into the "next Shanghai" by 2010. This programme calls for the reduction of slums to 10 percent of their current extent. However, given the city's present rate of building houses for relocation purposes – 3,000 units per year – there is clearly no real plan to adequately accommodate the hundreds of thousands of people already evicted or the 2.2 million still facing eviction.

On 9 February 2005, in an interview with *The Hindu*, Maharashtra Chief Minister Vilasrao Deshmukh stated that he did not regret demolishing slums in Mumbai: "Sometimes you have to take tough decisions," he said, adding that all people who wanted Mumbai to become a

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<sup>30</sup> See: 'Beijing: Relocation, Not Eviction', *China Daily*, 11 March 2004, <http://www.china.org.cn/english/2004/Mar/90011.htm>; 'Concern grows after forced evictions', *China Daily*, 18 May 2004, [http://www.chinadaily.com.cn/english/doc/2004-05/18/content\\_331434.htm](http://www.chinadaily.com.cn/english/doc/2004-05/18/content_331434.htm); and 'China: Forced Evictions Spur Protests. China Should Implement New Constitutional Protections for Property Rights', Human Rights Watch, [online press release], 25 March 2004, <http://hrw.org/english/docs/2004/03/22/china8159.htm>

<sup>31</sup> Los Angeles Times, <http://www.latimes.com/travel/la-tr-nushanghai27feb27,1,2718069.story?coll=la-promo-travel&ctrack=1&cset=true>; The Epoch Times, <http://english.epochtimes.com/news/4-1-13/18307.html>; Congressional Executive Commission on China, 'Selected Reports on Incidents Related to Forced Evictions, March 2003 – January 2005', <http://www.cecc.gov/pages/virtualAcad/rol/forcedevictionchart.php?PHPSESSID=55e80e2b1230225b8a9cf6ace6c4503a>; and supra note 8.

'world-class city' fully supported the slum demolitions. Earlier, in January that year, the National Alliance of People's Movements and 22 organisations of slum dwellers protested evictions near Mantralaya. People started to reoccupy and rebuild homes in slums that had been cleared. After protests at the ruling Congress Party office, the All-India Congress General Secretary Mrs Margaret Alva publicly denounced the slum demolitions. During February 2005, slum-dweller organisations met with the State Congress Chief Mrs Prabha Rau, after which the party agreed to an immediate end to demolitions, as well as the provision of relief to affected persons.

Despite this, forced evictions in Mumbai have continued unabated. The Government has recently embarked on a programme called 'Operation Makeover' which is intended to make public land available for infrastructural development projects. According to one report

"An estimated 5,000 homes have been razed so far [as part of Operation Makeover], with demolitions at present being undertaken in all 24 of Mumbai's wards. This is part of the government's goal to reduce the slum population of Mumbai from 60 percent to 20 percent as mentioned in the McKinsey Report for Bombay First (a coalition of builders, industrialists and city planners). Sacrificing poor citizens' human rights in favour of luxury schemes for the rich reflects a perverse and distorted paradigm of development".<sup>32</sup>

### Pakistan

#### Karachi – Lyari Expressway

The Lyari Expressway is a US\$ 1.5 billion road being built on the banks of the Lyari River in Karachi, Pakistan. The project is evicting approximately 25,400 families, many of whom live in settlements that are more than 100 years old, without adequate compensation or alternatives. The project is also demolishing about 5,000 commercial and manufacturing units; and destroying 58 mosques, churches, graveyards and temples. Due to the dislocation caused by the Expressway, the schooling of 26,000 students will be severely disrupted and about 40,000 wage earners will lose their jobs.

Opposition to the Expressway has been strong and has come from many quarters including the Lyari Corridor communities, NGOs, professionals, academia, media and the Special Rapporteur on Adequate Housing, Miloon Kothari. This resistance had the effect of delaying, but not ending, implementation of the project. Recent events have demonstrated the need for even more concerted action to end the Lyari Expressway evictions. According to a strong statement by the Special Rapporteur on 26 May 2006:

"I continue to receive troubling information on a new wave of forced evictions in connection with the construction of the Lyari Expressway in Karachi, leading to the destruction of thousands of houses since the beginning of this year. Reportedly, the Karachi City Government is planning to demolish and evict inhabitants of another 6,000 housing units in 20 different informal settlements throughout the city [...] When completed, the Lyari Expressway project allegedly will have rendered an estimated 250,000 people homeless.

'The pattern of lack of prior notice, absence of information-sharing and no possibility of participation in the decision-making process for those affected seems to

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<sup>32</sup> Housing and Land Rights Coalition, '5,000 Houses Demolished in Mumbai, Slums Set on Fire and Forced Eviction of Thousands: Multiple Human Rights Violations', 16 May 2006, [www.hlrn.org/news\\_show\\_user.php?id=156](http://www.hlrn.org/news_show_user.php?id=156).

have been repeated in the majority of the recent cases of forced evictions and demolitions of homes in Karachi. The affected families, already among the poorest of the poor, are generally allegedly left to fend for themselves on the streets without basic shelter. In cases where relocation has been offered, the relocation sites are reportedly located far away from livelihood opportunities and are lacking in civic services. The evictions have allegedly been accompanied by the excessive use of force by the police and local authorities, and reports of related death and injury. [...]

'Whatever the aim of these 'development-based' evictions, they often have common features that contravene nationally and internationally recognized human rights standards.'<sup>33</sup>

### **Bulldozer governance in the name of development**

A disturbing aspect of the above cases is the apparently growing belief amongst certain governments that forced eviction is a legitimate tool of governance, which can and should be used in the quest for development.

An extreme but telling example of this has been the Zimbabwe Government's Operation Murambatsvina, a desperate attempt to deal with the increasingly restless and politically disaffected urban poor of Harare, Bulawayo and elsewhere; and at the same time – quite paradoxically – intended to revive the local economy. According to public statements by President Robert Mugabe, the programme would rid urban areas of allegedly illegal settlers and black market traders, in order to promote 'urban renewal' and the emergence of a 'new breed of organized entrepreneurs'. In June 2005 a ZANU-PF lawmaker explained that the hardships of the evictions were a necessary price for a promised economic turnaround: "These are just temporary things and they are necessary for a long-term turnaround".<sup>34</sup>

Even more disturbing than the bizarre logic of this programme, perhaps, is the extent to which national leaders in Africa have failed to speak out or act against it. Despite a public outcry and sustained pressure from over 200 international and African NGOs on all African governments to intervene,<sup>35</sup> little was said or done, with the result that these brutal evictions are now a fait accompli. Observers were particularly dismayed when, at the height of the controversy over 'Operation Murambatsvina', the then Kenyan Minister of Housing, Amos Kimunya, told a workshop of African housing ministers held in Cape Town that "[H]owever painful, evictions are necessary [...] In Kenya's experience, slum dwellers would move only when they saw a government bulldozer".<sup>36</sup>

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<sup>33</sup> United Nations, Press Release: UN Expert Calls For Immediate Halt To Forced Evictions In Karachi, Pakistan, 26 May 2006.

<sup>34</sup> Michael Hartnack, 'Mugabe applauds 'clean up' operation', Mail and Guardian, [online news] 24 June 2005, [http://www.mg.co.za/articlepage.aspx?area=/breaking\\_news/breaking\\_news\\_\\_africa&articleid=243784](http://www.mg.co.za/articlepage.aspx?area=/breaking_news/breaking_news__africa&articleid=243784).

<sup>35</sup> Amnesty International, COHRE, Zimbabwe Lawyers for Human Rights and others, Joint Statement, 23 June 2005, <http://www.cohre.org/zimbabwe/Z01-Statement-ENGLISH.doc>.

<sup>36</sup> Duncan Campbell, 'Bulldozers Carve Out a Bleak New Reality for Poor Zimbabwean', The Guardian UK, [online journal], 5 July 2005, <http://www.guardian.co.uk/zimbabwe/article/0,2763,1521337,00.html> 12jul2005.



**Bulldozer governance: Senegal September 2002** (Photo: COHRE)

As the outspoken author Wole Soyinka said in protest to the events in Zimbabwe, “Bulldozers have been turned into an instrument of governance and it is the ordinary people who are suffering.”<sup>37</sup> Subsequent evictions in Abuja (Nigeria), Digya Forest (Ghana) and others in Pakistan, Angola, China and elsewhere, seem to indicate that this is indeed the emerging trend.

Everyone concerned with genuine human development needs to work together to make sure that this trend is reversed. Part of the struggle against forced evictions is a need to change the mindset of the leadership of those countries where forced evictions are a commonly used tool of development and control of the poor. It is crucially important to get the message across that forced evictions are unacceptable and invariably counterproductive; and that alternatives to eviction need to be found. What makes this task very difficult, however, is the fact that the mindset is rooted in very powerful economic forces.

## **Towards solutions**

### **Counterstrategies and alternatives**

However, it is not all bad news. There have been encouraging signs of progress in the struggle for the right to protection against forced eviction. All over the world, communities are creating opportunities to be heard and to be involved in the formulation and implementation of strategies to obtain their security and well-being. A number of excellent support organisations have also emerged, joining forces with the affected communities and with each other in an attempt to turn the tide of forced evictions.

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<sup>37</sup> ‘Soyinka urges Zimbabwe sanctions’, BBC News, [online newspaper], 21 July 2005, <http://news.bbc.co.uk/1/hi/world/africa/4703021.stm>

This joint work by many actors has resulted in growing resistance to forced evictions globally, the prevention of many thousands of evictions, and in constructive engagement between governments and communities on the design and implementation of viable alternatives.

This work has also resulted in government officials and even national leaders supporting calls for sanity and responsible governance in dealing with the land and housing rights of the poor, by speaking out in public against the practice of forced evictions. For example in France, where many poorer people are losing their homes as a result of the reduction of social housing and speculative rental increases, a number of City Mayors have declared their cities eviction free zones in order to give them time to try to resolve the problem.<sup>38</sup> Efforts are underway to work with some of these courageous officials to try to encourage other cities in Europe, Latin America and elsewhere to do the same.

Progress has also been made in Africa. For example, President Museveni of Uganda has made some bold statements against forced evictions. During 2002, COHRE worked with the Naguru and Nakawa Estates Tenants' Association in Kampala, Uganda, trying to prevent the eviction of around 1,500 people to make way for a 'modern satellite city' on the land. The outcome of this struggle was an intervention directly by the President calling for a stop to the eviction and urging the Kampala City Council to build housing units for low income people instead. The eviction was called off.

The same President announced in 2005: "I will suspend [any] judge who colludes in illegal evictions and institute an inquiry". Museveni also instructed Regional District Commissioners: "Defend your people; don't sit while your people are being oppressed. I don't want to hear about evictions of people in Buganda or any other place in Uganda."<sup>39</sup>

There are also other positive examples of alternatives to forced eviction. In the Americas, the Municipality of Sao Paulo, Brazil and civil society groups have collaborated in an initiative, known as the Bairro Legal (Legal Neighbourhood) Programme, to produce effective remedies for hundreds of thousands of inadequately housed people, safeguarding them from a looming threat of forced eviction. In the 1970s, the Municipality of Sao Paulo initiated a scheme to parcel land into lots and sell them to low-income families. However, most of those who purchased the land were not provided with legal titles. As such, their status as 'informal' settlements left them open to the threat of forced eviction and required them to build their homes in areas lacking basic services, such as access to clean drinking water and facilities. The Bairro Legal Programme provided security of tenure and improved the living conditions for hundreds of thousands of its residents.

COHRE commended the Bairro Legal Programme by selecting the Municipality as the recipient of the 2004 Housing Rights Protector Award<sup>40</sup>. In 2002, COHRE presented the Housing Rights Protector Award to the Federative Republic of Brazil and in 2005, to Tasneem Siddiqui for his innovative work for the Sindh Katchi Abadis Authority in Karachi, Pakistan.

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<sup>38</sup> Advisory Group on Forced Evictions, 'Forced Evictions - Towards Solutions: First Report of the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT', 2005, p. 122.

<sup>39</sup> 'Museveni stops land evictions', The New Vision, 5 October 2005, [www.newvision.co.ug/D/9/12/459193](http://www.newvision.co.ug/D/9/12/459193).

<sup>40</sup> The COHRE Housing Rights Protector Award is one of three categories of awards presented annually through COHRE's Housing Rights Awards. The Protector Award is presented to a government or other institution that has shown an exceptional commitment to respecting or protecting housing rights. This Award is given to demonstrate that housing rights can be enforced when the political will to do so is genuinely applied toward protecting human rights and safeguarding human dignity.

The Federative Republic of Brazil has demonstrated how national governments can implement housing provisions that are consistent with international human rights law, with the creation of the City Statute – an urban reform law that has been recognised as one of the most progressive laws on housing worldwide.

The Sindh Katchi Abadis Authority (SKAA) in Karachi, Pakistan has also provided a good example of methods to improve security of tenure for urban poor communities. Spearheaded by Tasneem Siddiqui, the SKAA provided security of tenure at affordable rates to over 1,000 katchi abadis (informal settlements) by simplifying the regularisation process, safeguarding hundreds of thousands of people from the threat of forced evictions and improving their living conditions through better infrastructure.

Mr. Siddiqui, explained his two approaches to solving the housing problems of the urban poor as follows:

- a.) regularizing the squatter settlements in the province of Sindh by cutting red tape, simplifying procedures, decentralising the working of Sindh Katchi Abadi Authority, and more importantly by involving the communities in the entire process;
- b.) using innovative mechanisms of 'incremental housing development' which ensured access to land at prices they can afford."<sup>41</sup>

Such positive interventions by governments, partner communities and agencies to find alternatives to forced eviction, are to be welcomed. Yet there is always a need to remain vigilant, as the issue of evictions invariably has deep links with powerful economic pressures, and can also be used to gain political support. The protector against evictions today could easily be the implementer of evictions tomorrow.

### Methodologies and tools

Many different methods and tactics are being used in the global struggle against forced evictions, including individual resistance, community resistance, coalitions and partnerships, legal interventions and creative community-based alternatives.

Individual protests against forced evictions can be powerful, but also dangerous and even fatal. As indicated earlier, in highly repressive societies such as China and elsewhere, the act of resisting often takes the utterly desperate form of public suicide.

There are also many examples of people heroically risking their lives while trying to prevent the forced eviction of others. Most well known, perhaps, is the example of Rachel Corrie, who was brutally killed in March 2003 when she stood in the path of an Israeli bulldozer demolishing houses in Gaza. As events following the death of Corrie have demonstrated, heroic individual action can motivate and inspire others, and significantly boost group and community action.<sup>42</sup>

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<sup>41</sup> Excerpt from acceptance speech given by Tasneem Siddiqui on Friday 2 December 2006 in Bangkok, Thailand at the COHRE Housing Rights Awards. The full speech can be accessed at [http://www.cohre.org/downloads/2005\\_Protector\\_Acceptance\\_Speech.doc](http://www.cohre.org/downloads/2005_Protector_Acceptance_Speech.doc).

<sup>42</sup> See Cindy and Craig Corrie, 'Rachel was bulldozed to death, but her words are a spur to action', 8 October 2005; copy available at: <http://www.commondreams.org/views05/1008-21.htm>.. See also COHRE Housing Rights Awards, at <http://www.cohre.org/waigo/presskit.doc>; 'Rachel Corrie: A brief but courageous life', in

Well organised community resistance and initiatives still remain one of the best tools to prevent forced eviction. Such community resistance can be made more effective if it is backed up by support institutions. However a crucial condition for this work to be successful, is that the support institutions must, at all times, be attentive to the needs and priorities of the affected communities and groups, offering legal, technical, and other support, but without imposing outside priorities or agendas. Through such alliances, it becomes possible for affected groups not only to resist, but also to offer creative developmental alternatives to the authorities, which can in the end, benefit everyone concerned.

However, the task of preventing and finding alternatives to forced evictions is by no means easy. There quite simply is no single or 'magic' solution to this huge problem. The problem of housing rights is too pervasive, while the causes are too diverse and operate on too many different levels for blueprint responses or methodologies to be effective. It is very important to be aware of this fact when one develops strategies and methodologies on forced evictions. While global and regional strategies are crucial, they should at all times take into account locally specific conditions. While local struggles and community interests are key, and should form the basic building block of any strategy, they can seldom succeed without taking into account and strategising around the regional and global origins of the problems which communities face.

Given this complexity, it is crucially important to develop a range of different tools, to be used singly and in combination, depending on the circumstances of the specific situation. Organisations working to prevent evictions should jointly analyse cases, share ideas and resources, and undertake selected joint initiatives. Forums such as the Advisory Group on Forced Evictions (AGFE) offer opportunities for such discussion and possible collaboration.

In this context, COHRE has been working with a range of NGO and community partners in Brazil, Colombia, Ghana, South Africa, Sri Lanka, Pakistan and other countries, as well as with bodies such as AGFE and Amnesty International (AI), to develop and test a set of tools and strategies to be used flexibly and creatively in response to given situations. An important governing principle of this approach is never to replace or supplant existing organisations and networks already involved in resisting evictions, but rather to complement, support and promote the work already being done. It is also important to always take guidance from the needs and aspirations of the affected communities themselves, and to ensure that they are the true drivers in the formulation of alternatives to forced evictions.



### Case studies

Pom Mahakan, Bangkok, Thailand

Pom Mahakan is a community of around 300 residents located next to Mahakan Fort, between the old city wall and the canal in central Bangkok, Thailand. In January 2003, the Bangkok Metropolitan Administration (BMA) served the residents with a notice to vacate their homes. Residents were offered relocation to a place 45 kilometres away, on the outskirts of Bangkok. The proposed relocation was part of the Government-sponsored Rattanakosin Island development plan, to make way for a manicured urban park.



**Guarding a barricaded entrance: Pom Mahakan** (Photo: COHRE)

Pom Mahakan has been occupied by the residents and their forebears for up to six generations, and has been described by a renowned anthropologist as a “vibrant, cohesive community with a remarkable sense of collective responsibility and mutual support”, housed in “a rare complex of vernacular architecture”, well worth preserving in rapidly modernising Bangkok.

Residents began holding protests, building barricades and organised a night-watch system. They also acted pre-emptively. Assisted by a coalition of academics based at the local university, NGOs and human rights activists, including COHRE, they put forward a highly innovative land-sharing plan as an alternative to eviction and relocation. The plan included the renovation of the older buildings and the integration of the residences into an historical park. The residents even started implementing part of this plan, and many outsiders rallied to the call to support them in this process.

Despite the above efforts, in August 2003 an administrative court ruled that the eviction was legal and could proceed. In January 2004, the authorities started work on the unoccupied areas of Pom Mahakan, including moving the canal pier and excavating certain areas. The authorities repeatedly announced their intention to evict the entire community. Some community members lost hope and left, but the majority continued their attempts to negotiate with the authorities and to put forward alternatives.

Eventually, although after yet another attempt to implement the evictions, the Bangkok Governor finally agreed to resolve the issue through negotiations. On 19 December 2005 the Governor confirmed that negotiations between the community, the Bangkok Metropolitan

Administration and the University had resulted in an agreement to preserve and develop the area as an 'antique wooden house community'.<sup>43</sup>



**Community demonstration garden: Pom Mahakan, Bangkok** (Photo: COHRE)

### The City of Johannesburg, South Africa

In Johannesburg, COHRE has worked in alliance with a number of local partners, to try to stop the eviction of more than 25,000 residents of buildings in the inner city. These so-called 'bad buildings' are in the process of being cleared, as part of the Johannesburg Inner City Regeneration Strategy aimed at creating an 'African World Class City' and attracting investment. While there is no doubt that the conditions in many of the buildings are appalling, the procedures being used by the municipality are however grossly unfair, including the use of Apartheid-era laws and regulations, instead of much more appropriate recent legislation in the form of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (the 'PIE Act'). In addition, affected people are not consulted or offered any viable alternatives. In the name of safety and health in the buildings, residents are made homeless and left on the streets to fend for themselves.

In response to this, COHRE and its partners - including the Centre for Applied Legal Studies, the Wits Law Clinic, the Inner City Resource Centre, organised groups of residents, and others - developed a joint strategy using a combination of tools, including:

- Detailed research

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<sup>43</sup> Apirak Kosayodhi, 'Letter from Mr. Apirak Kosayodhi, Governor of Bangkok, to Centre on Housing Rights and Evictions', 19 December 2005.

## Forced Evictions - Towards Solutions?

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- Public release of report
- Letters of protest and media releases
- Dialogue with officials on alternatives to the evictions
- Drafting of evictions and tenure security frameworks, laws and policy
- Convening panels of experts
- Training and networking workshops
- Legal action

However, after more than a year of trying to initiate meaningful dialogue with the City in order to convince them that what they were doing was not only illegal and grossly unfair, but also highly unlikely to succeed, it became clear that legal action was inevitable. With pro bono legal support from the Wits Law Clinic and Webber Wentzel Bowens, more than 300 residents from buildings in Berea and a disused panel-beating workshop in the city centre challenged the Johannesburg Metro's practice of evicting poor people from allegedly unsafe buildings onto the inner city streets.

On 3 March 2006, in *City of Johannesburg v. Rand Properties & Ors*,<sup>44</sup> the High Court of South Africa ruled that the City of Johannesburg's housing programme failed to comply with section 26 of the South African Constitution which provides for the right of all to have access to adequate housing. This ruling was due to the Municipality's failure to provide suitable relief for, and to give adequate priority and resources to, the inner city poor living in a crisis situation or otherwise in desperate need of accommodation.

Judge Jajbhay ordered the city to devise and implement a comprehensive and co-ordinated programme to progressively realise the right 'to adequate housing' [sic.] of people living in the inner city of Johannesburg who were in desperate need of accommodation. The Judge dismissed the eviction applications brought by the City against the residents of 'bad buildings'. He also interdicted the City from evicting or seeking to evict the residents until such time as adequate alternative accommodation in the inner city area had been provided.

Not only was this judgement a victory for the inner city poor of Johannesburg, but it advances the importance of the South African Constitution as an international model for how a country should provide protection against forced evictions and uphold the right to adequate housing.

On 20 April 2006, the City of Johannesburg was granted leave to appeal to the Supreme Court of Appeal against the whole of Judge Jajbhay's judgement and order. The Municipality argued that Judge Jajbhay failed to accord the correct degree of deference to the manner in which the Municipality could exercise its powers under the Building Standards Act 103 of 1977 (which was one of the legislative bases upon which the Municipality sought to justify the evictions). In addition, the residents, represented by the Wits Law Clinic and Webber Wentzel Bowens, were granted leave to cross-appeal the Judge's decision that it was unnecessary to rule on the constitutionality of Section 12 (4) (b) of the Buildings Standards Act. The residents also sought a structural interdict requiring the Municipality to submit a reformulated housing programme and to provide other ancillary relief.

On 26 March 2007, the Supreme Court of Appeal ordered the residents of San Jose and the Main Street properties to vacate the buildings concerned. It also ordered the City of Johannesburg to provide those residents who needed it with alternative shelter "where they

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<sup>44</sup> Joint case numbers 04/10330; 04/10331; 04/10332; 04.10333; 04.24101; 04/13835. Full text available at: <http://www.law.wits.ac.za/cals/Inner%20City%20Judgement%20-%203%20March%202006.pdf>

may live secure against eviction". While the SCA held that the residents did not have a constitutional right to alternative housing in the inner city, it said that the personal circumstances of the residents of the particular buildings concerned would have to be taken into account in consultation with the residents before any relocation took place. The City of Johannesburg was ordered to file an affidavit demonstrating compliance with the SCA's order within four months of the SCA judgement date.

The judgment is a partial victory for the inner city poor. The law is now clear on the point that the inner city poor cannot be evicted without any alternative accommodation. However, the judgement has effectively denied the right of inner city residents to live near their place of work. The judgment appears to condone the City's practice of denying adequate hearings to affected residents before taking decisions to evict, and effectively leaves it to the City to decide if and when the occupiers of "bad" buildings should be consulted prior to future eviction applications."<sup>45</sup>



Forced eviction in progress: Johannesburg, 2004 (Photo courtesy of Guy Tillim)

## Conclusion

Speaking in the aftermath of a tragic fire in an inner city building in March 2006, which resulted in the death of 12 people and the injury of many others, Johannesburg Mayor, Amos Masondo, criticised those opposing the City's strategy to evict residents of such buildings, and went as far as saying that the tragic incident "illustrated the lack of common sense in a recent judicial ruling that occupants were better off in unsafe buildings than living on the streets"<sup>46</sup> NGOs responded by pointing out that the City of Johannesburg was under a constitutional obligation to devise and implement a plan to provide basic shelter for those in the inner city in desperate need; and that it was their failure to provide alternatives, not constraints on their power to evict residents, that had left the inner city poor vulnerable to disasters such as the

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<sup>45</sup> Ibid.

<sup>46</sup> Chantelle Benjamin, 'Fire deaths underline need for evictions — Masondo', Business Day, 30 March 2006, <http://www.businessday.co.za/articles/article.aspx?ID=BD4A177828>.

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fire.<sup>47</sup> The comments made by Mayor Masondo, along with remarks such as that by Kenyan Minister Kimunya cited earlier, indicate a gap in understanding of the nature and impact of forced evictions.

There is a long road yet to be travelled before political leaders and administrators begin to realize that forced evictions are not only illegal and unjust, but invariably also counterproductive to genuine human development. It is our task to keep reminding them.

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<sup>47</sup> COHRE, Centre for Applied Legal Studies, Joint Media Release, 30 March 2006, [http://www.cohre.org/downloads/JohannesburgFireDeaths-MediaRelease\\_CALS-COHRE.pdf](http://www.cohre.org/downloads/JohannesburgFireDeaths-MediaRelease_CALS-COHRE.pdf).

### 3 CASE INFORMATION UPDATE

Part of AGFE's mandate is to monitor and identify cases of implemented, threatened and averted forced evictions, as well as to highlight the efforts of activists, communities and organisations to halt forced evictions or attain remedies for affected people. In its first report, AGFE documented 15 cases with information that AGFE Members, partners and volunteers provided. Since the release of the first report, AGFE and its partners have been monitoring these cases and the following is an update on some of the cases.

#### Case Update 1: Pom Mahakan, Thailand<sup>48</sup>

Pom Mahakan is a community of approximately 300 residents located next to Mahakan Fort, between the old city wall and the canal in central Bangkok, Thailand. In January 2003, the Bangkok Metropolitan Administration (BMA) served the residents with a notice to vacate their homes, in order to make way for a manicured urban park, as part of the Government-sponsored 'Rattanakosin Island Plan'. The BMA offered to relocate residents to a place 45 km away, on the outskirts of Bangkok.

Pom Mahakan has been occupied by the residents and their forebears for up to six generations, and has been described by a renowned anthropologist, Michael Herzfeld, as a "vibrant, cohesive community with a remarkable sense of collective responsibility and mutual support", housed in "a rare complex of vernacular architecture" well worth preserving in rapidly modernising Bangkok.<sup>49</sup>

Residents began holding protests, building barricades and organising a night-watch system. They also acted pre-emptively. Assisted by a coalition of academics based at the local university,<sup>50</sup> NGOs and human rights activists, they put forward a highly innovative land-sharing plan as an alternative to eviction and relocation. The plan included the renovation of the older buildings and the integration of the residences into a historical park. The residents even started implementing part of this plan, and many outsiders rallied to the call to support them in this process.

Despite the above efforts, in August 2003 an administrative court ruled that the eviction was legal and could proceed. In January 2004, the authorities started work on the unoccupied areas of Pom Mahakan, including moving the canal pier and excavating certain areas. The authorities repeatedly announced their intention to evict the entire community. Some residents accepted compensation from the Bangkok Metropolitan Authority and left the community, but the majority continued their attempts to negotiate with the authorities and to put forward alternatives.

On 29 November 2005, the Bangkok Metropolitan Authority attempted to evict residents yet again. COHRE immediately sent a letter of protest to Bangkok Governor Apirak Kosayodhin, who replied on 19 December 2005 to confirm that negotiations between the community, the

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<sup>48</sup>Information for this report was submitted by COHRE

<sup>49</sup>UN-HABITAT, *Forced Evictions – Towards Solutions?* (2005)

<sup>50</sup>Students from the Centre for Architecture and Human Rights – a department of the King Mongkut's University of Technology Thonburi, Thailand - collected data, and organised meetings and symposia on various aspects of the community's strategies. The team of academics, and students of anthropology, architecture, political science and law thus played a role in bringing international attention to this case.

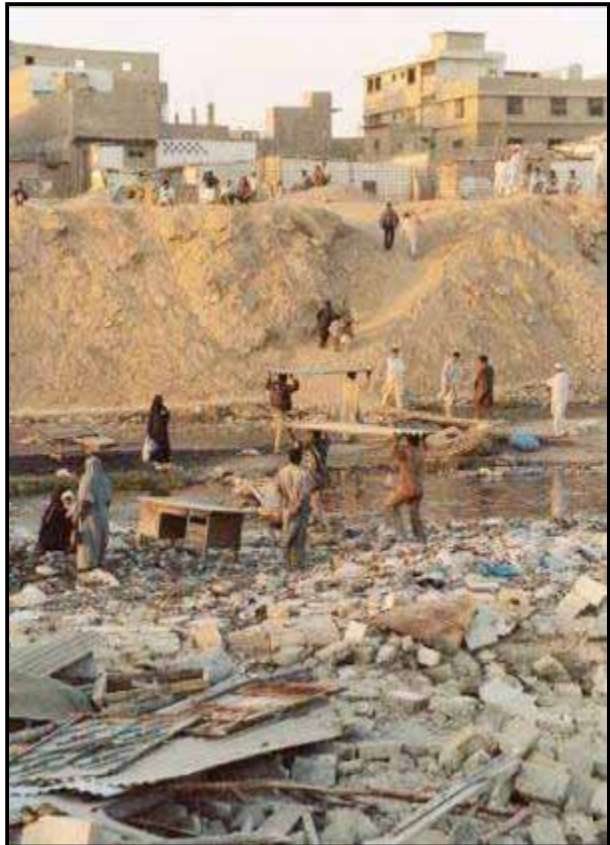
Bangkok Metropolitan Administration and the University had resulted in an agreement to preserve and develop the area as an 'antique wooden house community'.

In his letter, the Governor said, "Realizing that Mahakan Fort Community preservation should serve as an example for other ancient communities, the residents are not deemed to eviction. They will be encouraged to work closely with the organization concerned in order to promote the area as a tourist attraction under the three-party agreement between Bangkok Metropolitan Administration, Silpakorn University and the community representative that was signed in early December 2005." (A copy of the letter is attached as Annex 2)

### Case Update 2: Lyari Expressway, Pakistan<sup>51</sup>

In 2001, the Government of Pakistan and the Karachi City Government started massive bulldozing operations in preparation for the US \$1.5 billion Lyari Expressway Project on the banks of the Lyari River. For this project, an estimated total of 77,000 families (230,000 persons) will be evicted. Many of the affected people live in settlements that are more than 100 years old. There are plans to relocate the evictees, however, the relocation sites are located approximately 30 kilometres outside of the city and many lack basic services, such as water or electricity. Moreover, approximately 5,000 businesses, 58 mosques, churches and temples, and several schools are being destroyed.<sup>52</sup>

Due to the eviction, the schooling of several thousand students is being severely disrupted, and around 40,000 people are losing their jobs. While compensation is provided to most evictees, it generally equals less than 10 percent of their homes' market value. The affected communities have not been consulted on the imminent evictions. Many of those evicted and facing eviction have legal tenancy rights that have been recognised by the Courts. Although the High Court of Sindh ordered the Government to review the design of the project so as to minimise the number of people affected, the implementation of the Lyari Expressway project has continued. There have also been reports that the project has demolished many homes that do not fall under the path of the expressway, as these evictions give the Government access to valuable land.<sup>53</sup>



Lyari eviction aftermath (Photo:COHRE)

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<sup>51</sup> Information for this report was provided by COHRE

<sup>52</sup> UN-HABITAT, Forced Evictions - Towards Solutions? (6 Jun. 2005)

<sup>53</sup> Ibid.

### Recent events

Between the beginning of 2001 and May 2006, approximately 11,397 houses and 3,100 commercial buildings have been destroyed in several eviction drives<sup>54</sup> Injuries and deaths have also been reported after people protested and refused to move for the bulldozers.

In January 2006, the Karachi City Government forcibly evicted residents of Rehmatia Colony and Prem Nagri without giving prior notice, and without paying compensation or providing alternative residences. The City authorities demolished 600 housing units, a temple and a Mazaar. The police reportedly used excessive force during the eviction and a number of community activists were injured and many others arrested.<sup>55</sup>

On 7 January 2006, the Muttahida Majlis-i-Amal, MNA Maulana Asadullah Bhutto, warned the provincial and city governments to refrain from demolishing houses which were in the way of the Lyari Expressway, without providing compensation and allocating alternate plots to the affected people. He also accused the provincial and city governments of harassing the residents of colonies established on both banks of Lyari River and said they were being compelled to pay money to save their houses or face the consequences.<sup>56</sup>

### Actions and alternatives

NGOs have held several meetings with communities threatened with eviction around the Lyari corridor, and provided them with information on the current development of the project, so that these communities could prepare themselves for lobbying the government.

The communities across the Lyari Riverbed continued their protest demonstrations and rallies. Apart from this, the communities and the Action Committee for Civic Problems (ACCP) held a number of meetings with government officials, politicians, and journalists.

The Asian Human Rights Commission (AHRC) has called on the Government to immediately halt the demolitions along the Lyari River until they have finalised rehabilitation plans, as per the Sindh High Court decision of June 2003. AHRC stresses that the Government must ensure that the project must:

- have full approval from the elected assemblies and counties;
- be subject to an environmental impact assessment;
- not include the destruction of centuries old villages outside the Lyari River area; and
- be subject to the conducting of a survey of the affected communities, under the Law of Land Acquisition Act 1884, to fully address residents' current social and economic situation.<sup>57</sup>

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<sup>54</sup> Asian Coalition for Housing Rights, Eviction Alert (25 Aug. 2006)

<sup>55</sup> 'Made homeless and out in the cold', The Jang, (15 Jan. 2006)

<sup>56</sup> 'KARACHI: Compensation to LEW affectees demanded: MMA criticizes demolition of houses' Daily Dawn (8 Jan. 2006)

<sup>57</sup> Asian Human Rights Commission, 10 April 2006



### Case Update 3: Kibera and other areas, Kenya<sup>58</sup>

Informal settlements in Kenya's capital Nairobi currently house over 2 million people. In February 2004, various Kenyan Ministries announced an unprecedented series of mass evictions that threatened over 300,000 residents of Kibera—Nairobi's largest informal settlement. The planned evictions were justified on the grounds that the informal settlements were illegally situated either on 'dangerous' public land (rail reserves or areas under electrical power lines) or on land reserved for future road-construction. That meant that all structures and settlements built on land set aside for road reserves, near roads, railway tracks or power-lines faced eviction. Raila Village in Kibera was the first to be evicted. But the sheer number of people to be affected by the evictions provoked strong local, national, and international criticism. The Government responded to the concerns and suspended its eviction plans. Nevertheless, some uncertainty was created when various Ministers declared that the suspension did not apply to their departments.<sup>59</sup>

In most cases, the threatened evictions in connection with planned infrastructure in Nairobi and elsewhere are still suspended. Unfortunately, however, the Government has made no effort to resettle or compensate the approximately 2,000 victims of the eviction and demolition at Raila Village, Kibera. Remarkably, given the scale of this mass eviction, there has been no work on the bypass road, the officially-stated reason for the demolition. However, there have been negotiations on the resettlement of residents and businesses presently located on the railway reserves in Kibera and Mukuru, to pave the way for privatisation of the railway in mid-2006. A relocation plan 'Relocation Action Plan for Improving the Safety along Kenya Railway Line' has been developed and is intended to form the basis of discussions with the concerned community group, Ngazi Ya Chini. The plan substantially attempts to ensure compliance with the World Bank Guidelines on Involuntary Resettlement. Most worrying, however, has been the absence of genuine community participation in the negotiations and consultations thus far.

However, Government-implemented evictions in other parts of Kenya have continued unabated during 2006; and, the Government has only occasionally intervened to ensure that evictions carried out by private individuals comply with international human rights standards. Furthermore, Government officials have not followed correct procedures in carrying out forced evictions, as officials have not consulted with the affected residents on alternatives to eviction; have not followed due process; and have not provided adequate resettlement opportunities. Even though the Government recently undertook to provide resettlement for the Mau Forest evictees, it is not known how many have actually benefited. Furthermore, it was not clear from this undertaking – announced during the referendum campaign in October 2005 – whether the planned resettlement would be an isolated measure to take place at some time in the future or whether it represented a significant advance towards a more systematic approach to resettlement.

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<sup>58</sup> Information for this report was provided by COHRE

<sup>59</sup> Centre on Housing Rights and Evictions (COHRE), *Listening to the Poor? Housing Rights in Nairobi, Kenya*, (April 2006).

Thousands of Kenyans have been subjected to forced evictions in various parts of the country, including:

On 29 May 2005, Administration Police forcibly evicted over 120 families from purportedly private lands at Ndundori in Lanet, Nakuru, even though no court order authorised the police to do so.<sup>60</sup>

On 16 July 2005, Nairobi City Council askaris (armed guards) and Administration Police demolished 30 houses in Kibagare settlement, Uthiru estate, leaving 140 residents – including children – destitute and homeless.<sup>61</sup>

On 23 September 2005, Government-owned bulldozers were used to demolish the homes of 850 families in Deep Sea settlement, Westlands, Nairobi.<sup>62</sup>

On 25 January 2006, 20 families were evicted from houses in Tudor Estate, Mombasa. Reportedly, the houses are to be sold to private developers.<sup>63</sup>

In September 2006, armed police and hired youth evicted some 300 families from the Komora slum in Nairobi. Without warning, police set fire to shelters and bulldozed others. A court had ruled that the families were living on the land illegally. A few residents had in fact built their houses as far back as the 1970s, but it was in the last few years that the slum population had been growing. The families were not compensated for the loss of their houses and property, and no alternative accommodation was provided to them. Many of the evictees were forced to move to other slums.<sup>64</sup>

The majority of recent forced evictions in Kenya have been carried out in forest areas. Government officials have blamed settlers and tribal people in Kenya's forests for Kenya's increasing deforestation and the environmental damage. Evictions have been characterised by violence, destruction of property and schools, a lack of adequate resettlement, and, in some cases, a blocking of aid for the evictees. The Government also failed to make allowance for traditional forest dwellers, such as the Ogiek, who have lived in the forests for centuries.

In March 2005, the Government of Kenya started to remove tribal people from Mau Forest in Narok South. The evictions took place in the forest which has hosted some of Kenya's oldest communities, such as the Ogiek and Maasai people. Many families, mostly of Ogiek descent, settled and bought titles to land in Narok South after Kenyan Independence in 1963. A December 2004 report found, however, that these titles had been illegally sold by corrupt officials of the Moi regime, and the Minister of Lands and Housing announced that the holders should consider their titles cancelled. The forced evictions began in March 2005 with the forced eviction of 1,000 residents from Enoosupukia. Then from 13 June 2005, over 50,000 people were evicted and their homes and several granaries were destroyed, despite a High Court injunction. In Narok South, 25 schools were burned and at least 6,000 pupils had to leave of school as a result of the burning of their school buildings. The people were evicted from the forest without compensation or the provision of alternative accommodation. The

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<sup>60</sup> *ibid.*

<sup>61</sup> *ibid.*

<sup>62</sup> *ibid.*

<sup>63</sup> *ibid.*

<sup>64</sup> 'Eviction leaves squatters out in the cold', *The Standard*, (4 Sep. 2006),

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evictions were reportedly carried out in a brutal manner and reports have been received of women being raped by law enforcement officers.<sup>65</sup>

In January 2006, approximately 3,000 residents were evicted from Mt Elgon Forest. Authorities blocked attempts to provide evictees with food aid.<sup>66</sup>

Another case of forced eviction in Kenya's forests was reported by Relief Web in January 2006. Police and hired youths, led by the local District Officer, burnt the homes of 4,000 people in Eburru Forest, leaving them homeless.<sup>67</sup>

The Ministry of Environment announced in April 2006 that evictions in forest areas would continue.<sup>68</sup>

At least 945 Ogiek residents and 2000 Nandi settlers were evicted from Kipkurere Forest and have been left homeless. An interim fact-finding mission report from the Kenya National Commission on Human Rights states that the settlements were burned; property and food stocks destroyed; children (half of the affected population) could no longer attend school; all residents (particularly the children) lacked food, proper clothing and shelter; no relief food was sent by the government or any other agency and there were no medical services to deal with the likely increase in disease. The Government announced it would only resettle 250 'squatters'.<sup>69</sup>

On 17 June 2006, the Government forcibly evicted more than 8,000 families staying in the Embobut forest, Marakwet and Kipkunj forests in the Rift Valley. The eviction also targeted 52 public institutions including 20 primary schools and five secondary schools.<sup>70</sup>

## Actions and alternatives

### Forest evictions

In response to the numerous forced evictions from forests in Kenya, Amnesty International, COHRE, Hakijamii Trust, the Kenya Land Alliance and the Kenya National Commission on Human Rights undertook an investigation of these evictions and will be releasing a report in 2007 on their findings to the relevant stakeholders.<sup>71</sup> The organisations recommend the following actions to be taken by the **Government of Kenya**:

#### **1. Moratorium on forced evictions in forests and investigation on way forward**

Declare and enforce a moratorium on forced evictions in forest areas until: (a) guidelines and laws are in place to ensure that any eviction conforms with international human

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<sup>65</sup> 'Kenya evicts thousands living in forest land', The Mail & Guardian, (17 June 2005); Joseph Kimani, '1,000 Forced to Vacate Forest', The Nation (Nairobi), (2 Mar. 2005)

<sup>66</sup> *ibid.*

<sup>67</sup> 'Two men speared to death in Kenyan ethnic attack', ReliefWeb, (29 Jan. 2006),

<sup>68</sup> 'Evictions will go on to save forests, says top official', Daily Nation, (5 Apr. 2006)

<sup>69</sup> 'Kenya removes forest squatters' BBC News (24 Mar. 2006); Dorcas Nyambayi, 'State defends forest evictions', The Standard, (27 Mar. 2006); COHRE and Hakijamii Trust, Kenya Housing Rights Update (Aug. 2006), 'Forest evictions: a way forward?'

<sup>70</sup> COHRE and Hakijamii Trust, Kenya Housing Rights Update (Aug. 2006), 'Forest evictions: a way forward?'

<sup>71</sup> Amnesty International, Centre on Housing Rights and Evictions, Kenya Land Alliance, Hakijamii Trust, the Kenya National Commission on Human Rights 'Nowhere to Go: Forced evictions in Mau Forest, Kenya' (Apr. 2007)

rights standards; (b) there is a thorough investigation with the affected communities and support organisations, which planned evictions are absolutely necessary.

### **2. National guidelines on eviction**

Complete the drafting of the national guidelines on evictions, currently being led by the Ministry of Lands, in order to guide the development of plans and legislation that concern evictions in forest areas. The national guidelines should specifically address the issue of evictions in forest areas.

### **3. Assist victims**

Ensure that victims of forced evictions in the Mau Forest Complex (Maasai Mau and Sururu) all other forest areas are provided with assistance in accordance with international human rights standards, including access to resettlement sites with effective access to basic services and schools.

### **4. Social impact assessments and alternatives to eviction**

Develop a policy and law requiring thorough social impact assessments for activities that may result in eviction, including in forest areas, and a mechanism for community participation to examine whether specific evictions are absolutely necessary, and whether there are alternatives to eviction, particularly for those groups who have traditionally lived in the forest.

### **5. Comprehensive relocation and compensation plan**

Move swiftly to put in place a comprehensive relocation and compensation plan for any proposed evictions in forest areas. The resettlement plan must be in accordance with international human rights and IDP standards,<sup>72</sup> including respect for the right to participation of those affected, and the parameters for such plans should be enacted in legislation. The plan should not be used as means to prevent legitimate return of groups to their areas of origin, particularly if it has been occupied by others.<sup>73</sup> The resettlement plan must be designed in a way to minimise corruption and sufficient support is provided to ensure that livelihoods on new land are sustainable and that any costs in purchasing land in resettlement areas, to be incurred by those being resettled, are affordable.

### **6. Investigation and prosecution of illegal and irregular land allocation**

Ensure that each case of illegal or irregular land allocation is investigated separately as to the origins of the allocation, and establish a land tribunal for such purposes as suggested by the Ndungu Commission.<sup>74</sup> Those who knowingly perpetrated the illegal sale, transfer and allocation of forest land should be arrested and prosecuted.

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<sup>72</sup> See United Nations Comprehensive Guidelines on Development-Based Displacement (1977), available at <http://www1.umn.edu/humanrts/instreet/forcedevictions.htm>; UN Guiding Principles on Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2, dated 11 February 1998; and Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing, (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), available at [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument); and

<sup>73</sup> See Continued conflict and displacement in the Rift Valley 8n. 2 above), p. 5.

<sup>74</sup> Report of the Commission of Inquiry into Illegal and Irregular Allocation of Public Land, Republic of Kenya, June 2004, p. 188: "Given the fact that each case of a suspected illegal or irregular allocation of public land must be dealt with on its own merits, it is recommended that a Land Titles Tribunal be immediately established to embark upon the process of revocation and rectification of titles in the country."

### **7. Inter-governmental coordination**

Coordinate the various activities of Government ministries and agencies that are concerned with forests and/or evictions, and give instructions to all relevant authorities that any evictions may only be carried out in full compliance with international human rights law and standards;

### **8. Law enforcement officials**

Ensure that all law enforcement officials who assist in carrying out of any eviction that they comply with the Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In addition the officials concerned should undergo human rights training and be made aware of provisions of international and national law in relation to evictions.

### **9. Submissions to Courts**

In its submissions to courts, urge the judiciary to interpret the law consistently with the constitutional protections of the home, the International Covenant on Economic Social and Cultural Rights, and the International Covenant on Civil and Political Rights

To **UN agencies and donors**, the organisations recommend the following actions:

### **10. Harmonisation of UN Agencies and donor advice and support**

Coordinate their activities to ensure that human rights standards and concerns are incorporated in their advice and financial support to the policies and activities of the Government of Kenya, and that sufficient financial support is provided to support the Government's resettlement programmes.

## **Eviction Guidelines**

In January 2006, the Ministry of Lands publicly announced its intention to develop guidelines on forced evictions through a process of consultative review, and to formulate a comprehensive legal framework on evictions in Kenya. The Ministry prepared a draft set of guidelines and commenced consulting with stakeholders. In September 2006, a number of community groups and organisations held a National Symposium on Eviction Guidelines. Over 1000 community representatives from around the country agreed upon a declaration on evictions guidelines. Speakers from the United Nations, South Africa, the Kenya National Commission on Human Rights and COHRE provided a human rights legal perspective, while community groups presented their experiences and demands. Those signing on to the declaration are:

#### **Community representatives**

Network of Peoples' Settlements (Nairobi)  
Muungano wa Wanavijiji  
Kisumu Peoples' Settlements  
Turkana Community Development Organisation  
Ogiek Community Groups  
Groups from:

- The Coast
- The North East
- The East

#### **Coalition on Housing Rights**

Kenya National Commission on Human Rights  
Hakijamii Trust  
Centre on Housing Rights and Evictions  
Shelter Forum  
CHEMICHEMI  
Kituo Cha Sheria  
Kenya Land Alliance  
RPP  
Pamoja Trust  
4C's  
Umande Trust  
Kenya Human Rights Commission  
Copa (Kenya)

### PEOPLE'S DECLARATION ON EVICTION GUIDELINES

On 27 September 2006, over 1,000 representatives from communities and settlements throughout Kenya, together with the Coalition of Housing Rights, gathered at Nyayo National Stadium, Nairobi to discuss the progress in the drafting of National Guidelines on Eviction.

The Symposium discussed past experiences of eviction, the content of proposed eviction guidelines, ways to invigorate the process for the adoption of the guidelines and agreed on the following declaration.

We, the representatives solemnly

1. Declare that no constitution, law or policy can be legitimate unless it reflects the cultural and traditional predilections of people. Any eviction guideline must originate from the people if it is to be recognised as legitimate.
2. Call for the restarting of the drafting of eviction guidelines by the Ministry of Lands and that the process be inclusive and participatory with public involvement at all stages.
3. Recognise that forced evictions are contrary to human rights and the public interest, which is the most sacred responsibility of government. Any eviction that is against public interest is socially unacceptable, economically obstructive, politically divisive and is a source of tension that inevitably causes instability.
4. Call for a halt to all evictions until national eviction guidelines have been adopted.
5. Urge that the national guidelines include the following principles which are also consistent with international human rights obligations of Kenya:
  - **Justification:** Evictions should be avoided as far as possible and any eviction must be substantively justified and only occur in exceptional circumstances.
  - **Consultation over alternatives:** There must be effective and genuine participation of the affected group before an eviction together with exploration of alternatives to the proposed eviction.
  - **Adequate and reasonable notice:** People are to be given adequate notice so that they can explore other options including challenging the notice before a court of law.
  - **Proper information on the proposed eviction:** Affected people are to be provided with the real and convincing reasons for the intended eviction. Through this the people will be in a position to understand and appreciate why they have to be moved.
  - **Presence of Government officials during the eviction:** Government officials should be present during the actual eviction in order to enhance accountability and transparency.
  - **Prevent violation of other rights:** Any eviction must not lead to the violation of other human rights, e.g. food, health or education. Demolishing a school, for instance, is destroying the livelihood of the children.
  - **Effective remedy against illegal evictions:** Affected persons are to be given adequate opportunity to seek and obtain legal remedies. For instance, a week's notice is a violation of this requirement and remedies must be available for breaches. Due process must be followed, a cardinal obligation of all governments.
  - **No eviction that leads to homelessness:** Evictions must not lead to homelessness, making people sleep out in the cold or live in refugee-like camps, which is cruel and degrading treatment.
  - **The most needy and most vulnerable:** Special attention must be paid to the sick, the elderly, children, and people with disability, refugees and women. They always suffer more than the others.
  - **Relocation:** Find suitable and adequate resettlement for those who must be evicted. A detailed plan with a clear timetable and allocation of resources must be developed in each particular case.
  - **No eviction to take place at night, when it is raining or in bad weather:** Why evict at night, or when it is raining? It is inhuman and totally unjustifiable.
  - **Seek court order:** Where there is no agreement with the affected persons on the intended eviction, the Government must go to court and justify its case and obtain a court order.
  - **Non-discrimination:** No evictions should be undertaken in a manner that discriminates people on the basis of class, religion, race or political affiliation.
6. Call for the incorporation in the National Land Policy of comprehensive measures, programs, plans and strategies that would prevent future possibilities of forced evictions.
7. Urge that because most evictions were begotten by historical injustices committed against the people in the past, such injustices should be resolved so that justice is realized.

The Nairobi People's Settlement Network, with support from COHRE, Hakijamii Trust, and Dignity International, organised an event to celebrate Human Rights Day on 10 December and to launch an advocacy campaign against forced evictions. Four thousand people attended the events throughout Nairobi and Network members passed a Declaration that they will embark on three main campaigns in 2007: 1) mount a one million signature campaign in support for the development and adoption of the eviction guidelines; 2) prepare and present a People's budget, as a protest of their exclusion from the budgetary process; 3) prepare and publicise a People's Manifesto prior to General Elections.

### Slum-upgrading

However, progress on slum-upgrading policy and projects remains very slow. To date, there has been no official attempt to establish any national system for slum-upgrading whereby communities who wish to commence upgrading can instigate the process within an official framework. The only significant step is that the new Government programme for Integrated Land and Urban Sector incorporates slum-upgrading as one of its key components.

To address the lack of progress, the NGO Coalition on Housing Rights hosted a multi-stakeholder workshop on slum upgrading on 13 November 2006. It was well-attended by Government - with four senior officials from the Ministry of Housing, including the Permanent Secretary, as well as the Mayor of Kisumu - as well as UN-HABITAT staff, experts from South Africa, representatives from NGOs, and representatives from Nairobi communities and other key urban centres in Kenya. Speakers presented human rights approaches to slum upgrading and shared comparative experiences from South Africa and Kenya. During the resulting discussion, participants examined many of the problems that have plagued previous projects and resolved to improve dialogue. The Permanent Secretary agreed to have regular scheduled meetings with civil society and look to improve the participation mechanism in Kibera, including the possibility of holding fresh elections for the Settlement Executive Committee.

## Case Update 4: Gypsies and Travellers in the UK - Dale Farm<sup>75</sup>

As reported in the 2005 AGFE report, Travellers and Gypsies<sup>76</sup> are one of the most vulnerable and marginalised ethnic minority groups in the United Kingdom (UK) and continue to suffer entrenched discrimination affecting their enjoyment of a whole range of human rights, including that of housing rights.<sup>77</sup> A community of Travellers residing on a property known as 'Dale Farm' in Crays Hill, in the county of Essex in England, were reported as facing eviction in the 2005 AGFE report. Some 86 families at Dale Farm, as well as 34 families at two other locations, continue to face eviction by Basildon District Council.

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<sup>75</sup> Information for this report was provided by the International Alliance of Inhabitants and COHRE

<sup>76</sup> Note that the term 'Gypsy' is interpreted as derogatory in most countries. However, in the United Kingdom it is used with pride by certain groups and it is used in that context in this report.

<sup>77</sup> Advisory Group on Forced Evictions, 'Forced Evictions – Towards Solutions? First Report of the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT' 2005, p. 34.

### Background information

The resident Traveller community owns the land, and many have lived on the farm since the 1960s. Other residents have joined the community over time, many of whom were displaced by evictions elsewhere. Approximately 600 residents are facing eviction because they have not been given planning permission to reside on the farm.

The Basildon District Council is attempting to evict those families living on caravan plots that were built on land previously used as a scrap metal yard, which is Green Belt Land - land surrounding London, which is meant remain undeveloped in order to prevent urban sprawl.

In the 1970's, the Council gave planning permission to approximately 40 families to live at Dale Farm. Other families were later denied further planning applications to expand the site into the scrap yard.

However, Gypsies and Travellers often face limited options for housing. In fact, in 2005, Deputy Prime Minister John Prescott exposed a shortfall of 4,500 pitches and directed local councils to identify land with which to develop 300 new sites.<sup>78</sup>

### Continued events and threats

On 24 January 2006, the Basildon District Council voted to bulldoze the homes of Travellers living in the area. This decision was made, despite a pending judicial review of Council policy and pleas to await the outcome of a proposal by UK Deputy Prime Minister John Prescott to re-accommodate families at Pitsea.<sup>79</sup>

On 22 March 2006, the Basildon District Council demolished the homes of four families at Five Acre Farm, Hovefields Avenue.<sup>80</sup> On 11 April 2006, Mr Justice Ouseley of the High Court ruled that the decision by Basildon District Council to bulldoze yards at Hovefields Avenue - part of plans to remove 120 Gypsy families from the district - was unlawful.

Justice Ouseley stated: "Central Government policy and previous appeal decisions were not considered [...]. Without these, the decision cannot be seen as proportional or lawful." Justice Ouseley criticised the Basildon District Council for ignoring the recommendations contained in the latest UK Government circular on the accommodation needs of Travellers. The contents of this circular emphasise the provision of suitable alternative land in the case of eviction.<sup>81</sup>

On 22 February 2007, Ruth Kelly, the British Secretary of State for Communities and Local Government, announced that the British government had rejected a request for permanent planning permission by 86 Traveller families at the Dale Farm site. The decision took into account that the Basildon District Council had not made plans to find alternative accommodation for the Travellers, and the legal sites in the area were already full. It also noted that the Travellers had "put down roots" at Dale Farm, and that their lives would be "much harder" if they were evicted. Nevertheless, the decision stated that the Secretary of State dismissed the appeals and refused planning permission because: "...the material considerations put forward by each of the appellants do not amount to very special

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<sup>78</sup> Patrick Barkham, 'Council must find land for Gypsies' The Guardian, (9 Mar. 2005).

<sup>79</sup> Grattan Puxon, 'Ethnic-Cleansing Vote Threatens UK Gypsies', Ustiben Report, 25 January 2006

<sup>80</sup> 'Bailiffs clear travellers' plots' BBC News (21 Mar. 2006)

<sup>81</sup> Grattan Puxon, 'Judge Rules Gypsy Eviction Unlawful' Ustiben report, 13 April 2006.



circumstances, which clearly outweigh the harm to the Green Belt."

Although the ruling by the Secretary of State for Communities and Local Government is separate from a pending judicial review, residents of Dale Farm are deeply concerned that their eviction is impending. The British High Court hearing is expected this summer.<sup>82</sup>

### Community organisation

Dale Farm has a Committee headed by Richard Sheridan and Kathleen McCarthy. There is also the Dale Farm Housing Association, with the same leadership and Grattan Puxon as Secretary. Richard Sheridan is chair of the Irish Travellers Movement 2006, and a representative on the UK Gypsy, Traveller and Roma Forum which is linked to the European Roma and Travellers Forum in Strasbourg (a consultative body with the European Parliament).

### Supporting agencies working in alliance with the affected community

- Standing Conference of the UK Gypsies, Travellers and Roma Forum chaired by Cliff Condon, delegate with Catherine Beard, to the European Roma and Travellers Forum
- UK Federation of Gypsies and Travellers.
- Peace & Progress Party, led by Corin Redgrave and Vanessa Redgrave, UNICEF Ambassador
- Panjabi Human Rights Monitoring Team, Jewish Human Rights Monitoring Team and National Travellers Action Group Monitoring team, formed to come to Dale Farm in the event of an attempted eviction, together with individual monitors including Vanessa Redgrave and Liberal Democrat MP Nick Harvey.
- International Alliance of Inhabitants, supporting the Zero Evictions Red Wheels Campaign.<sup>83</sup>
- Wickford Primary Care Trust (NHS)

### Actions taken so far to resist eviction and develop alternative solutions

- The community engaged solicitor Keith Lomax, who represented the community at the Judicial Review with a barrister in October 2006.
- Planning experts, Dr Ronald Kenrick, Jeremy Brown and Sarah Green were engaged to conduct the planning appeal in August 2006.
- Assistance has been sought from the Commission for Racial Equality for the Judicial Review.
- Non-violent passive resistance to any eviction attempt. The community have indicated that they will form a human shield in front of the bulldozers to save their homes.
- The International Alliance of Inhabitants launched an international campaign of solidarity -the Zero Evictions Red Wheels Campaign.

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<sup>82</sup> AdvocacyNet, 'Urban Sprawl Trumps Minority Housing Rights in UK as Dale Farm Travelers again Face Eviction, News Bulletin 91 (2 Mar. 2007).

<sup>83</sup> See the IAI Zero Evictions Red Wheels Campaign at: <http://www.habitants.org/article/articleview/1626/1/454>

## Case Update 5: Digya National Park, Afram Plains, Ghana<sup>84</sup>

The communities in Digya National Park have faced threats of eviction periodically in the past. In response to an eviction threat in June 2002, COHRE and the Centre for Public Interest Law (CEPIL) provided a legal memorandum and supporting documentation to the Minister for Land and Forestry in Accra, Ghana. These documents detailed the prohibition of forced eviction in terms of international legal standards and the legal obligations of the Government of Ghana in this regard. The Minister responded to these concerns and directed that the planned eviction be suspended within days of receiving this information.

However, in March and April 2006, a task force of the Wildlife Division of the Forest Commission of Ghana, in conjunction with Ghana Police, forcibly evicted over 7,000 people living along Lake Volta in Digya National Park. Armed with AK-47 rifles and sticks, wardens and police forced residents to pack up their belongings and move to the shore. Residents were forced by wardens to live in the open on the lakeshore, along with their belongings, while waiting to board the next available boat. Wardens directed residents to travel to a village on Mankyere Peninsula, although they did not provide alternative accommodation or compensation for property destroyed. Many residents reported staying on the shores of various islands waiting for transportation for up to three weeks.

In a letter dated 10 February 2006, Asamoah Boateng, Park Manager of the Wildlife Division, stated that the “[W]ildlife Division is going to embark on an evacuation exercise to rid the park of intruders” to enable the Division to develop the Park “to achieve the goal for which the area was acquired.” The letter claimed that the exercise would begin on 28 February 2006. The notice did not provide a meaningful reason for the eviction, the date of the eviction was inaccurate, and furthermore, it was not delivered to the majority of affected persons. Many of the residents had been living in Digya National Park for over 40 years and had been previously displaced by construction of the Akosombo Dam. Much of the land was also held by various tribal groups. When the Park was established in 1971, there was no attempt to resettle those residing there or to compensate tribes for appropriating their land.

The evictions ended abruptly on 8 April 2006 when a boat disaster involving evictees was reported on a local radio station. A wooden motorised boat, carrying over 150 evictees, capsized in the Volta Lake. According to the Regional Police Commander, the boat was carrying more than double its 63-person capacity, as well as livestock, personal possessions, and furniture. At least 10 people were killed. Although the Executive Director of the Wildlife Division denied any link between the eviction and the boat disaster, the helmsman of the boat, Mawuli Akimbola, insisted that 14 heavily-armed wardens on speedboats escorted his boat and forced him to overload it with evictees.

After hearing news of the boat disaster, the wardens left the area. The majority of the evictees are women and children, who were rendered homeless, roofless and destitute. The forced evictions have compromised these families’ fundamental rights to health, life, shelter and sustainable livelihoods. To date, some residents have returned to their homes, citing poor

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<sup>84</sup> Information for this report was provided by COHRE and the People's Dialogue for Human Settlements, Accra Ghana

health conditions, lack of livelihood opportunities, and lack of available housing and land in Mankyere and other villages. They remain under threat of eviction.<sup>85</sup>

### Actions and Alternatives

On 19 April 2006, COHRE, the Commonwealth Human Rights Initiative (CHRI) and People's Dialogue on Human Settlements held a media conference and presented a Statement of Facts based on reports and first hand accounts of evictions in Digya Park. In addition, COHRE and Amnesty International issued a joint media statement regarding the forced evictions of Digya Park and the related boat disaster.

The Minister of Ports, Harbour and Railways instituted an inquiry on the boat disaster and presented their findings to the Government of Ghana, which promised to release a white paper on the findings.



Evictees forced to camp at Mankyere Island, 5 May 2006 (Photo:COHRE)

While the evictions were ongoing, CHRI and People's Dialogue undertook a fact-finding mission on 5-6 April 2006. On 3-5 May, 2006, COHRE and People's Dialogue travelled to Digya to conduct further investigations. COHRE and People's Dialogue were able to visit the affected villages, interview evictees, and observe the work of the Committee of Enquiry set up by the Ghanaian government to investigate the April boat disaster. A People's Dialogue representative gathered additional information from 10-16 May 2006. COHRE compiled a report and released it to relevant stakeholders to present the information acquired during the fact-finding mission in order to promote a constructive dialogue to remedy rights violations and to prevent similar forced evictions.

Following the release of the report, CEPIL obtained an injunction on further evictions, until the matter can be decided in a court case. The case is expected to take place in 2007.

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<sup>85</sup> Centre on Housing Rights and Evictions (COHRE) 'Putting People Last: Forced Evictions from Digya National Park, Ghana,' (2006).

## Case Update 6: Alcantara, Quilombo Communities, Brazil<sup>86</sup>

### Introduction

Brazilians of African descent, known as Afro-Brazilians, constitute approximately 43 percent of the total population of Brazil, but make up around 63 percent of the population living below the poverty line. Centuries of slavery followed by other forms of entrenched racial discrimination have left their mark on this population, which generally suffers from greater degrees of poverty, less educational opportunities and access only to the most menial and lowest paying forms of employment. Indeed, according to the UN Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, the appearance of ethnic and racial cohesion in Brazil conceals substantial inequalities between whites, Indians and Afro-Brazilians and that situation is exacerbated by the unequal distribution of wealth.<sup>87</sup> The Special Rapporteur concluded in his Report that what is generally considered to be discrimination on economic or social grounds is actually often “exclusion based on race, colour, descent or ethnic or national origin, aimed at Indians, Blacks and people of mixed parentage.”<sup>88</sup>

Presently, there is an effort to allow Afro-Brazilians to settle on the lands on which they lived following escape from or the abolition of slavery. This land, however, is also sought by large land-owners and corporations involved in mineral exploration and exploitation. With the assistance of the Palmares Cultural Foundation of the Ministry of Culture, research is underway to locate and demarcate these lands. Once boundaries are established, the Afro-Brazilian communities located there will be granted legal security of tenure. While the land area involved is small, this move towards land restitution should be encouraged and the lands protected from encroachment by outside forces.

One specific development detrimentally affecting the housing rights of Afro-Brazilians involves the planned expansion of the Alcantara space port on the edge of the Amazon. The planned expansion, set to be implemented after the signing of a bilateral treaty between the Governments of Brazil and the United States of America, will result in the eviction and displacement of several communities of Afro-Brazilians which include descendents of escaped slaves who settled the lands more than 200 years ago.

Most of these communities live by very traditional means and fear being uprooted from the familiar surroundings that support their way of life. The threatened displacement thus threatens their very survival. One example is provided by the Canelatiua settlement, which includes some 160 residents who lack formal deeds to their land, although the community settled there more than 250 years ago. The residents rely on the unique surrounding for everything from housing materials and clothing to food and medicines. Unfortunately, the Government of Brazil seems set on the expansion of the Alcantara space port, even though doing so would put economic interests before the human rights of the affected communities.

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<sup>86</sup> This report was provided by Leticia Osorio, COHRE Latin America Programme

<sup>87</sup> See Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on his mission to Brazil, from 6 to 17 June 1995, submitted pursuant to Commission on Human Rights resolutions 1993/20 and 1995/12, UN Doc. E/CN.4/1996/72/Add.1 at para. 26 (23 January 1995).

<sup>88</sup> *Ibid.* at para. 32.

Presently, a petition is before the Inter-American Commission on Human Rights requesting the Commission to exercise its power to take extraordinary measures in order to prevent these evictions.<sup>89</sup>

### **Forced evictions of Quilombo communities: Alcantara**

Quilombo communities are descendants of African slaves who were brought to the country to labour in the colonial period, and who after escaping or as a result of the abolition of slavery, settled on lands that became spaces of residence, resistance and social organisation. The majority of quilombo lands have been occupied and managed collectively and represent indivisible ethnic territories where the communities live, work and express their cultures and beliefs. Land and its natural resources are the main sources of livelihood but are also linked to social and cultural cohesion.

Development and other mega-projects have led to forced evictions and displacement of many Afro-Brazilians and indigenous communities from their traditional lands due to the lack of recognition of their title to the land, as well as broader racial discrimination and exclusion. Afro-Brazilians constitute approximately 45 percent of the population, but are disproportionately represented amongst the poorest of the poor, with lower levels of education and the worst and lowest paying jobs.

It is estimated there are more than 2,000 quilombo communities located in almost every state in Brazil. Despite the fact that they have traditionally occupied these lands, most of them do not hold title to their traditional lands. Of the more than 2,000 communities identified, only 119 were legally titled during the period 1995-2004.

The lack of official recognition of the housing and property rights of the communities makes them extremely vulnerable to threats by land owners, mining companies and development projects which seek to take possession of their lands and its natural wealth. Legislation regulating land ownership has not been properly implemented in order to provide land titles and access to natural resources to the quilombo communities due to a lack of public servants and administrative/technical support to implement land regularization processes; lack of public financial resources to expropriate private land overlapping quilombo's territories; lack of judicial/extra-judicial mechanisms to resolve land conflicts; and discrimination against urban communities of quilombo living in central and valuable areas.

Despite the approval of the Federal Constitution in 1988 and its Article 68 of the Transitory Dispositions which guaranteed the right of title to the communities of the quilombo territories, the legislation regulating these norms has never been effective in actually delivering title to the quilombo lands or even of improving the standards of living of the communities. Up to 2003, the legislation regulating the right of the communities to their traditional properties did not comply with the standards required by international human rights treaties, and furthermore, imposed discriminatory criteria and nearly insurmountable obstacles to obtaining legal titles. As an example, communities were required to legally prove that they were in fact descendents of the original quilombo residents right back to 1888 when slavery was finally legally abolished in Brazil.

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<sup>89</sup> See, Samucangaua and other communities (Alcântara Spaceport matter) v. Brazil and the United States of America, filed with the Inter-American Commission on Human Rights on 16 August 2001.

In 2003, however, a new Federal Decree regulating the right of property of the quilombo communities based on ideals of equitability, equality and social justice was approved. This was to a considerable extent in conformity with the requirements of Resolution 169 of the International Labour Organization (ILO). Unfortunately, institutional, operational, technical and financial difficulties have impeded the Federal Government in their efforts to implement the new legislation, to issue the titles and to resolve land-ownership problems. This has contributed to the perpetuation of human right violations, deepening poverty and social exclusion of these communities.

The quilombo communities in the town of Alcântara, in the State of Maranhão, in the northeast region of Brazil are still under the threat of forced evictions due to the expansion of the Space Launch Centre in Alcântara (CLA), initiated in 1986 to enable the adaptation of the operations centre and the launching of re-usable transport vehicles. The communities threatened with eviction are the communities of Canelatiua, Itapera, Manuninha, Mato Grosso, Brito, Vista Alegre, Caiava, Baracatatiua, Mamuna, Santa Maria, Engenho, Retiro, São Paulo, Uru-Mirim, Tapera, Ponte do Murio, Uru-Grande, Itapera, Pirajuna and Alegre.<sup>90</sup>

The expansion of the CLA will be implemented in four phases. Phase I (1986) and Phase II (1987) have already been completed, resulting in the forced eviction of nearly 1,350 people. The implementation of Phases III and IV will result in the forced displacement of more than 1,500 people belonging to quilombo communities.

The quilombo communities affected by the implementation of Phases I and II of the CLA (1,350 people) were forcefully evicted and resettled in agrovilas near the CLA, where the land is of poor quality and where the majority live in uncertainty as no land titles were provided to them for the lands upon which they were resettled.. The natural resources in the area are poor or non-existent and this has made a previously self-sufficient community dependent on other means to sustain their livelihoods. The agrovilas do not have access to beach areas, which restricts the fishing activities of the community (previously an important part of their survival). Fishermen have to walk more than 10 kilometres and carry identification cards to pass through the gates of the CLA in order to have access to the beach.

The majority of the people who were forcibly evicted did not receive compensation for the lands that were acquired, nor were the communities consulted in advance of the forced evictions or about their resettlement requirements or options. As such, no prior evaluation occurred of the social, economic and cultural reality of the communities to determine the best methods of resettlement. Each family was guaranteed one lot of land of 15 hectares (the minimum established by federal legislation is 30 hectares), located on land with poor agricultural and subsistence conditions. The families did not receive any type of financial support or access to credit for agricultural development. Overall, the direct social consequence of these forced resettlements has been the destruction of their social and cultural organization that has historically guaranteed their survival. In addition, the communities that will have to accommodate the displaced population due to the expansion of the CLA, are threatened with social, economic and cultural imbalances.

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<sup>90</sup> In 2001, many affected communities, the SMDH, the NGO Global Centre of Justice, the ACONERUQ, the Federation of Agricultural Workers of Maranhão and Global Exchange presented a petition before the Inter-American Commission on Human Rights alleging violations of human rights committed by the federal government of Brazil and by the government of Maranhão against the Quilombo communities forcibly evicted. COHRE presented an amicus curiae brief before the IA Commission in support of the main petition. The petition is pending admission by the Commission.

No resettlement projects have been presented or discussed with the communities threatened with eviction who still reside in the area affected by the CLA and who will be displaced by the implementation of Phases III and IV of the CLA expansion. The original proposal was to resettle them in areas currently occupied by other quilombo communities. The federal government alleges that the titling process for the ethnic territory in Alcântara, a measure that would benefit the quilombo communities, may exclude the areas which the CLA is claiming to use for its expansion.

In addition to living under the threat of forced evictions, the quilombo communities also face discrimination in access to essential services. Most communities live in conditions of poverty and exclusion with precarious access to water, sewage treatment, education and health facilities. The communities also have limited access to employment opportunities and the total income of each family is approximately the minimum wage for one individual in Brazil.

The community leaders reaffirmed their opposition to new relocations and argued that the official proposals were still not sufficiently clear. The communities remembered some negative experiences with official negotiations, ever since the expansion of the military base began 20 years previously; there were displacements and the signing of a registered agreement that was never fulfilled by the Government. According to the Government, there is not enough space to construct the 900-hectare launch sites without relocating the residents living on this land. The communities want the ethnic territory in Alcântara to be regularized. The Ministry of Agrarian Development has stated that the expansion of the CLA would not cause any harm to the communities, and any displacements made would be implemented with the agreement of and adequate compensation for the communities.

However, according to the Ministry of Technology and the Brazilian Space Agency (AEB) the CLA's expansion is inevitable and they informed about a range of investments to be made in Alcântara. During the 57th reunion of the Brazilian Society of Scientific Research (SBPC) in Fortaleza, the president of AEB, Sergio Gaudenzi, announced an investment of R\$ 600 million over five years for the construction of infrastructure at the CLA. The package includes the construction of a port to receive rockets from Ukraine, new launch ramps and also new houses, roads, trash collection and wastewater treatment centres. The fact that the location where these installations will be made has still not been announced, and the fact that they could not benefit the population of the city, which is very poor, has left the residents apprehensive. The construction of the first foundations is expected to begin in December 2006. The Federal Government is also proposing the adoption of a "Technical Co-operation Agreement" to be signed by the federal, state and municipal governments and civilian entities, to implement basic infrastructure, urban services and other facilities in Alcântara. The communities are still discussing whether they should sign and participate at this agreement.

Chronology of the events since the implementation of the development project and the forced displacement:

1980: The dispossession by the State of Maranhão of an area of 52,000 hectares of land, and its donation to the Ministry of Aeronautics for the implementation of the Space Launch Centre in Alcântara.

1982: The Co-operation Protocol was signed between the Ministry of Aeronautics and the State of Maranhão, giving jurisdiction to the State for the resettlement of the rest of 200 families to be displaced.

1983: The creation of the CLA by Federal Decree no. 88,136, with the objective of performing and supporting space exploration, scientific tests and experiments of national political interest.

1985: The signing of the new Accord between the Union, State of Maranhão and the Municipality of Alcântara, in which the State was held responsible for executing all the dispossessions necessary for the implementation of the CLA and for transferring the domain of the area to the Union.

1986: The forced eviction and resettlement of 520 people to areas near the CLA called 'Agrovillas'. The families were resettled on 15 hectares of land even though the national legislation (Land Statute) had established that the minimum rural allotment would be 30 hectares. This resettlement diminished the economic sustainability of the affected families.

1987: The forced eviction of more than 830 people.

1991: A Presidential Decree declared 10,000 hectares of land for public use, for the expansion of the CLA. The decree resulted in the transfer of all legal suits of evictions and indemnifications from the State Tribunals to the Federal Tribunals, making the defence of the displaced families in the Quilombo communities more difficult.

1996: The CLA and the Ministry of Aeronautics authorized the commercial exploitation of the Centre by the Brazilian Company of Airport Infrastructure (INFRAERO).

2001: A number of the affected communities supported by the SMDH, the NGO Global Centre of Justice, the Association of black and rural Quilombo communities (ACONERUQ), the Federation of Agricultural Workers of Maranhão and Global Exchange presented a petition to the Inter-American Commission on Human Rights. COHRE presented an amicus curiae brief before the Inter-American Commission in support of the main petition.

2002: A national plebiscite covering the 27 Brazilian States was held on the American Free Trade Agreement (ALCA), and the Space Launch Centre in Alcântara (CLA). Of the 10,149,542 total votes cast, 98 percent responded 'NO' to the following question: "Should the Brazilian government deliver a part of its territory, the Base in Alcântara, to the US military?"

2003: The Foreign Relations and Defence Committee of the Senate Commission approved Decree no.393/03, which instituted the Technological Safeguarding Agreement between Brazil and the Ukraine, authorizing the use of the CLA by the Ukraine. Both agreements are harmful to the development of national scientific and technological policies as they prohibit the transfer of technology from the USA and Ukraine to Brazil. The viability of both agreements will depend on the implementation of Phases III and IV of the CLA expansion project, which will result in the forced displacement of more than 1000 people to areas located far from the coast and already densely populated by other Quilombo communities.

2004: The UN Special Rapporteur for Adequate Housing, Mr. Miloon Kothari, and the National Rapporteur for the Right to Housing carried out a fact-finding mission to Brazil in June and visited the affected communities of forced displacements in Alcântara. The Federal Government created the GEI (the Inter-ministerial Executive Group), which is comprised of the participation of diverse governmental representatives. The objective of the Group is the development of actions for environmental and land ownership regularization, for the support of family and small producers, for tourism and the validation of local cultures and for the expansion and improvement of the public services of infrastructure, health and education.



## Forced Evictions - Towards Solutions?

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2005: The Inter-ministerial Executive Group held a seminar in Alcântara to discuss actions and policies for the sustainable development of the Municipality, with the communities, the City Hall and NGOs. During the Seminar, the Federal Government stated that forced displacements would not take place any more and even if necessary, they would be carried out in compliance with human rights laws. The Quilombo communities were not prepared to accept any type of relocation, due to their rights to remain in the areas traditionally occupied and because they did not want the expansion of the CLA.

2005: In May the Ministry of Agrarian Development (MDA) presented the governmental proposal for land ownership regularization of quilombo territories and the expansion of the Alcântara Launch Centre (CLA) to the People Affected by the Base Movement (MABE) and to the Rural Workers Union of Alcântara (STTRA). The advantages of the international technology agreements ratified by Brazil and the necessity of the country to enter the world scientific circuit to promote the Brazilian Space Program were pointed out. The proposal considered the possibility of the expansion projects of the CLA existing peacefully and harmoniously with the titling of the Quilombo territories.

On 14 April, the Civil House of the Presidency of the Republic created the Executive Subgroup for Housing, Land and Environmental Regularization. In agreement with the MDA, the expansion project of the Base would consist of the delimitation of the areas or centres that would function as technological support structures for countries which entered an agreement with Brazil for the use of the base. The federal government said that these centres would be in the areas occupied by Quilombo communities, but that the population of Alcântara would retain free access to the beaches. The proposal was presented to the quilombo communities in Alcântara and their representative entities, to the Federal Public Ministry, to the Prefecture and Municipal Chamber of Alcântara and to partnering organizations in June and July. The government stated that the titling process for the ethnic territory in Alcântara, a measure that would benefit the Quilombo communities, was linked with the discussion and the approval of the expansion of the CLA. Social and quilombo entities did not accept any new relocation of the communities to make way for the expansion of the CLA.

2006: The quilombola communities in Alcântara decided not to accept the proposals for the installation of the CEA (Spaceport of Alcântara), as presented by the federal government on 30 November. The decision was taken at a meeting organized by the residents and various entities of civilian society. The communities demanded that the work of setting place marker stakes and poles delimitating the supposed launcher sites be interrupted and that the application of the Brazilian Space Agency (AEB) cadastre cease. They further demanded the elaboration of the environmental impact plan as required by law covering the entire project and an end to the use of partial licenses which allowed the work to proceed piecemeal – i.e. each project separately.

The Quilombo communities were concerned about the proposals for the execution of the Space Center expansion presented by the AEB. Amongst the major concerns were the following: the size and locations of the new launch sites that might result in further dislocations, the manner proposed for payment of compensation for the loss of their lands and the fact that many people would have to be removed at each launch. The Quilombolas also claimed for a just participation in the profits of each launch and the use of the social infrastructure to be built to attend the AEB staff (hospital, school, university).

The communities stated that they would also appreciate greater transparency in the details provided by the AEB including a schedule of the activities and maps of the locations of the launch sites. From the previous proposal it was understood that eight areas with the average extent of 600 hectares each would be implemented, out of which four would be destined to institutional usage and four for the actual launches. The institutional areas are required for the installation of industries, laboratories and other services and as support for future expansions and would not be fenced off. An international treaty is already extant between Brazil and the Ukraine whereby a site is to be laid out for launching rockets carrying the Cyclone 4 satellites into orbit in 2007, and in 2009, launches of the ALFA rockets. AEB informed the communities that the profits from these activities would be between 30 and 40 million Reais and that 10 percent of this would be paid to the Brazilian Government. However no indication was given as to what amount would be allocated as the participation of the Quilombo communities. With regard to compensations for future dislocations, AEB stated that it is considering paying 5 percent of the new CEA investment value (as is required by the environmental laws), but they did not state the value or when it would be paid. Furthermore, up to the present time, INCRA, the public Institution responsible for all land ownership regularization in the benefit of Quilombo communities, has not even started on the work – alleging lack of a general agreement between the communities and the Government.

## Case Update 7: North Railway and other evictions, Philippines<sup>91</sup>

The number of evictions in Metro Manila has increased significantly since 2005 due to the rehabilitation of the Philippines National Railway system - referred to as the Northrail-Soutrail Linkage Project. Most of those affected by this infrastructure 'development' project are informal settlers who have lived along the railway tracks for a few decades. Once completed, the Northrail-Soutrail Linkage Project is expected to alleviate existing traffic congestion in Metro Manila, improve transport between the airports and seaports of the Manila-Clark-Subic economic triangle, and provide easy access to Central and Northern Luzon's new economic growth areas. The Project will also be responsible for the forced eviction of 80,000 families (400,000 people) – the largest planned displacement of people in the history of the Philippines.

To date, nearly 29,000 families (145,000 people) have been moved (22,000 families from the Northrail tracks and 7,000 from the Southrail tracks) to several relocation sites far from Metro Manila (approximately 40 km). COHRE's research reveals that the living conditions at most of the relocations sites are appalling due to a lack of basic services such as potable water, electricity and sanitation facilities. Local NGOs in Manila report that most of the families who were moved from the Northrail tracks had to live in tents for several months at the relocation sites.

Under international human rights law and Philippines law those facing eviction have the right to consultation and adequate relocation. The site they are moved to must already have: potable water, electricity, sewerage facilities and an efficient solid waste disposable system and access to transportation facilities. It is also preferable that the relocation sites are situated in near-city and in-city areas close to the evictees' sources of livelihood. However, the living conditions at several of the relocation sites clearly indicate that the Government of the Philippines has fallen far short of fulfilling its obligations to those who have been relocated due to the Northrail-Soutrail Linkage Project.

### Inadequate relocation

Research undertaken by Urban Poor Associates and COHRE reveals that there have been numerous problems associated with the relocation process. These include: a lack of consultation with affected families; carrying out evictions and relocations before the sites are habitable; insufficient Government loans to affected families for the construction of homes; lack of livelihood opportunities for those who have been relocated because the sites are far away from Metro Manila; and situating one of the relocation sites adjacent to a large garbage dump.

Under the relocation scheme, the Government provides each family with a loan (payable in 25- 30 years with 6 – 9 % interest per annum), which ranges from between US \$500 to US \$4000 per family. In many cases the loan is not sufficient to construct a house. Large numbers of houses visited by COHRE at the Southville relocation site in Cabuyao (home to 7,000 families) are incomplete, with no roofs and dirt floors. Research shows that the distance between the relocation sites and the residents' sources of livelihood in Metro Manila have

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<sup>91</sup> Information for this report was provided by COHRE and Urban Poor Associates

## **Forced Evictions - Towards Solutions?**

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caused severe hardship for many families. According to UPA, more than 70 percent of families in Southville, Cabuyao, have a family member who works in Metro Manila. It also found that the incidence of hunger in the relocation sites was double that experienced by communities living adjacent to the railway tracks.

COHRE visited the Southville relocation site in Cabuyao, which is situated adjacent to a garbage dumpsite, in July 2006. The garbage dump was still in operation at the time of COHRE's visit but has been closed since. However, the dump continues to pose a severe health risk to residents of the Southville relocation site as it contains highly toxic materials and contaminants. During heavy rains in August this year, contaminated floodwaters from the dumpsite flooded all the houses at the relocation site and took up to six hours to subside. According to Ecological Waste Coalition, residents of the Southville relocation site are exposed to 'high levels of contaminants that are released through dump fires, landfill gas migration and surface and underground leachate migration.' Six infants from the Southville relocation site died in 2006 of pneumonia, sepsis and diarrhoea. Six children also died from a dengue outbreak at the site in November 2006, with a further 18 being infected with the virus due to the serious health hazards posed by the dumpsite, and lack of safe drinking water and poor drainage facilities and sanitation.

Although housing rights are legally protected by both the Philippines' Constitution and the Urban Development and Housing Act of 1992 (UDHA), the Government of the Philippines continues to use various strategies such as pressuring residents to relinquish these rights by signing waivers and then 'voluntarily' relocating them to sites that are not fit to be lived in.

### **Additional Forced Evictions in 2006**

Forced evictions and demolitions of homes have also been carried out in preparation for the 12th ASEAN Summit to be held in Metro Cebu, next week. Forty two (210 people) families were left homeless when their houses situated at the front of the Shangri-la Mactan Island Resort and Spa in Mactan Island, were demolished by the police in late September. The cleared land will be used as a parking lot for Summit participants. Reports indicate the demolitions were violent with police using water cannons and truncheons to disperse the barricade put up by those trying to resist the demolitions. Scores were hurt, including women and children and 12 were arrested and detained during the demolitions. More than 600 homes were also demolished in Mandaue City and Lapu-lapu City since September 2006, in preparation for the Summit. Of the 600 families (3,000 people) rendered homeless by these demolitions, only 100 families were moved to a temporary relocation site. The temporary relocation site has no basic services such as electricity and water. These evictions clearly reveal that large international conferences such as the ASEAN Summit are almost always accompanied by human rights violations such as the forced eviction of whole communities in host cities.

### **Actions and alternatives**

COHRE named the Philippines was named as a recipient of the 2006 Housing Rights Violator Awards for the Government's systematic violation of housing rights and continued failure to abide by international legal obligations. This announcement of the award - made in collaboration with UPA - led to a vigorous debate within the media on what constitutes a legal eviction. Consequently, this has led to invitations by various Government officials to meet with COHRE and community representatives on an upcoming mission to the Philippines.

The International Alliance of Inhabitants (IAI) issued a statement to the National Organizing Committee and the Cebu Organizing Committee demanding that the local government of Lapulapu City stop all forced evictions related to the holding of the ASEAN Summit in Cebu City, pay compensation and provide adequate relocation to the evicted families, and immediately release, without bail, the 12 people arrested and detained who protested the 29 September 2006 demolition.

## 4 AGFE MISSIONS REPORTS

### UPDATE OF 2005 MISSIONS

In 2005, AGFE undertook fact-finding missions to Italy, the Dominican Republic and Brazil, at the request of the authorities from these countries. The reports from these missions were published in AGFE's first report in 2005. The following is a report on what has taken place since the AGFE missions.

#### 1 Curitiba Brazil<sup>92</sup>

##### General Overview, Brazil

The new federal government headed by President Lula, which replaced Fernando Henrique Cardoso's administration in early 2003, has demonstrated its determination to tackle the many socio-economic and development problems facing Brazil. However, there is a great deal that still has to be done to prevent forced evictions and displacement; human rights violations in the context of land disputes; and to reduce impunity for acts of violence against and murder of landless people, indigenous peoples, rural workers and other activists.

Land disputes and forced evictions continue to take place in Brazil on a large scale. Brazil is a nation that has one of the most concentrated land structures in the world. Approximately 1 percent of landholders own 45 percent of all land.<sup>93</sup> An estimated 5 million families do not have access to land, while another 5 million rural properties are extremely small.<sup>94</sup> This extreme concentration has led to the establishment of the Landless Workers Movement, - Movimento dos Trabalhadores Rurais Sem Terra - and the practice of landless/homeless families occupying idle and underused lands to pressure the Government to implement agrarian reform. From 2004 to 2006, COHRE received information of evictions implemented against over 28,000 people in Brazil.

Moreover, although the national legislation (such as the Civil Code and the Federal Law for Land Usage and Parcelling) has been reformulated in order to provide legal instruments for the protection and compensation of people against forced evictions, the low-income population is easily convicted for being homeless and for occupying empty plots or unproductive rural land.

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<sup>92</sup> Information for this report was provided by Leticia Osorio, COHRE Americas Programme

<sup>93</sup> Less than 50,000 rural proprietors have more than 1000 hectares and control 50 percent of all registered land. Some 1 percent of the rural proprietors hold about 40 percent of all the approximately 400 million hectares registered as private property and only 60 million hectares of this are dedicated to crop production. The remainder is unused, underused or set aside as ranch land.

<sup>94</sup> Report by Mr. Miloon Kothari, Special Rapporteur on Adequate Housing, on his mission to Brazil, from 29 May to 13 June 2004, submitted pursuant to Commission on Human Rights resolution 2004/21, UN Doc.E/CN.4/2005/48/Add.3 at para 39.

### **The Case of Curitiba**

In the municipality of Curitiba, evictions tend to be most prevalent in parts of city that have the worst housing conditions. Evictions have taken place in the name of national security; for the sake of urban development projects and city beautification; for disaster prevention; mega-events; rental default or simply to benefit projects being implemented by the private sector. Housing has not been affordable for the low-income population since the deregulation of State interventions on rental markets and the State withdrawal from rendering assistance through developing construction and the concession of subsidies for construction, maintenance and repair of housing. Governments have treated housing as a market-based asset. As a consequence, unregulated market-driven housing laws and policies have resulted in inadequate supplies of affordable housing. Evictions have also been carried out as a means to make private markets more dynamic. An increase in the protection of informal homes and businesses from forced and arbitrary eviction through the provision of security of tenure would be highly effective in ensuring that Brazilians are better protected from threats to their means of survival.

In Curitiba, 2,500 people were evicted by the Municipal Government in 2003 and 2004 in the communities known as Sambaqui, Vila São Brás, Pedro Machado, Vitória and Vila Ilha do Mel in the Municipality of Curitiba and Vila Leonice in the Municipality of Almirante Tamandaré. Local NGOs such as Land of Rights and social movements pointed out that the role played by the Municipal Company of Popular Housing (COHAB) in mediating land conflicts between illegal tenants and landlords has contributed to increase forced evictions of the urban poor. This is due to the fact that the solution is almost always based on the transfer of individual ownership to the tenants who are evicted if they cannot afford the payment of instalments. The production of new social housing and popular lots has been meagre due to insufficient public investments on housing provided by the federal, state and municipal governments. The city investment on social housing in 2002 was US\$ 1 million and in 2003 US\$ 700,000.

### **AGFE mission to Curitiba - February 2005**

In February 2005 the Ministry of the Cities extended an invitation to UN-HABITAT for the Advisory Group on Forced Eviction (AGFE) to carry out a mission in Curitiba, Brazil on 24 and 25 February 2005. The mission's objectives were to verify situations of violation of the right of adequate housing with a focus on the matter of security of tenure of low-income communities; to offer experience and expertise to governments, social movements and non governmental organizations regarding the application of the international law on human rights related to the promotion of housing rights; and to propose a local plan of action to prevent the occurrence of planned evictions and propose solutions to the affected communities.

The AGFE mission in Curitiba facilitated the discussion of this subject by civil society as a central issue on the debate of housing rights. However, despite the efforts of organized civil society, the responsible public agencies for implementing urban development and social housing in Curitiba and at the state level have not prioritized the mediation of land conflicts and the implementation of solutions to promote the right to adequate housing. They have relegated such solutions to the real estate market and to the state police forces.

## Forced Evictions - Towards Solutions?

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During the mission, AGFE organised a public hearing on 25 February 2005 to bring together Municipal, State and Federal Government representatives, representatives from the affected communities, popular movements in the struggle for housing, non-governmental organisations, universities, professionals, and students.

All those attending the public hearing on 25 February 2005 agreed to the establishment of a Working Group (equally represented by civil society and government), with the objective of proposing measures to prevent forced evictions and to promoting solutions to the cases presented at the public hearing by the affected communities.

The Working Group also aimed to provide suggestions to improve policies and actions to promote, protect and defend the human right to adequate housing and the fulfillment of the right to the city; and to indicate legal, urban and social alternatives to the land ownership regularization and urbanization of public and private areas occupied by low-income populations, based on the City Statute and the Master Plan, in a mediation process.

Following the AGFE mission, the Working Group was convened by the City Hall of Curitiba and by the Institute of Research and Urban Planning on only two occasions - 24 April 2005 and 12 May 2005. While the discussion with social actors was suspended, numerous forced evictions were carried out and rendered many families homeless, including 69 families in Campo Magro (Metropolitan Area of Curitiba); 15 families in Sabará (industrial area of Curitiba); and 42 families from the High Quarter of Curitiba (7 March 2006). In addition to this, many families still face the threat of planned evictions - 500 families of the Village Union in the city of Almirante Tamandaré; 350 families of the Tatuquara Neighbourhood and many other displacements that have been carried out without the knowledge of civil society or the media.

After the evictions, evicted families of Campo Magro lodged for more than six months in an improvised warehouse located in the region of the Tatuquara, south zone of Curitiba. Only six of approximately 30 families who had been living in the warehouse received urban lots in the neighbourhood of Tatuquara. Those six families have to pay monthly installments to obtain land ownership on loans provided by the Company of Popular Habitation of Curitiba (COHAB).

The situation remains similar for the inhabitants of the settlement Pedro Machado/Vitória, in the Caiuá Neighbourhood. Community leaders still await approval of the Agreement proposed before the Judicial Process of Repossession nº 1001/2003, of 16ª Civil Jurisdiction of Curitiba. Land regularization is being carried out by the real estate company Cavalcanti de Albuquerque, which is responsible for mediating the purchase of the land between the landlord and the community. This form of regularization has resulted in tenure insecurity for the community.

The 170 families who live in Jardim Esperança, previously known as Village Pluma, in the south zone of the city of Curitiba, continue to live without security of tenure although they have been living in the area for 25 years. The inhabitants remain without any final solution for the land regularization process. Despite the fact that the community has accepted the conditions negotiated with the Company of Popular Habitation of Curitiba (COHAB) to pay debts of land taxes to the Municipality of Curitiba owed by the landlord, the land regularization process remains incomplete. In addition to this, 60 families are still excluded from the land regularization process and face threats of forced eviction.

Due to social pressure which resulted from the public hearing held by AGFE, the public land belonging to the Company of Popular Habitation of Curitiba was transferred to the Municipality of Contenda (metropolitan area of Curitiba) in payment of land taxes debts. The land is to be used for the construction of social housing. However, a subsidy provided by the Federal Government for the construction of popular housing was rejected by the City Hall of Contenda. This has prevented low-income families from having access to affordable adequate housing. The COHAB-Curitiba continues to demand the payment of land taxes from some families who were forcibly evicted from public land.

The 290 inhabitants of the Village Audi, a complex of irregular settlements situated in one of the poorest areas of the city of Curitiba, were resettled in the region of Sambaqui. Due to the condemnation of the Community Association of the Inhabitants of the Islands on the banks of River Iguaçu during the public hearing carried out by the AGFE, the families are being resettled in upgraded areas and were given materials to construct a room (cômodo) and a bathroom. There are still 129 families living in the Village Audi who are waiting to be resettled by the City Hall of Curitiba which has stated that there is a lack of financial resources to transfer them and to build the houses.

### **Land Regularization of Informal Settlements**

Government initiatives on the implementation of land ownership regularization and slum upgrading are proceeding slowly. The City Hall of Curitiba has announced in a municipal decree that the implementation of land regularization of consolidated informal settlements located in public areas will take place. However, City Hall has not taken action and this has created false expectations amongst the town people. The regularizations implemented in the Village Pedro Machado/Vitória, were undertaken by the Company of Popular Habitation of Curitiba in partnership with a real estate company without consideration for community participation. This method of land regularization does not comply with social housing public policy and does not contribute to the fulfillment of the Constitutional provisions that assures the right to adequate housing for low-income members of the population.

## **2 Santo Domingo, Dominican Republic<sup>95</sup>**

An AGFE Mission visited the Dominican Republic between 8 and 13 March 2005 upon invitation of the Municipalities of Boca Chica and Caleta, Santo Domingo, as well as from the organisation 'Espacio de la Tierra', which coordinates more than sixty civil society organisations. The AGFE Mission to the Dominican Republic was undertaken in response to reports of widespread tenure insecurity and the use of forced eviction as a tool for urban development.

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<sup>95</sup> Information for this report was provided by Pedro Franco, Coordinator of the IAI Zero Evictions Campaign for Latin America and Caribbeans and Luz Maria Sanchez, Estrategia and the Huairou Commission



## Forced Evictions - Towards Solutions?

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The objectives of the Mission were:

- To evaluate the actual situation in the field of Economic, Social and Cultural Rights, and specifically Housing Rights.
- To submit its experience and knowledge to the Central Government, Municipalities, the Congress, the Judicial System and the NGOs in the enforcement of laws and international agreements on human rights pertaining to housing rights and protection against forced evictions.
- To suggest the exchange of experiences and good practices from other countries to prevent and avoid forced evictions.
- To propose alternatives at the local level to stop the forced evictions.
- To agree on a timetable to monitor and study the progress in addressing forced evictions.

The 2005 AGFE Mission found that in the Federal District, more than 200,000 inhabitants from La Zurza, Capotillo, Simón Bolívar, 24 de Abril, Gualey, Los Guandules y La Ciénega neighborhoods were under the threat of forced eviction, while more than 30,000 people would be displaced to enable the opening of the Avenida del Río Occidental (Río Occidental Avenue) as part of the RESURE Plan. The Mission also visited various communities in 2005 and found the following:

- Barrio Valiente: More than 10,000 families faced the threat of forced evictions.
- Santa Lucía and Boca Chica neighbourhoods: Two hundred forty-nine families were in danger of being evicted.
- Brisas Del Este: More than 30,000 inhabitants were facing threats of being evicted by private claimants.
- Isabelita neighbourhood: The neighbourhood had suffered several forced evictions (1986-1992, 1997, 2004) and 26 families were under threat of being evicted.
- Parque Del Este: More than 20 families were evicted to build the south lane of Las Americas Highway.
- Villa Esfuerzo neighborhood: On 9 March 2005, heavy machinery destroyed 600 houses, even though 105 families had deeds issued by the Government.
- La Cienaga, Gualey, Los Gandules: More than 30,000 families living in these neighbourhoods were threatened with eviction by the RESURE Plan.

The AGFE mission made various recommendations for the improvement of the bill 'Espacios de Coordinación de la Tierra' or the Law on Land Regulation - which could provide lasting solutions for many Dominicans facing insecure tenure. On 20 September 2005, the President of the Dominican Republic Parliament sent a letter to the Convenor of AGFE informing him that the Commission on the Law on Land Regulation had introduced the bill in the agenda of the Parliament. (Copy of letter attached as Annex 3).

However, local organisations report that there are ongoing forced evictions. A letter from Pedro Franco, Coordinator of the IAI Zero Evictions Campaign for Latin America and the Caribbean, to the AGFE Convenor provided an update on the situation as of August 2005. (Copy of original attached as Annex 4)

## UNOFFICIAL TRANSLATED SUMMARY OF LETTER FROM PEDRO FRANCO

20 families – a combination of owners and tenants – are at risk of eviction due to the construction of a new highway near the neighbourhood of East Park, located at the entrance to the City of Santo Domingo and just a five-minute drive from the historic city centre. Moreover, the proposed compensation is not commensurate with the value of the lost property; the evictees won't be able to buy a similar property with the compensation proposed.

Habitat Club – an organisation that defends the right to shelter working in the same neighbourhood of Santo Domingo East – organised a meeting advocating for the right to adequate shelter, attended by the Minister of Public Works, Mr. Freddy Perez, the Government lawyer, Mr. Nelson Mumtaz, and the Governor of the Province of Santo Domingo, Renato Garcia,

The Ministry of Public Works stated the eviction is not negotiable because of the deadlines for the completion of the highway. The Minister agreed to allow a short time for the affected persons to prepare themselves and review the compensation offered. Since the community's position is so firm, the Minister has promised to help in finding a solution for the owners and providing some assistance to the tenants.

The families are therefore anxious that their right to adequate shelter be respected. An urgent action campaign was launched in August 2005. Formal protests were to be sent to the Ministry of Public Works, through the Governor of the Province of Santo Domingo, and emphasizing, inter alia, the following relevant points:

- We have been informed through Mr. Pedro Franco of the AGFE mission to the Dominican Republic of the decision of the Government to evict 20 families from the neighbourhood of East Park;
- We further understand that these evictions, as planned by the Ministry, will happen in the month of August 2005 without further delay
- We would like to note that even though the Minister is in agreement to review the property valuation (compensation) he has not himself formally committed to substitute to replace a destroyed dwelling with one of comparable value;
- We would like to remind the Minister as well that in the same neighbourhood, some time ago, many other families were evicted because of the same highway construction project. The compensation offered then was insufficient, and today many of these same families remain homeless.
- We also would like to remind the Minister that in the month of March 2005, there was an AGFE mission trying to initiate a dialogue among the affected parties to find a proper solution, inter alia, to the forced evictions.
- We would like to state that while the inhabitants do not have property titles for the land where they have established their dwellings, this does not make them ineligible to receive suitable shelter as compensation. In this regard, we would like to note the fact that the Governor of the Province of Santo Domingo has acknowledged this reality when he publicly stated that more than 70% of the inhabitants of the city do not have formal property titles
- We want to inform the Minister that other neighbourhoods are cooperating with local NGOs in order to guarantee the tenure of the inhabitants, the improvement and the

## **Forced Evictions - Towards Solutions?**

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construction of adequate shelter, all of which is being undermined by the current practice of forced eviction without suitable alternatives.

Signed by Pedro Franco, Coordinator of the IAI Zero Evictions Campaign for Latin America and the Caribbean, 14 August 2005.

## REPORT OF 2006 MISSION

Although, the AGFE Convenor received requests and proposals by various stakeholders to carry out mediation missions in Zimbabwe, Nigeria, Italy, France, the United States, the Russian Federation, and India, AGFE has only been able to sponsor one mission in 2006 due to financial constraints.

### 3 Agbogbloshie, Accra, Ghana

#### Background and Context

The settlement of Agbogbloshie/Old Fadama, which consists of approximately 6,000 families or 30,000 people, is situated on the left bank of the Odaw River, in the upper reaches of the Korle Lagoon in Accra, Ghana. In May 2002, the Accra Metropolitan Authority (AMA) served an eviction notice to the residents of the Agbogbloshie/Old Fadama settlement to make way for the Korle Lagoon Environmental Restoration Project (KLERP). The AMA claims that the settlement constitutes a primary source of pollution for the Korle Lagoon. Moreover, they claim that the continued presence of the Old Fadama settlement has significant negative cost implications for the Government as a result of the delay in implementation of the KLERP.

The Ghanaian division of the Centre for Public Interest Law (CEPIL) applied for a High Court injunction to stop the eviction, but this was rejected by the Accra High Court on 24 July 2002. The eviction has been postponed repeatedly, but is still scheduled to occur.

COHRE commissioned a study to evaluate the AMA's claims and found that, while many of its statements about the poor living conditions in the settlement were true, the settlement could be developed in situ and could easily co-exist with the KLERP. Therefore, the removal of the settlement could not be justified.<sup>96</sup>

With the help of support organisations such as the People's Dialogue on Human Settlements, residents have begun showing how this can be done. The Daily Graphic reports that residents have given the settlement 'a facelift' by creating 15 access roads for emergency vehicles, and by using their own savings and donated funds to purchase drainage materials worth 33 million cedis (approximately US\$3,700). Residents are also monitoring the area to prevent people from dumping refuse into the lagoon or building structures that encroach on the KLERP boundaries.

The AMA continued to insist that it would press ahead with the planned evictions in the interest of the KLERP. In July 2005, the Chairman of AMA's Environmental Management Sub-committee, Mr Phillip Nii Lante Lamptey, said: "The place is not conducive for human settlement and any move to give it a facelift would be stopped." He also criticised organisations supporting the residents and said they would do better to help them resettle elsewhere because their occupation of Old Fadama was illegal.<sup>97</sup>

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<sup>96</sup> Centre On Housing Rights and Evictions(COHRE) A Precarious Future: The Informal Settlement of Agbogbloshie, [www.cohre.org/ghana](http://www.cohre.org/ghana)

<sup>97</sup> 'AMA rejects move by Sodom and Gomorrah Squatters to give the place a facelift' Ghana News Agency, (11 July 2005)

## Forced Evictions - Towards Solutions?

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However a study conducted by COHRE shows that the reality reflects a far more complex settlement pattern, and is, in effect, a microcosm of what is happening amongst the poor in Accra in general. COHRE found that there are in fact at least four different economic conditions and social driving forces behind the establishment and growth of Agbogbloshie. These include:

- Migration from the north, as an outcome of tribal conflict.
- Social downward movement in accommodation by those forced out of more expensive accommodation in Accra. This is due to the financial impact of the Structural Adjustment Programme that was initiated in the early 1980s.
- Spill-over of population associated with the size and growth of the adjacent market.
- Demand for land by those seeking economic and business opportunities in an area free from the bureaucratic constraints and high rentals that exist in the recognised formal market.

Over time the community was implicitly recognised through the provision of services and electricity. However, more recently, the authorities have started to indicate that the community would have to move.

### **2006 AGFE mission**

At the Second World Urban Forum in Barcelona in 2004, AGFE Members made presentations and facilitated discussions on the situation in Agbogbloshie/Old Fadama, and it became apparent that AGFE could make a contribution to the resolution of the case. Subsequently, UN-HABITAT staff in Nairobi and Accra made contact with the Department of Local Government and Rural Development, who agreed to participate in an AGFE mission to Accra. While the initial plan was for the mission to be undertaken prior to the UN-HABITAT Governing Council meeting in April 2005, due to difficulties of time and availability of the relevant stakeholders, the mission could not take place until May 2006. (Copy of invitation attached as Annex 5).

A joint stakeholder meeting of concerned ministries, departments and agencies was held in 2005. During this meeting, the Ministry of Tourism and Moderation for the Capital City announced that it was in the process of developing a relocation plan for the slum dwellers. The Ministry of Tourism and the Modernisation of the Capital City, in collaboration with the Ministry of Local Government and Rural Development, invited AGFE and UN-HABITAT to assist the Government of Ghana in developing a way forward for the plan.

The AGFE Mission was composed of Sandra Baffoe-Bonnie (AGFE Secretariat), Mawuse Agyemfra (COHRE Regional Office, Accra) and Farouk Braimah (People's Dialogue on Human Settlements, Ghana).

The objectives of the mission were to:

- Obtain updated information on the situation in Agbogbloshie/Old Fadama;
- Further develop contact with all the key role players;
- Gain clarity on current Government thinking with regard to the future of the settlement;
- Offer experience and expertise from the Advisory Group on Forced Evictions to the Government and other role players regarding the application of international laws and

standards in this case, as well as good practices and viable alternatives developed in other countries.

### Activities and Outcomes

The following activities were completed during the mission:

- 25 April 2006: Meeting with the Ministers of Local Government and Rural Development, and Minister for Tourism and the Modernisation of the Capital City
- 25 April 2006: Meeting with the representatives of the following stakeholders:
  - Ministry of Minister of Local Government and Rural Development
  - Ministry of Tourism and the Modernisation of the Capital City
  - Ministry of Water Resources, Works and Housing
  - Ministry of Women and Children's Affairs
  - Capital City Core Team
  - Accra Metropolitan Authority
  - People's Dialogue
  - Ministry of Environment
  - UN Resident Co-ordinator
  - Old Fadama slum dwellers
  - Ghana Homeless Peoples Federation – Old Fadama Chapter
- 26 April 2006: Site visit to Agbogbloshie/Old Fadama. The meeting revealed that there was a lack of genuine consultation with the people residing in the community.
- 26 April 2006: Debriefing meeting with Tourism Minister to discuss the way forward.

### Meeting with the Lead Ministry

The Minister of Tourism briefed the mission team on the Old Fadama case and argued the need for the relocation of the residents. The Minister stated that the community was supportive of the relocation plan. He provided a brief outline of the relocation strategy and the following key components:

- The Government would acquire a new site at the outskirts of the city, along a railway line in order to facilitate ready transport to the city centre along the Accra Metro Railway System
- The Agbogbloshie market - one of the largest markets in Accra - would be relocated to the new site, as it is the magnet that attracts people into the community, and provides a source of livelihood for many of the residents.
- The Government proposed to lay out the roads, numbered plots, bath houses, toilets, and day care centres. In addition, a police post and community centre would be provided.
- As part of the proposal to provide economic activity, the Government wants to build a transport terminal for cargo and oil tankers. Coupled with this, there would be the

development of mid-rise building as potential accommodation and provision of a hostel for drivers and 'kaya yo'.<sup>98</sup>

- The Government would undertake consultation with the community, leaders of the current market and the chiefs who owned the land identified for the new proposed site.
- The Government would allocate plots to families being relocated. Prototype house plans would be considered and there would be the promotion of self construction of houses by the community.

The Minister was of the view that the living conditions of the community in Old Fadama were unacceptable and could not be allowed to continue. He added that he hoped that this project would serve as an opportunity to decongest Accra. The time frame projected by the Ministry to complete this project was the end of 2007. The Minister stated that the project faced many challenges. Although discussions were well underway to secure the land, there were no funds currently available to secure the site and pay consultants to put together detailed plans for the project. The Minister requested UN-HABITAT and AGFE to provide assistance in the form of human resources with skills in slum upgrading and relocation, best practices and funds to procure consultants to assist the planning process.

### Meeting with Stakeholders

The Mission attended a stakeholders' meeting of the institutions and organisations listed above. The meeting attendees discussed the issue that the problems of slums would not be resolved until Ghana implemented a comprehensive urban policy which took into account the issue of urbanisation and the reasons for the growth of informal settlements and planned accordingly to take into account the needs and rights of the residents of informal settlements.

### Outcome of Mission

The Mission obtained an update on the situation in Agbogbloshie/Old Fadama. The Government had no immediate plans to evict residents and were in the process of planning for residents' resettlement.

The Mission also found the following:

- The Government relocation plan was still in draft form and was inadequate.
- There has been a lack of genuine consultation with the population of Agbogbloshie/Old Fadama.
- The mission team learned from a site visit to the community that not all residents were in favour of being relocated. Those who were not opposed to relocation were deeply concerned that a relocation site might not have income-generating opportunities and might be located at a distance that would limit their ability to earn a living in other areas of Accra, due to transport costs.
- The Government lacks funds for the implementation of the proposed relocation plan.
- There has been a lack of consultation with the various sector ministries. In addition, there was little indication that all the Government ministries were committed to the plan.

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<sup>98</sup> Kaya Yo is the term used to describe young ladies who provide carrying services (on their head in a big pan) in the markets when clients purchase bulk items.

The Mission gained clarity on the Government's thinking with regards to the future of the settlement, however it was clear that the relocation proposal would take some time to materialise and it was not clear how this would affect the threat of evictions.

The Ministry also promised to provide a more comprehensive plan to UN-HABITAT and AGFE for review and comments. The mission team advised the Ministry to share its proposals with Cities Alliance to explore possibilities of their providing funds for some preliminary studies and a development of strategies.

However, in April 2006, the President of the Republic of Ghana, President Agyekum Kuffour, announced a change in ministerial portfolios. The Ministry which had taken the lead in planning a relocation process - the Ministry of Modernisation of the Capital City - is now the Ministry of Tourism and Diaspora Activities. The impact that this will have on the relocation plan is not known. All stakeholders anxiously await information on the fate on the relocation plan in the face of the new developments in relation to the work of the lead Government Ministry.



## 5 CASE INFORMATION

The AGFE Secretariat and Convenor regularly receive alerts from the members and partners on forced evictions taking place globally. The cases presented below reflect a fraction of the evictions and threatened evictions internationally.

### **Reported Case 1: Vila Uniao, Municipality of Amirante Tamandare Brazil<sup>99</sup>**

#### **Introduction**

In Brazil, the threatened eviction of a community in Vila Uniao, Municipality of Amirante Tamandare, and Metropolitan Area of Curitiba has been halted recently. Since 1996 the approximately 500 families inhabiting the area have been struggling for their right to remain in their homes. They upgraded the area, built houses and struggled to have access to electricity, public nurseries and schools. Since 1996, the land owner has been trying to evict the occupiers through law suits presented before the local court. In 2006, the Civil Court of the Municipality of Almirante Tamandare (law suite n. 59/96) ruled that the eviction could go forward. However, in March 2007, the Municipality of Almirante Tamandare expropriated the area from the private owner and has allowed the residents to remain

#### **Background and history of the case**

In mid May 2003, an occupation of 62 families was violently evicted in the neighbourhood of Cachoeira, in the region known as Vila Leonice on the border between Curitiba and Almirante Tamandare. The families had occupied the area in 1995. The Military Police carried out the initial eviction, and gave the families 15 minutes to leave their huts, before burning these down with all of the residents' personal belongings still inside. The people lost the few possessions they had, including beds, mattresses, blankets, cloth, food etc. With nowhere to go, most of the families spent the night on the sidewalk of David Bodziak Street. After three days, the Municipal Guard violently expelled the families from the street and confiscated whatever possessions they had managed to salvage. The families currently live with another group of people in a large hut collectively rented by the National Movement on the Struggle for Housing (MNLN). Other groups went back to houses of relatives or to unknown places.

#### **Main events that have taken place so far**

There was an attempt to negotiate the permanence of the families in the area, but the State of Parana did not take the proper steps to find a feasible and amicable solution with the landlord. In January 2006, the Judge from the Civil Court issued a ruling which decided on the eviction of the families.

However, on 24 March 2007 the Municipality of Almirante Tamandare halted the eviction (Decree 01/2007) to the benefit of the families, who are now allowed to continue living there. The Municipality paid US\$ 60,000 to the private owner for the area. The expropriation is a

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<sup>99</sup> Information for this report was provided by COHRE

result of a series of community protests and mobilisations, carried out by the National Movement of the Struggle for Housing (Movimento Nacional de Luta pela Moradia - MNLM) and other national and international NGOs.

### **Level of Community organisation of the affected community**

The community is organised through a grassroots' association, representative of the inhabitants, which is affiliated to the National Movement the Struggles for Housing.

### **Supporting agencies working in alliance with the community**

National Movement that Struggles for Housing (MNLM)  
NGO Terra de Direitos (Land Rights)  
Federal Councilmembers

### **Authorities implementing the eviction**

The Judge of the Civil Court of Almirante Tamandare, Mrs Elizane Minasse  
The Mayor of Almirante Tamandare, Exmo. Sr. Vilson Goinski  
The Secretary of Public Security, Mr Luiz Fernando Dellazai  
The Governor of the State of Parana, Mr Roberto Requiao

## **Reported Case 2: Bairro Alto, Curitiba, Brazil<sup>100</sup>**

### **Introduction**

The community threatened with eviction is the Community of Vila Rio Negro, Bairro Alto neighbourhood, Northeast region of Curitiba. This threat is as a result of a judicial finding, law suit n. 785/1992, 15a Civil Jurisdiction of Curitiba, which was issued on behalf of a private landlord. The numbers of people affected are 42 families, or approximately 120 people.

### **Background and history of the case**

The inhabitants have occupied this area on the banks of river Bacacheri since 1990. The area has not been earmarked for any social or environmental purpose. Rather, the landlord conserved the area as an empty lot for real state valorisation purposes.

### **Main events that have taken place so far**

A judicial hearing was carried out in 1997 in order to reconcile the interests of the landlord and the land dwellers. At that time, the families accepted that they would be resettled. However, the Municipality of Curitiba and the Company of Popular Habitation of Curitiba (COHAB) have not put forward a feasible plan to implement the relocation.

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<sup>100</sup> Information for this report was provided by COHRE

### **Level of Community organisation of the affected community**

The community is not organised. When the forced eviction was implemented, the land dwellers were dispersed into different areas of the Metropolitan Area of Curitiba in order to find individual solutions for housing themselves. Only six families remain unified and they are provisionally lodged in a state school located in Bairro Alto. The community is trying to negotiate with COHAB in order to find adequate housing and resettlement. The six families that are temporarily living in a public school in Curitiba were to be moved to an uncompleted building being constructed by the Municipality of Curitiba in April 2006.

### **Supporting agencies working in alliance with the affected community**

The NGO Land of Rights presented a public denunciation describing the violent forced eviction carried out against the community. The Community Association of Bairro Alto is following the case, particularly the situation of the families living temporarily in the school. The Popular Central Social Movements is also collaborating to find a solution to this case.

### **Authorities implementing the eviction**

The Judge of the 15a Civil Jurisdiction of Curitiba, Mrs Luciana Varella Carrasco; the military police of the State of Parana (Secretary Mr. Luiz Fernando Dellazari); Foundation of Social Action of Curitiba (FAZ); co-ordinated by Mrs Fernanda Richa; President of the Company of Popular Habitation of Curitiba (COHAB), Mr. Mounir Chaowiche.

### **Consultations held and alternative housing/or compensation offered by the authorities to the affected community**

No alternative housing has been offered to the evictees. The majority of them suffer from hunger, are unemployed and do not have access to adequate public services while they wait at the temporary lodgement.

### **Strategies for future action discussed/developed/proposed to deal with the threatened eviction**

The main strategy is to demand adequate housing and the implementation of social programmes for the evictees. Furthermore, the organisations involved with the case intend to sue the public institutions that carried out the evictions.

Although a fact finding mission and a public hearing were carried out by AGFE which led to the constitution of a working group with the Municipal and State Governments and representatives of the civil society, the Municipality and the State Government of Parana continue to implement forced and illegal evictions against the low income population. No adequate resettlement is provided for those evicted by private landlords. National and international legislation is not respected by either the government or the judicial power.

## **Reported Case 3: Tatuquara – Curitiba, Brazil<sup>101</sup>**

### **Introduction**

The community threatened with eviction is located at Fazenda da Ordem – Jardim Bela Vista, Tatuquara neighbourhood, south zone of Curitiba, Brazil. This threat has come about as a result of a court decision issued on behalf of the landlord ordering the eviction of the tenants (judicial process n. 1047/2004, 11ª Civil Court of Curitiba). There are approximately 350 families living in the area, including 400 children and hundreds of elderly people.

This area has been empty since the 1950s and occupied by members of the low-income population at many times. Although the area is located in the urban zone, the landlords pay rural taxes to the Public Administration. In 2004, it was partially occupied. After six days of the invasion, the landlords obtained an eviction order. Although the eviction order was issued in September 2004, it has not yet been implemented. The State of Paraná and the State Secretariat of Public Security are responsible for the implementation of the court order.

### **Consultations held and alternative housing and/or compensation offered by the authorities to the affected community**

The Housing Company of the Paraná State is negotiating the purchase of the area by the inhabitants with the landlords, by the means of a real state company, which is not a feasible, affordable solution for the low income population.

### **Actions taken so far by the community and/or supporting agencies to resist the eviction and / or to develop creative, alternative solutions**

The community is organized under a grassroots association 'Association of the Bela Vista Inhabitants', and is being supported by NGO Terra de Direitos (Land of Rights NGO). In order to halt the eviction and to guarantee the adequate resettlement of the affected families, the NGO, Land of Rights, sent protest letters which required the Municipal Public Administration to adopt measures to assure the families' right to access adequate housing. However, no action was undertaken by the public institutions. In addition, Land of Rights has been providing legal assistance and training to the families.

### **Strategies for future action discussed /developed /proposed to deal with the threatened eviction**

Land of Rights is requesting that the judge visit the families living in the occupied area in order to verify that it is a consolidated settlement and that implementing the eviction without the provision of a solution that guarantees adequate resettlement would be a violation of the families' right to adequate housing.

In April 2006, the 17th jurisdiction of the Tribunal of Parana considered an appeal presented on behalf of the inhabitants. Although there are no dates set for the implementation of the eviction, it is expected that negotiations will be carried out in April with the State Housing Company of Parana in order to find an adequate solution for this case.

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<sup>101</sup> Information for this report was provided by COHRE

This is a representative case in the Metropolitan Area of Curitiba as the solutions developed through the negotiations between the Municipal and State Government would provide a framework for other similar negotiations involving the eviction of members of the low-income population who live in informal settlements and face the same problems with tenure insecurity and lack of access to adequate housing as the families of Tatuquara.

### **Reported Case 4: Lima, Perú<sup>102</sup>**

#### **Introduction**

Thousands of people are forcibly evicted in Perú each year. These forced evictions have various causes, the most egregious of which occur in shanty towns, and are generally characterised by the lack of consultation prior to eviction and the residents' lack of economic resources to enable them to attain legal support.

In one particular instance, a community located in the Ventanilla district, in the Pachacutec area in Lima is threatened with eviction. The site is a special project created according to a Decree 010-88-VC with 2,797.80 hectares. It is located in the Callao Province, west of Lima city, in a sandy area close to the coast. The 25,000 families residing in the area live in a constant state of stress and anxiety due to the impact of this threat of eviction. The eviction process is as a result of two cases filed in the Supreme Court of Justice in the Callao Region of the Ventanilla District by two original owners of the land; Enrique Wilfredo Salazar Peña and Aquilina Arias Valenzuela de Arica.

The original owners requested that their plots be returned to them, even though they had abandoned the plots 20 years previously. In defence, the new occupants asked the authorities for a solution because they had found the area empty and were in dire need of plots for shelter.

#### **Background and history of the case**

Most of the inhabitants are migrants and come from the north of the country and the others come from the old areas of Lima and Callao Region. The old families from Lima and Callao make up the Ciudad Satelite Pachacutec. The head families have been there more than 50 years. There is a high percentage of children and young people.

In 1988, during the government of Alan Garcia, individuals bought plots of land and formed cooperatives. These cooperatives did not receive basic services such as water supply and sewerage services. Instead of using the area for shelter, residents abandoned it due to the lack of basic services. However in 2000, with an increasing shortage of land for housing, a new group of individuals moved onto the land.

The Fujimori Government also began a project to address the shortage of housing, which became known as Proyecto Piloto Nuevo Pachacutec. The Fujimori Government relocated approximately 10,500 families, who were occupying private land, to land it had reserved for occupation. The Fujimori Government expedited the preparation of plans and allocated plots measuring 120 square metres to each family. Some of the main roads were built with

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<sup>102</sup> Information for this report was provided by Luz Maria Sanchez, Estrategia and the Huairou Commission

temporary materials to facilitate the movement of people and cars to the area. The population of the area started to increase, and the land which initially had been abandoned by the land owners, began to be occupied by the new residents. These new occupants formed the shanty towns. There are currently 70 shanty towns accommodating 25,000 families.

The problem of evictions started when the original owners demanded the return of their land from the occupants. As the occupiers were not able to pay for legal support to protect their rights, they live in constant fear that they will be evicted. An additional problem is that corrupt leaders are giving the population false information in order to gain their votes at election time. The families are confused and are requesting technical and legal support to address the problems.

### **Main events that have taken place so far**

In August 2005, the neighbouring residents supported those threatened with eviction and the community confronted the police and the thugs, halting the eviction.

On 14 December 2005, the residents from the areas of Pachacutec in the Callao Region organised a demonstration to Parliament and Justice Palace demanding the provision of water, sewage and sanitation services. They argued that the possession of the plots was protected by the Regional Government of Callao.

At the end of January 2006, there was a large demonstration by the residents to demand their housing rights. The residents of Pachacutec and "Barrios Altos" who are affected by forced evictions made a presentation to the Justice Palace and Parliament.

In March of 2006, residents held a demonstration to the Parliament and the Justice Palace, prior the Presidential elections. This demonstration was organised by the affected people and supported by AGFE in Perú. Affected people also requested support from the National Housing Campaign.

### **Level of community organisation of the affected people**

The affected people live in 70 shanty towns of Pachacutec city. The new occupants elected their leaders in assemblies democratically. These leaders represent all the communities and have organised to constitute a Coordinator Group. In addition, they have sought members of the community to take on the responsibility of coordinating the affected area. In particular, they have encouraged women and young people to participate in the Coordination Group. The leaders have also requested the support of NGOs and other organizations in order to get training in legal and technical issues.

### **Supporting institutions assisting the community**

Estrategia, a Peruvian NGO, and member of Groots International, and the Huairou Commission have been supporting the community. An AGFE Member, architect Luz Maria Sanchez, is also supporting the affected people with technical and legal assistance. However, this support is temporary due to the lack of available funds. The National Housing Campaign for Housing Rights for All with Dignity, which is sponsored by Habitat LAC, is also providing support, albeit with limited resources. The International Alliance of Inhabitants; the National Housing Rights Campaign; the Federation of Neighbourhood organizations from

Lima and Callao; Groots International; and Mujeres Unidas Para un Pueblo Mejor are preparing to launch a Zero Evictions Campaign in June 2007 in Perú.

### Measures taken by the community and agencies to resist the evictions

- Public letters have been sent to the owners.
- Demonstrations at the Court, the Municipality of Ventanilla, and Parliament
- Seeking communal support of the neighbours to stop the evictions and by creating a community-watch system to improve public safety.
- Conciliation through administrative mechanisms for conflict prevention in the Pilot Project Nuevo Pachacutec and Special Project, Ciudad Pachacutec.
- The creation of an Observatory, with the support of the International Alliance of Inhabitants in Perú, to monitor and raise awareness about forced evictions in Perú .

### Future Initiatives and strategies to resolve future evictions

- This case focuses on the violation of the rights of a large group of people. There is the need to provide legal training to those requesting this information so that they are better educated on their rights.
- In addition, it is important for a conciliation measure to be put in place to assist in the resolution of the case.
- Establish Local Brigades to avoid the evictions
- Organise demonstrations to the Callao Region, the Municipality and Parliament.
- Support for communication systems such as radio, television, magazines, newsletters etc.
- If the residents cannot attain a solution through actions at the local level, they will begin mobilisations at the state level.

### Follow up

The community facing the evictions belongs to the poorest area in Lima City, living in a vulnerable housing situation, without any basic services - including water supply and sewage facilities. In addition, there is lack of support from the Central Government and the Regional Government of Callao. The community has identified the need for:

- Technical and legal support to assist the affected people in protecting their rights.
- Support for training programmes for community leaders on human rights, leadership, governance and advocacy strategies.
- Support for the community to negotiate with the authorities to include the shanty towns in the National Housing Campaign Committee so that they receive the same protection which other citizens receive against forced evictions.
- Support for the community's demand for housing rights through the inclusion of the shanty towns in the DESC organization.

## Reported Case 5: Asociación de Pobladores Santísima Virgen del Carmen y Los Incas, Lima Perú<sup>103</sup>

### Introduction

The affected community threatened with eviction is known as the Asociación de Pobladores Santísima Virgen del Carmen y Los Incas and is located in Jiron Conchucos 360 and Los Incas Avenue N° 453.495 in the inner city of Lima on 5,618 square meters of land. The residents have been living there for over 40 years. There are 60 families affected and 300 inhabitants, of whom 187 are children, 70 are women and 53 are men. Most of the families living in the Asociación Virgen del Carmen y Los Incas (Barrios Altos), were either born or come from the inner city area of Lima with deep roots there. Due to the growth of the population and the lack of available space, they have tried to look for land elsewhere. However there is a lack of land for new settlements, and the families have remained in the area.

### Background and history of the case

According to the Public Registrar of Lima, the area was occupied by the affected people in 1963. Prior to that, the area was occupied by a man named Rosemberg, who sold the area to a private enterprise named SYLKYS. However he was never able to obtain the legal title to prove his ownership of the land.

As such, SYLKYS did not obtain the title to the land, and it subsequently sold the plot of land to a new enterprise named FOX. The FOX enterprise then attempted to execute an illegal forced eviction of the residents of the area. On 23 July 2005 at 02h00 in the morning, 500 policeman and 200 thugs tried to evict the residents. The residents defended themselves by confronting the policemen and thugs with stones and gas cylinders. They set some part of the land on fire to prevent the eviction.

The residents went to the Public Registrar to investigate whether FOX had legal title to the land. They discovered that no evidence existed which demonstrated that the company held title. The community argues that FOX secured the eviction of the residents with false documents. Furthermore, they argue that the eviction was carried out illegally, as the community was not notified prior to the eviction taking place. Also, the eviction was carried out on a Saturday which is forbidden by the laws of Perú. Based on the procedural illegality, the authorities stopped the evictions.

The community has been in litigation for 9 years. During this time, SYLKYS and FOX enterprises have not produced authentic legal evidence of their ownership of the land. The last person who had legal tenancy died in 2001, and did not keep any legal document related to the plot of land.

The people from Asociación Virgen del Carmen y Los Incas are awaiting the judgement of the case by the Civil Judge of Lima, which is expected by 27 June, 2007. The community is concerned that corruption in the Peruvian judicial system may lead to a judgment against them.

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<sup>103</sup> Information for this report was provided by Luz Maria Sanchez, Estrategia and the Huairou Commission



### **Main events that have taken place so far**

- 1963: The plot of land is occupied.
- April 2005: Two separate mobilizations were led to the Justice Palace.
- July 2005: Three separate mobilizations led to The Judge of Paz Letrado.
- The affected people held a night-long vigil in Block 4 of Sebastian Lorente Avenue. Some of the affected people went on hunger strikes in protest of the situation. Women and children were present at the protests on 2, 5 and 9 July and also for a full two weeks in July in an attempt to get the attention of the authorities.
- 23 July 2005: Residents evicted by police and thugs.
- The communities are planning a mobilisation for June 25, 2007. This will involve various communities that have faced legal problems, including the affected people from the Asociación Virgen del Carmen y Los Incas from Barrios Altos. The mobilisation is organised by the National Housing Campaign Committee for the Housing Rights for All.

### **Authorities implementing the eviction**

- The order to execute the eviction came from The 3<sup>rd</sup> Civil Court.
- The action was commanded by a Colonel from the 2nd Police Region office who took the control of the area with 500 policemen. However the police were stopped by the affected people who put up a strong defense. The police remained during the daytime until a new order came and the police stopped the eviction together with the thugs.

### **Level of organization of the affected community**

The families living in the Asociación Virgen del Carmen y Los Incas have a Central Directive which was democratically elected by all the neighbours of the Asociación. When the eviction happened, the community resisted. The social organizations such as the Glass of Milk Program, The Communal Dining Room and Neighborhood organization supported themselves and tried to prevent such an outrage against the population. The community demanded respect for the right to access housing with dignity. As a result of the strong organization of the affected inhabitants, they were able to avoid the eviction.

### **Supporting agencies working in alliance with the affected community**

- NGOs such as CENCA and CIDAP have supported the community with legal assistance.
- The NGO Estrategia and Architect Luz Maria Sanchez, who is also a member of AGFE, supported the community with the assistance of the Municipality of Lima and the Housing Commission for the Parliament. Architect Luz Maria Sanchez used her position as AGFE member to send letters to the Parliament (Housing Commission), Mr. Luis Risco and the Mayor of The Lima City Dr. Luis Castañeda Lossio, seeking assistance in stopping the evictions. The eviction was stopped on the day after the letters were sent.

## **Consultations held and alternative housing and /or compensation offered by the authorities to the affected community**

The community has not been offered any compensation or other resources since the eviction was stopped. The area has access to water, sewage facilities and electricity. However, the families from the association live in poor conditions in shacks. As the residents lack security of tenure, they are not willing to invest significant resources in order to improve their current homes or build new homes.

## **Strategies for future action discussed / proposal to deal with the threatened eviction**

- Support the approval of housing policies that provide access to land tenure for people from poor areas who have occupied their land for more than 10 years.
- Provide opportunities for the community to be involved in the National Housing Campaign Committee to demand housing rights for the poor.
- With the support of The National Housing Campaign Committee we will be able to make mobilizations to the Justice Palace and the Parliament to demand rights for the poor communities affected.

## **Reported Case 6: Abuja, Nigeria**

The Government of Nigeria is consistently one of the worst violators of housing rights in the world, with over two million people forcibly evicted from their homes in different parts of the country since 2000. Although there have been numerous cases of forced evictions throughout the country in 2006, the most large-scale and egregious evictions have occurred in the Nigerian capital, Abuja, under the orders of the Minister of the Federal Capital Territory, Mallam Nasir Ahmad El-Rufai.

### **Background and history of the case**

Since El-Rufai's appointment as Minister by the President in 2003, the Federal Capital Development Authority (FCDA) has been carrying out mass forced evictions in Abuja in an attempt to re-initiate a Master Plan that was approved in 1979. These evictions are an attempt by the Government to redress 30 years of deviations from the city's Master Plan, in which land has been misallocated or developed 'improperly'. The Minister of the Federal Capital Territory, Mallam Nasir Ahmad El-Rufai, has ordered mass demolitions of businesses and homes, including over 49 informal settlements.

The Master Plan was developed when the Government decided to move the national capital from Lagos to Abuja, and was designed to guide the creation of the new capital and development of the capital territory until 2000. The aim of the Master Plan was to create an orderly capital as a solution to the chaotic, rapidly expanding Lagos.

The Master Plan called for the resettlement of people living in traditional villages in the capital territory to neighbouring states. However, the Government never fully carried out the resettlement plan. Instead, those living on the land when the Federal Capital Territory (FCT) was created – generally termed 'indigenes' – were allowed to remain. These settlements have

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expanded in the past 30 years as indigenes allocated land or rented housing to non-indigenes who moved to Abuja for employment and were unable to access affordable formal housing. This resulted in the formation of extensive informal, unplanned and unauthorised settlements within the area designated for the capital city

The Land Use Act of 1978 vests all lands in the hands of the Government and does not allow for the private ownership of land by individuals or corporations. According to the Act, the Governor of each state has the power to allocate urban land, and local area councils have the power to allocate rural land. Individuals and private developers must apply for certificates of occupancy that will allow them to use the land for a certain period of time for a fee. In the case of the FCT, there is no Governor. Legally, the President of Nigeria is the only one with the authority to allocate land in the FCT, and the Minister of the FCT, who is a presidential appointment, carries this out on the President's behalf.

The Land Use Act makes it illegal for indigenes to allocate land without prior government approval. However, this has seldom been enforced. Hundreds of thousands of people live in these informal settlements because they do not have access to affordable housing in the formal market within a reasonable distance to their place of employment.

### Main events that have taken place so far

Since El-Rufai's appointment as Minister of the FCT in 2003, the FCDA has targeted over 49 such settlements in Abuja for demolition, arguing that land was zoned for other purposes under the Master Plan and, in some cases, has already been allocated to private developers. To date, these evictions have affected approximately 800,000 people, as estimated by local organisations. Although the FCDA argues that this number is inflated, they have not released their own figures from their enumerations of the informal settlements.



**Demolished homes of Kuchigoro settlement, Abuja: November 2006** (Photo: Deanna Fowler)

The FCDA has demolished homes, schools, clinics, churches, mosques, and businesses without adequate consultation with communities, and without providing adequate notice, compensation, or adequate resettlement. The evictions have resulted in the massive displacement of hundreds of thousands of people from entire communities with a spiralling effect on health, education, employment, and family cohesion. Some of the demolitions were accompanied by violence perpetuated by heavily armed security operatives towards residents and owners of businesses. At least 24 of the 49 targeted settlements in Abuja have been demolished by the FCDA. Evictions commenced as early as 2003, but the largest demolitions began in late 2005 and have been ongoing.

The FCDA draws a distinction between indigene and non-indigene residents when carrying out evictions and demolitions. The demolitions have targeted homes in which non-indigenes live, regardless of whether the buildings were owned by indigenes or non-indigenes. The FCDA has not demolished homes in which indigenes live, except in some cases, where enumerations were not completed and indigene homes were destroyed as well.

The FCDA has a policy to provide full resettlement to indigenes, in keeping with the original intentions of the Master Plan. However, there is no such policy for non-indigenes living in Abuja. After a public outcry in late 2005, the Minister began discussions about evictions with a "human face." Prior to this, many non-indigene residents were forcibly evicted before an enumeration process took place. Since late 2005, the FCDA has been attempting to enumerate non-indigenes before demolitions and has offered those affected with access to a plot of land in relocation sites that are currently under construction.

Only a handful of those evicted have been able to access plots at relocation sites and even fewer have been able to afford to build new homes. Furthermore, the FCDA has not yet followed through on the Minister's promise to provide access to water, electricity, roads, schools and health clinics in the relocation sites. In order to access plots at relocation sites, non-indigenes must pay 21,000 Naira (approximately \$ US 170) for administrative fees, and a further 600 Naira (approximately \$ US 4.88) per square metre of land. Thus access to a 500 square metre plot would cost 321,000 Naira (approximately \$ US 2,612). They would further be required to build a home based on certain minimum planning standards within two years or lose their rights to the relocation plot. In a country where over 70 percent of the population lives under a dollar day, this is a difficult feat, particularly for those who have recently had their homes and much of their property destroyed.

### **Actions and alternatives**

Nigerian organisations, most notably Women Environmental Programme; Community Action for Popular Participation (CAPP); Justice, Development and Peace Commission; and the Social and Economic Rights Action Center (SERAC) have been active in documenting the forced evictions, raising international attention towards the ongoing rights violations and advocating for a halt to the evictions until the FCDA can produce a plan, in agreement with affected people, to implement the Master Plan in a way that does not violate human rights.

Local associations and churches have also responded with the "Break the Silence on Evictions: Defend housing rights in Nigeria!" appeal launched by the "Nigerian Coalition for Zero Evictions", which has demanded a halt to demolitions and expulsions; compensation and immediate alternative accommodations for the homeless; and condemnation of the privatization efforts and master plan for Abuja. This appeal has also requested the block of all

## Forced Evictions - Towards Solutions?

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foreign investments which ultimately result in the violation of human rights and that the funds resulting from the annulment of the country's foreign debt be channelled towards the People's Fund for the Right to Land and Housing.

In October and November 2006, COHRE and SERAC undertook a fact-finding mission to Abuja to investigate reported rights violations and to meet with Government officials at the local and national levels to discuss the implementation of the Master Plan. The fact-finding mission team visited informal settlements, sites where informal settlements had been destroyed, and resettlement and relocation sites. The team found that resettlement and relocation sites were not adequate for habitation, as the FCDA had not yet supplied promised services. In contrast, the majority of the 49 settlements facing demolition have access to boreholes, sanitation facilities, schools and health clinics, as the communities have worked closely with local area councils to develop the settlements over a number of years, and have often collectively raised funds and built facilities when government support was lacking. Hundreds of thousands of people, including civil servants, advocates, journalists, retail workers, taxi drivers, and people working in the informal sector, live in these informal settlements, due to a lack of affordable housing in the formal market.

COHRE and SERAC found that FCDA and Federal Government officials were generally opposed to carrying out in situ upgrading of existing informal settlements and many at the FCDA were also opposed to considering a re-evaluation of the Master Plan to take into account the reality of the way in which the City has developed in the past 30 years since the Master Plan was created.

Therefore, in December 2006, COHRE awarded the Nigerian Government with one of its three Housing Rights Violator Awards for its extensive record of government-sanctioned mass forced evictions and its ongoing disregard for the human right to adequate housing. COHRE and SERAC issued a joint statement on the ongoing forced evictions in Abuja.

Felix Morka, Executive Director of the Social and Economic Rights Action Center (SERAC) in Lagos, said, "In the process of trying to ensure that Abuja is a safe, well-planned city, the Minister is creating chaos by increasing homelessness and unemployment, and by disrupting access to schools and health clinics for hundreds of thousands of people. The Minister's policy of unmitigated destruction is not merely illegal under international law; it is fundamentally counterproductive to the aims of the Master Plan."

Jean du Plessis, COHRE's Acting Executive Director said, "COHRE and SERAC urge President Obasanjo to ensure that the Minister halts all demolitions immediately. No further demolitions should be allowed until such time as an adequate relocation plan has been developed in full consultation with affected people, a detailed enumeration of affected people has been completed and made public, and adequate relocation sites with all relevant facilities have been prepared. If the FCDA finds, during this process, that it does not have the resources to adequately relocate all people, then it should instead focus its efforts on upgrading and regularising the current settlements."

COHRE and SERAC will release their detailed findings to relevant stakeholders in 2007 and will pursue further discussions and advocacy on halting forced evictions and providing remedies to those who have suffered rights violations.

## Reported Case 7: Lagos, Nigeria<sup>104</sup>

### Introduction

In December 2005, as a part of Nigeria's policy to privatise Government-owned housing stock throughout the country, soldiers forcibly evicted some 1,388 civil servants and their families from Federal Government-owned high-rise buildings in Lagos. Evictions were carried out despite a court injunction, and included Bar-Beach Towers, Alagbon Towers, Reeve Road Towers, 1004 Housing Estate, Eric Moore Towers, and Moloney Towers. In connection with the privatisation plans, more evictions are planned that could affect another 20,000 people.<sup>105</sup>

### Background and history of the case

In 1991, the Federal Government decided to privatise all Government-owned housing stock. The Federal Executive Council decided that the high rise buildings should be sold to private organizations and companies with the assumption that only corporate bodies would have the capacity to maintain these buildings with the associated facilities that were already decaying and in a serious state of disrepair.

In April 2004, the Government sold the aforementioned high rise flats and promised to give possession within 90 days. Following the sale, residents formed a Residents Association to resist the sale and took the Federal Government to court. In December 2005, the authorities defied a court injunction, stormed the high rise buildings and evicted the tenants.<sup>106</sup>

### Main events to date

- **1991** – The Federal Government decides to privatise public residential buildings occupied by civil servants
- **April 2004:** Sale of publicly owned flats begins. Government holds series of meetings with the leadership of the occupants' association and buyers, to seek ways of easing the relocation process from the buildings
- **July - September 2005:** Government serves three notices to sitting tenants to vacate flats
- **September 2005:** Verification exercise on all occupants of the privatised high-rise flats to determine those eligible for compensation
- **6-12 December 2005:** Government embarks on mass evictions
- **December 2005:** Nigerian Parliament requests the Chief of Defence Staff and the Inspector General of Police to withdraw staff and stop further intimidation and forceful eviction of occupants pending determination of court cases.

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<sup>104</sup> Information for this report was provided by Johnson Falade, UN-HABITAT and International Alliance of Inhabitants

<sup>105</sup> 'Lagos NCP condemns the forceful eviction of civil servants', The Daily Independent, (25 Dec. 2005); Jude Njoku, 'Intrigues and pains of evictions in FG's Lagos high-rise buildings' The Vanguard [article on website], (13 Dec. 2005); International Alliance of Inhabitants, 'Break the silence on the evictions: defend housing rights in Nigeria!' [article on website], [www.habitants.org](http://www.habitants.org); Mass evictions worsen Nigeria's living conditions: 20 February 2006 Shashank Bengali, The Philadelphia Inquirer

<sup>106</sup> The Gale of forceful evictions, The Guardian (Lagos) (14 Dec. 2005)

- **December 2005:** International solidarity appeal launched by the Zero Evictions Coalition Nigeria and the International Alliance of Inhabitants.

### **Consultations held and alternative housing and/or compensation offered by the authorities to the affected community**

The Government stated that it embarked on several persuasive/negotiation mechanisms with the sitting tenants for them to vacate their flats. The Government has been reported as saying that it offered various incentives to make this happen and gave adequate notice of the change of policy. It has also been reported that the Minister for Housing and Urban Development and Chair of the Implementation Committee held several meetings with representatives of the Resident Association which yielded some results. The Government has stated that between July and September 2005, three notices were issued to sitting tenants to vacate their flats, which yielded no results. The final notice gave 30 September 2005 as the last date for the sitting tenants. Some of the sitting tenants had vacated their flats leaving behind only a few items.

It has been reported that the Government ensured that the sitting tenants had access to new housing through the mortgage system and instructed the Federal Mortgage Bank of Nigeria to provide a 100 percent guarantee on their loans. The sale price of the new houses varied from N2.5 million for a 2-bedroom house, N4.5 million for a 3-bedroom house, and N5 million for 4- bedroom house. The government also alleged that it offered N250,000 as a grant for those who wished to opt out of the mortgage system to rent their apartments.

### **Level of organisation of affected community**

Following the sale of the apartments, residents formed the Residents Association, which has held several meeting with the Minister of Housing and Urban Development and the Chair of the Implementation Committee.

### **Supporting agencies working in alliance with the Community**

Socio Economic Rights Initiatives (SERI) Counsel for the residents  
International Alliance of Inhabitants

Local associations and churches have also responded with the "Break the Silence on Evictions: Defend housing rights in Nigeria!" appeal launched by the "Nigerian Coalition for Zero Evictions", which has demanded a halt to demolitions and expulsions; compensation and immediate alternative accommodations for the homeless; and condemnation of the privatization efforts and master plan for Abuja. This appeal has also requested the block of all foreign investments which ultimately result in the violation of human rights and that the funds resulting from the annulment of the country's foreign debt be channelled towards the People's Fund for the Right to Land and Housing.

## Reported Case 8: Various Areas in Karachi, Pakistan<sup>107</sup>

### Introduction

Karachi has experienced massive evictions in 2006. Evictions and house demolitions have been carried out in 20 different katchi abadis (informal settlements) situated in Gulberg, North Nazimabad, Saddar, Jamshed, Gulshan-e-Iqbal, Liaquatabad and SITE towns in Karachi City, Pakistan. Twenty villages or slums situated on 450 acres of prime land were affected, and between January and May 2006, 23,124 people were made homeless.

The Government has undertaken an anti-encroachment drive to beautify the city. Sikander Goth and Jumma Goth informal settlements, for example, are being cleared to pave way for the construction of high rise buildings for middle income housing. In addition, residents of Jumma Goth have been evicted and the slum demolished due to the fact that it is built on a conduit through which two major water pipelines pass. In Allah Wali Colony Block 6, PECHS Jamshid Town, the government wants to undertake road extension and widening of the city. The evictions are being implemented by The MQM Government (Muttahida Quami Movement), and the City District Government Karachi (CDGK).

The communities are being supported by Eviction Watch – Asian Coalition for Housing Rights, and Urban Resource Centre (URC), Karachi



Recent demolitions in Sikander Goth, Pakistan (Photo: URC)

### Background and history of the case

According to City Nazim Syed Mustafa Kamal, each katchi abadis developed after 1985 is being considered as an encroachment, and therefore illegal, and is subject to removal at any time as part of the City Master Plan and strategy. He said, "We do care for poor people who live in slums but we can never compromise on the future of Karachi. We have to develop this city in a strategic manner so that it is seen as the seventh largest city of the world, an engine of growth for Pakistan and an attraction for people from around the world."

<sup>107</sup> Information for this report was provided by Urban Resource Centre Karachi, Pakistan



### Main events that have taken place so far

- 14 February 2006: The City District Government of Karachi (CDGK) demolished over 1,000 homes opposite the main gate of Karachi University. City officials argued that the evictions were necessary, as those evicted were illegally occupying land over a water pipeline. The City provided no prior notice or compensation to the affected families. According to an URC survey the settlement was over 15 years old. After losing their houses, the slum dwellers scattered to other parts of the city.
- 9 March 2006: The City demolished 150 houses in Yousuf Goth in New Karachi and 300 houses in other parts of New Karachi Town to make way for a road extension project. The City did not provide compensation to affected families, even though most houses had legal titles issued from the Sindh Katchi Abadi Authority.
- 10 March 2006: The Town administration demolished over 200 homes in Shaheed-e-Millat Colony Korangi Sector 3\_ for a road extension project. The City did not provide compensation.

13 March 2006: Town administration officials demolished 1,250 homes in Jumma Goth — a 30 year old settlement with over 12,000 inhabitants. The affected families lost their household property along with their homes. Police used tear gas and batons when residents tried to resist the demolition of their homes. The local government argued that the settlement was illegal, as it was located on a main water supply pipeline. However, a survey showed that there were various high-rise buildings illegally constructed on the same pipeline, which were not demolished. The operation was started on the directive of the Town Nazim, (Mayor) Gulshan-e-Iqbal, Wasay Jalil. TMO Matanat Ali Khan and TPO Asif Ejaz supervised the operation.



Aftermath of Evictions in Jumma Goth (Photo: © URC)

22 April 2006: The CDGK demolished 40 houses in Allah Wali Colony Block 6, PECHS Jamshid Town Karachi. The CDGK bulldozed houses that had been built in 1954, without providing compensation or alternative accommodation and in spite of a case pending in the Sindh High Court concerning the planned eviction, and a hearing scheduled on the matter for the following week. The community protested against the demolition of their houses. Women and children pelted the CDGK employees with stones. A heavy contingent of police was present and fired into the air, and used tear gas and baton charges against residents. Police and para-military forces arrested 25 community activists. Due to the disruption of being forcibly evicted, 130 students of this settlement were not able to sit for their annual examinations.

- 25 April 2006: One hundred houses near Graveyard Masira Colony Landhi were demolished.
- 5 May 2006: The CDGK demolished 250 houses in the Sikander Goth settlement, Karachi. The eviction was carried out in order to clear the land for a high-rise building, and the builder's private guards reportedly helped demolish the houses. The residents had not been given prior notice of the eviction. They tried to resist the operation, and in the ensuing protests, police killed a protester and injured several other people. The Urban Resource Centre reported that the City plans to demolish 750 more houses in the area.

### **Level of Community organisation of the affected community in response to the evictions**

Residents of Jumma Goth are well-organised, and residents have demanded compensation and threatened to remain on the land and live under the open sky until the Government compensates them. In Allah Wali Colony Block 6, PECHS Jamshid Town, the community also protested strongly against the demolition of their houses.

### **Consultations held and alternative housing and/or compensation offered by the authorities to the affected community**

Many of the communities have lived in their settlements for well over twenty years and have invested time and resources in acquiring basic amenities such as water and electricity. These eviction operations have left thousands of families homeless, rendering many children, elderly and the infirm vulnerable to sickness. In some villages, evictions were carried out without any notice provided. In others, for example Jumma Goth, residents claimed they were given a few hours notice although the Government stated that due notice was given. The Government has no plans to compensate or offer alternative housing or plots to those affected.

### **Follow up strategies to resolve the evictions**

Forced evictions are a gross violation of human rights, in particular the right to adequate housing. Pakistan was among the first nations to sign the Convention on the Rights of the Child, which ensures that every child should have a decent place to live. In 1996, the Government of Pakistan committed itself to the global action of Habitat II which recognises the right to adequate housing, condemns forced evictions and encourages a humane way of dealing with poor squatter families. The Government should be made to realise its

international commitments and must be held accountable for its actions in failing to protect the urban poor.

## Reported Case 9: Various Areas in Zimbabwe<sup>108</sup>

### Introduction

On 19 May 2005, the Government of Zimbabwe embarked on an operation to 'clean up' its cities - known as Operation Murambatsvina (which literally means 'drive out rubbish' or 'restore order'). Operation Murambatsvina was a campaign of mass forced evictions, the demolition of homes and informal businesses in Zimbabwe's urban centres: Harare, Bulawayo, Gweru, Mutare, and Victoria Falls. The UN special envoy on Human Settlement Issues in Zimbabwe estimates in her report that some 700,000 people across the country lost their homes, their source of livelihood or both. A further 2.4 million people have been indirectly affected by the operation. The vast majority of those directly and indirectly affected were the poor and disadvantaged segments of the population. They are, today, deeper in poverty, deprivation and destitution, and have been rendered more vulnerable.<sup>109</sup>

### Reasons for the evictions

Officially, Operation Murambatsvina was intended to address the widespread illegal construction of houses and illegal street trading. Unofficial explanations, however, suggest that the reasons for the launch of Operation Murambatsvina are predominantly political. Many argue that the operation was used to remove supporters of the opposition from the cities into the countryside where President Mugabe's ZANU-PF party has more control. Moreover, some have suggested that the operation was a pre-emptive strategy to disperse the threat of social unrest in light of economic hardship in Zimbabwe and offered a distraction from the economic crisis facing the country. While Operation Murambatsvina officially ended in 2005, the Government is still evicting residents and informal traders who attempt to resettle in areas cleared by Operation Murambatsvina.

### Background to the case

The statistics released for May 2005 put unemployment at 80 percent, inflation at 144.4 percent and the price of bread and mealie meal rose by 29 percent and 51 percent respectively. These figures continue to increase sharply as official figures put inflation at 782 percent in March 2006. The official rate of the Zimbabwe Dollar to the US dollar is 99, 2001 while the black market rate is 206,000, as of March 2006. Severe shortages in other food stuffs, fuel and basic commodities continue to worsen.

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<sup>108</sup> Information for this report was provided by the UN Special Envoy's team on human settlement issues in Zimbabwe, the IAI campaign "Restore the housing rights in Zimbabwe", and COHRE

<sup>109</sup> Kajumulo Tibaijuka, Anna, Report on the Fact-Finding Mission to Zimbabwe to assess the scope and impact of Operation Murambatsvina by the UN Special Envoy on Human Settlement Issues in Zimbabwe, (July 2005), p. 33, Mrs Anna Kajumulo Tibaijuka, the Executive Director of the UN Human Settlements Programme (UN-Habitat), was appointed on 20 June 2005 by UN Secretary-General Kofi Annan to investigate the extent and impact of the evictions.

It was within this context that Operation Murambatsvina was officially started on 19 May 2005. President Mugabe initiated this campaign to rid Zimbabwe of what he told Parliament was "a chaotic state of affairs" in the nation's cities and towns.



Residents of Mbare living in the rubble after demolitions, Zimbabwe - June 2005 (Photo: © UN-HABITAT)

Evictions were carried out without notice or court orders and with disregard for due process and the rule of law. During the forced evictions, police and security forces used excessive force. Reportedly, several children have died during the demolitions. There are also reports that police deterred civil society organisations from providing assistance to those affected. For example, on the night of 26 May 2005 more than 10,000 people were forcibly driven from the informal settlement of Hatcliffe Extension in Harare, where people had been settled by the Government itself.<sup>110</sup>



Family demolishing its own house in Epworth, Harare, Zimbabwe (Photo: © UN-HABITAT)

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<sup>110</sup> Amnesty International, 'Zimbabwe – thousands of forced evictions and arrests in violent crackdown', (1 June 2005)

### Future threats

In the wake of Operation Murambatsvina and Zimbabwe's economic crisis, millions of evictees continue to face poverty, malnutrition, starvation and disease. In June 2005, the Government of Zimbabwe launched Operation Garikai/Hlalani Kuhle (Better Life) to provide housing to many of those who lost homes under Operation Murambatsvina. However, over one year after the programme was launched; the Government had built approximately 3,325 houses, to accommodate those left homeless from the destruction of approximately 92,460 structures. At least 20 percent of the houses were earmarked for civil servants, police and soldiers, while some victims of Operation Murambatsvina were provided small plots of land without assistance with which to build homes. Furthermore, many of the homes designated as "built" are not finished, do not have water and sanitation facilities, and have not been allocated. In fact, even if a victim of Operation Murambatsvina was able to access a home through the highly corrupt allocation process, the majority of victims would not be able to afford the homes.<sup>111</sup>



Evictions and Demolitions in Hatcliffe Extension, Zimbabwe (Photo: © UN-HABITAT)

### Supporting organisations assisting the communities

There are many organisations currently assisting in the situation in Zimbabwe. Amnesty International, the Centre on Housing Rights and Evictions (COHRE) and Zimbabwe Lawyers for Human Rights condemned the mass evictions in Zimbabwe and called for the situation to be addressed at the recent AU Assembly in Libya. COHRE is providing support to those organisations currently working against evictions in Zimbabwe, and supplied a dossier of information to the UN Special Envoy, Anna Tibaijuka, during her visit to Zimbabwe. International Alliance of Inhabitants, a network of social movements and associations, support the "Restore the housing rights in Zimbabwe" campaign.

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<sup>111</sup> Amnesty International, 'Zimbabwe: No justice for the victims of forced evictions' (8 Sep. 2006) AI Index: AFR 46/005/2006.

## Reported Case 10: Various Areas in Mumbai, India<sup>112</sup>

Between December 2004 and June 2006, the Mumbai authorities demolished over 92,000 homes, affecting approximately 400,000 slum and pavement dwellers.<sup>113</sup> In Maharashtra State, of which Mumbai is the capital, the Congress-NCP Government came to power in October 2004, having promised to provide security of tenure. However, once in power, it began implementing a development programme budgeted at US \$36 billion, directed by the McKinsey multinational consultancy and designed to transform Mumbai into the 'next Shanghai' by 2010. To implement 'Vision Mumbai', the plan of the Maharashtra State Government to make a world class city out of Mumbai, hundreds and thousands of slum dwellers in India's booming city still face eviction in addition to the over 300,000 who have already been evicted.

The programme called for the reduction of slums to 10 percent of their current extent. However, given the city's present rate of building houses for relocation purposes - 3,000 units per year - it is clear that there is no real plan to adequately accommodate the hundreds of thousands of people already evicted or the 2.2 million still facing eviction.

The Mumbai authorities had stated that only slums developed after 1995 would be demolished. Following protests by slum-dwellers and community organisations, members of the Government of India, including National Congress Party President, Sonia Gandhi, publicly denounced the slum demolitions, and protection was extended to slums built before 2000. SS Tinaikar, the city's senior official in the early 90s, was aptly quoted in *The Guardian* newspaper as saying: "By demolishing slums before you build low cost public housing all that will happen is that the slum will simply slowly spring up again."<sup>114</sup>

Mumbai authorities have continued evictions into 2006. For instance, in May 2006, approximately 500 police officers and Mumbai Collectorate officials demolished around 5,000 houses in the slum communities of Indira Nagar and Janata Nagar in Mandala, Mumbai. The officials used bulldozers to destroy homes and then set fire to the slums. Residents were given only 12 hours notice of the demolition. During the forced eviction, police beat people and dragged them out of their homes by force, and destroyed personal belongings and even residents' food supplies. There are reportedly plans to resettle the people whose homes were demolished, but no action has been taken to date. Although Mandala had in fact been earmarked as a rehabilitation site for people who were evicted in the 2004–2005 eviction drives, it instead became a site of eviction itself.<sup>115</sup>

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<sup>112</sup> Information for this report was provided by Miloon Kothari, the Special Rapporteur on adequate housing; an interview with Jockin Arputham, National Slum Dwellers Federation; and COHRE

<sup>113</sup> United Nations Commission on Human Rights, 'Statement by Mr. Miloon Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, to the World Urban Forum III (19-23 June 2006) in Vancouver' (20 Jun. 2006)

<sup>114</sup> 'Poor squeezed out by Mumbai's dream plan: India's biggest city is razing its shanty towns', *The Guardian*, (1 Mar. 2005),

<sup>115</sup> 'NGO appeal against slum demolitions in Mumbai', One World Net [article on website], (22 May 2005); United Nations Commission on Human Rights, 'Statement by Mr. Miloon Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, to the World Urban Forum III (19-23 June 2006) in Vancouver' (20 Jun. 2006).

### **Level of Community organisation of the affected community**

Residents of informal settlements in Mumbai are vibrantly involved in activism and advocacy against forced evictions in their communities. A number of Indian groups and organisations are involved in activism to halt the Mumbai forced evictions, including:

- SPARC
- National Slum Dwellers Federation
- Mahila Milan
- Youth for Unity and Voluntary Action (YUVA)
- National Alliance of Peoples' Movement (NAPM)
- The Committee on the Right to Housing (CRH)
- The Indian People's Tribunal
- The National Federation for Housing Rights

Some of their activities have included:

- On 15 December 2004, YUVA, NAPM, and other partner movements and organisations organised a protest march at Azad Maidan, near CST, by Shaheer Vikas Manch. Approximately 1,000 people, including women and children, from different communities gathered and staged a protest, expressing resistance against the demolitions.
- On 7 January 2005, various local movements and organizations met at the office of the NAPM in Dadar, and discussed a plan of action to address the forced evictions. Accordingly, on 12 January 2005, 500-600 people from different communities, movements and organisations went to the Mantralaya and staged their protest in the form of Sitti Bajao Andolan (whistle protests). Nearly 100 people entered the third floor on which the CM's office is located and started whistling to show resentment. The rest of the demonstrators were at the gate and blocked access to the building. Many people were arrested during the protest.
- On the same day, CRH, a network of various organizations working on housing rights, met to design a solidarity action plan for protests at the local level and advocacy actions at national and international levels.

### **Supporting agencies working in alliance with the affected community**

- The Housing and Land Rights Network of Habitat International Coalition (HIC-HLNR)
- Centre on Housing Rights and Evictions (COHRE)

### **Authorities implementing the eviction**

The Brihanmumbai Municipal Corporation (BMC) and the Maharashtra State Government

### **Strategies for follow-up**

A veteran slum dweller in India, Jockin Arputham, had this to say in a recent interview:

"Why don't you create an alternative for them? Why should they not have the same chances for employment as the middle class? The custodians of the city should create a sites and

services zone on the city's periphery. Put up 10x10 rooms, common toilets and taps, and ask the poor to pay Rs 5 everyday. Make NGOs responsible for collection. Give us a chance, let us enumerate the slums, categorise the residents, and find a place for all."

### **Reported Case 11: Luanda, Angola<sup>116</sup>**

#### **Background and history of the case**

During the 27-year civil war in Angola, which ended in 2002, thousands of families were forced to flee their homes. Many of them moved to Luanda where they live in informal settlements without legal title to the land which they occupy. Since the war ended, demand for land in Luanda for public and private developments, including high and middle-income housing, has increased. To facilitate such developments, the authorities have forcibly evicted thousands of poor families from their homes.

#### **Main events that have taken place so far**

##### **Kilamba Kiaxi Municipality:**

From June 2004 to November 2005, the Kilamba Kiaxi Municipality forcibly evicted approximately 2,000 families in Wenji Maka. Police beat and arrested several residents and activists. During the June 2004 eviction, police shot and wounded three residents.<sup>117</sup>

##### **Viana Municipality:**

In September 2005, in Bairro Cidadania, Viana Municipality, municipal fiscal agents and armed police forcibly evicted over 300 families and destroyed their property. It was the fifth time in a year that these families were subjected to forced evictions. They were left without shelter or means to rebuild their homes.<sup>118</sup>

##### **The Nova Vida project:**

On 24 November 2005, police, accompanied by representatives of the Nova Vida project, forcibly evicted families and demolished homes in the Luanda suburbs of Cambamba I, Cambamba II, Banga Wé, and Bairro 28 de Agosto and also assaulted several residents and arrested 13 people, six of whom were reportedly beaten while in custody. Seventy armed police then returned on 30 November with soldiers, members of a private security firm and a commercial demolition team and continued demolishing homes. The majority of the evicted residents remained or returned to the area and rebuilt what remained of their homes.<sup>119</sup>

On 11 March 2006, Mr António Manuel, Head of the Fiscal Communal Administration of the Futungo de Belas district of Luanda visited the Residents' Commission for the neighbourhoods of Cambamba I, Cambamba II, Banga Wé, and 28 de Agosto, accompanied

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<sup>116</sup> Case was compiled with information from COHRE

<sup>117</sup> 'Angola: Stop forced Evictions' Pambazuka News (22 Feb. 2006)

<sup>118</sup> *ibid.*

<sup>119</sup> SOS Habitat [personal communication], (Nov. 2005);

see also [www.christian-aid.org.uk/news/stories/051125s.htm](http://www.christian-aid.org.uk/news/stories/051125s.htm)



by members of the National Police. Mr Manuel informed the Residents' Commission that the area would be demolished on 13 March 2006 to allow construction to commence on the Nova Vida housing project.

On 13 March 2006, heavily armed members of the National Police and private security guards began to demolish homes. Police reportedly fired shots into the air and the ground. At Cambamba II, police reportedly beat and kicked residents, including a pregnant woman who began to haemorrhage. Police also shot a 6-year old boy in the knee. At Cambamba I, a private security guard reportedly shot in a semi-circle around the feet of a young boy trying to run away. The guard and seven police officers then beat and kicked the boy. The police threatened and interrogated members of Oxfam who were photographing the events. A number of people were arrested and those resisting arrest were beaten, including a woman carrying a baby on her back.

Police demolished homes without reasonable notice. Furthermore, the land on which the Nova Vida project is being built was allocated without due legal process, without consulting with the community and without any effort to provide compensation or alternative adequate housing to those unable to provide for themselves.<sup>120</sup>

### **Supporting agencies working in alliance with the affected community**

- SOS Habitat
- Amnesty International
- COHRE
- Oxfam
- Christian Aid

### **Consultations held and alternative housing and/or compensation offered by the authorities to the affected community**

The Luanda Provincial Governor, Job Capapinha, has set up a Commission of Inquiry into the involvement of provincial government officials in the illegal sale of land and the granting of land permits. However, no actions have been taken by any level of government to address the illegality of the forced evictions, and in particular, the use of violence by police and private security guards.

### **Future Strategies**

As a State party to the International Covenant on Economic, Social and Cultural Rights, the Government of Angola is, at all levels, legally obligated to respect, protect and fulfil the right to adequate housing, including the prohibition on forced evictions, as guaranteed under Article 11(1). It is furthermore obligated to not interfere with persons who enjoy some level of housing, as well as to protect everyone within its jurisdiction from forced evictions undertaken by third parties including the State and Municipal authorities.

The forced eviction of the communities of Banga Wé, Bairro 28 de Agosto, and Cambamba I and II were carried out in violation of the Government of Angola's legal obligations under international human rights law.

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<sup>120</sup> SOS Habitat [personal communication], (May 2006).

The forced evictions were also carried out in violation of Angola's law 19/92, which prohibits guards from private security companies to carry out police functions.

In this regard, there is certainly a need to engage with the Government of Angola to ensure that the affected families return to the site from which they were evicted or that an adequate, alternative site for resettlement is provided in genuine consultation with the community and within an acceptable distance to their sources of employment and education. The Government of Angola should also ensure that restitution is provided for all property that was destroyed by the police.

## Reported Case 12: Johannesburg, South Africa<sup>121</sup>

### Background and history of the case

The City of Johannesburg has forcibly evicted thousands of poor people in the inner city in the context of the Johannesburg Inner City Regeneration Strategy (ICRS), which is aimed at creating an 'African World Class City'. The strategy plans for the clearance of an estimated 235 'bad buildings, which are regarded as being at the centre of developmental 'sinkholes'. The strategy was initiated in pursuit of the overall goal of "raising and sustaining private investment leading to a steady rise in property values".<sup>122</sup>

The Johannesburg City Council has obtained urgent eviction orders under the pretence of being concerned for the health and safety of residents. However, evictions have been carried out in the middle of the night and without notice. While conditions in many of the buildings are appalling, the procedures used by the municipality are grossly unfair, including the use of Apartheid-era laws and regulations. In addition, people are not consulted or offered any viable alternatives. In the name of safety and health in the buildings, residents have been made homeless and left on the streets to fend for themselves. The strategy affects a minimum of 25,000 residents of 'bad buildings'.<sup>123</sup>

### Recent events

Over 300 residents of six properties in inner city Johannesburg, who were threatened with eviction, recently brought a case against the City. On 3 March 2006, the High Court of South Africa ruled that the City of Johannesburg's housing policy fails to comply with section 26 of the Constitution, which provides for the right to have access to adequate housing.<sup>124</sup> This was due to the City's failure to provide suitable relief for, and to give adequate priority and resources to, the inner city poor living in a crisis situation or otherwise in desperate need of accommodation. The Judge dismissed the eviction applications brought by the City against the

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<sup>121</sup> Information for this report provided by COHRE

<sup>122</sup> Neil Fraser, City of Johannesburg quoted in 'Sinkholes and Ripple Ponds', City of Johannesburg website, 10 March 2003, ([www.joburg.org.za/citichat/2003/mar10\\_citichat.stm](http://www.joburg.org.za/citichat/2003/mar10_citichat.stm).)

<sup>123</sup> City of Johannesburg, [http://www.joburg.org.za/2004/aug/aug13\\_inner.stm](http://www.joburg.org.za/2004/aug/aug13_inner.stm); Centre on Housing Rights and Evictions (COHRE), Any Room for the Poor? Forced Evictions in Johannesburg, South Africa, (8 Mar. 2005)

<sup>124</sup> Joint case numbers 04/10330; 04/10331; 04/10332; 04.10333; 04.24101; 04/13835. Full text available at: <http://www.law.wits.ac.za/cals/Inner%20City%20Judgement%20-%203%20March%202006.pdf>

residents. He also interdicted the City from evicting or seeking to evict the residents until adequate alternative accommodation in the inner city area has been provided.

Following the judgement, the City appealed to the Supreme Court of Appeal (SCA), arguing that Judge Jajbhay failed to accord the correct degree of deference to the manner in which the City can exercise its powers under the Building Standards Act. In addition, the residents, represented by the Wits Law Clinic and Webber Wentzel Bowens, cross-appealed the Judge's decision not to rule on the constitutionality of Section 12 (4) (b) of the Buildings Standards Act (used by the City to justify the evictions). The residents also sought a structural interdict requiring the City to submit a reformulated housing policy and provide other ancillary relief.

On 26 March 2007, the Supreme Court of Appeal ordered the residents of San Jose and the Main Street properties to vacate the buildings concerned. It also ordered the City of Johannesburg to provide those residents who needed it with alternative shelter "where they may live secure against eviction". While the SCA held that the residents did not have a constitutional right to alternative housing in the inner city, it said that the personal circumstances of the residents of the particular buildings concerned would have to be taken into account in consultation with the residents before any relocation took place. The City of Johannesburg was ordered to file an affidavit demonstrating compliance with the SCA's order within four months of the SCA judgement date.

This judgment constitutes a partial victory for the inner city poor. South African law is now clear on the point that the inner city poor cannot be evicted without the provision of alternative accommodation. However, the judgement has effectively denied the right of inner city residents to live near their place of work. Research by COHRE and CALS in Johannesburg has clearly shown that the affected residents are too poor to travel to and from far-flung settlements to their work places in the inner city. Relocating them to places far away from the city centre will have disastrous implications for the survival strategies of many families.

The SCA also held that the National Building Standards and Building Regulations Act, 1977 (NBRA) was consistent with the Constitution, and that the decisions to seek the eviction of the occupiers concerned were procedurally fair. The NBRA allows a municipality to issue a notice ordering residents to vacate a property it considers unsafe without any consideration of the availability alternative accommodation. The City of Johannesburg issued the notices in respect of the San Jose and Main Street buildings without first consulting with their residents.

COHRE and CALS are concerned that the judgement appears to condone the City of Johannesburg's decision to exclude the poor from its Inner City Regeneration Strategy and are concerned that the judgement did not go far enough in protecting the occupiers of so-called 'bad buildings' in the Johannesburg inner city from arbitrary exercises of state power. COHRE and CALS are studying the judgment and considering an appeal to the Constitutional Court on these points.

### **Supporting agencies working in alliance with the affected community**

- Centre for Applied Legal Studies (CALS)
- Centre for Housing Rights and Evictions (COHRE)
- Community Law Centre (CLC) of the University of Western Cape;
- Inner City Resource Centre (ICRC)

- The Wits Law Clinic
- Pro-bono legal support from law firm Webber Wentzel Bowens

## Reported Case 13: Central Kalahari Game Reserve, Botswana<sup>125</sup>

### Introduction

The British High Commissioner of Botswana designated the Central Kalahari Game Reserve (CKGR) as a homeland for the Basarwa/San in 1961. However since 1997, the Government of Botswana has been attempting to remove the Basarwa/San from the CKGR, arguing that their hunting practices were endangering the wildlife in the reserve and that the Government could not afford to provide services, such as water, education and health clinics to the Basarwa/San.

### Main events that have taken place so far

The Government relocated 1,739 Basarwa/San (by Government figures) from the CKGR in 1997, although there are conflicting reports over whether people were convinced to move by threat or by promises of an improved standard of living. Nevertheless, several hundred people remained and several hundred more returned over the years. In 2002, the Government forcibly evicted approximately 700 people, in the process destroying the houses and the water supply of the Basarwa/San. At least 30 people remained and others later returned.<sup>126</sup>

As of 31 August 2005 there were between 200 and 250 Basarwa/San living in the CKGR and there were another 1,800 to 2,000 Basarwa/San in resettlement camps, located outside the CKGR, living under poor conditions with high rates of unemployment, rising levels of alcoholism and increasing rates of HIV/AIDS infection. However, after the recent campaign of forced eviction against the Basarwa/San, which began in August 2005, approximately 36 Basarwa/San, including 15 children, remain in the CKGR living on little more than melons and water. One woman has died of starvation and dehydration, but residents refuse to leave.<sup>127</sup>

Seven Basarwa/San have also reported being tortured by wildlife officials for alleged poaching in late June 2005 in Kaudwane, a resettlement camp near the CKGR. Selelo Tshiamo died in early August 2005 due to his injuries.<sup>128</sup>

### Reasons for the forced evictions

There is considerable disagreement over the Government of Botswana's motive for the eviction of the Basarwa/San from the CKGR. The Government has claimed that the hunting practices of the Basarwa/San are endangering the wildlife within the CKGR. However documents from the Department of Wildlife and National Parks state that between 1986 and 1996, "wildlife biomass more than doubled" in the CKGR.<sup>129</sup> The Government also claimed that an outbreak of sarcoptic mange among the Bushmen's goat herds is reason for the sealing

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<sup>125</sup> Information for this report was provided by COHRE

<sup>126</sup> Survival International, email communication of 31 August 2005.

<sup>127</sup> Survival International, "Three dozen Bushmen holding out in Reserve" 12 January 2006.

<sup>128</sup> Survival International, "Massive assault on Bushmen rights" 22 August 2005.

<sup>129</sup> IRIN News "BOTSWANA: Culture under threat - Special Report on the San Bushmen" 5 March 2004

off of the reserve in early September 2005 and the order for remaining Bushmen to leave. However, Dr. James Wood of Cambridge University Veterinary School's Infectious Diseases Consortium has said that sarcoptic mange is easily treated in domestic animals and that "there is no reason to close a Game Reserve because of its presence there."<sup>130</sup>

The Government has also argued that it cannot afford to provide services such as health clinics and schools, and cannot continue to afford providing water to the Basarwa/San while they remain in the CKGR. While some Basarwa/San organisations accept this was the Government's intention, they do not accept that the forced evictions were therefore justified. According to other organisations, the Government's true intention in evicting the Basarwa/San is to make way for further diamond mining.

Regardless of the reasons or justifications for the evictions, what is undeniable is that many of the Basarwa/San never agreed to leave the CKGR, which they regard as their homeland and integral to their way of life. In addition, the 1997, 2002 and 2005 evictions raise serious concerns in relation to the basic requirements under which an eviction can be carried out. These have been spelled out by the UN Committee on Economic, Social and Cultural Rights in its General Comment No. 7 and include, among others, the following:

- a) an opportunity for genuine consultation with those affected;
- b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- c) information on the proposed eviction;
- d) presence of government officials during the eviction;
- e) clear identification of all persons carrying out the eviction;
- f) access to legal remedies
- g) provision of legal aid;
- h) that the eviction should not result in rendering individuals homeless or vulnerable to the violation of other human rights.

While some members of the Basarwa/San were initially persuaded to leave and were compensated, to some extent, by the Government during the 1997 and 2002 evictions, they never regarded their decision to relocate as giving up their rights to their land. Later, many of the Basarwa/San were dissatisfied with the relocation and some even returned to the CKGR. Not only had they been deprived of their traditional way of life, they were also being forced to live in terrible conditions and without access to income-generating opportunities in the area to which the Government had relocated them.

Although the Government persuaded several hundred Basarwa/San to leave, many others never agreed to do so and were forcibly evicted, the latest forced eviction taking place in 2005, losing their housing, property and boreholes in the process. In addition, those who managed to stay behind were continuously harassed and threatened.

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<sup>130</sup> Survival International, "Reserve sealed off, Bushmen threatened at gunpoint" 5 September 2005

## Strategies for future action/remedies

In an attempt to uphold their right to stay in their homeland, 248 Basarwa/San brought a case against the Government to Botswana's High Court on the grounds that their eviction was unconstitutional. On 13 December, the High Court ruled that the Basarwa/San had the right to return to their land in the CKGR. However, the judgement states that the Government is not obliged to provide services to the Basarwa/San living in the CKGR.<sup>131</sup>

## Reported Case 14: Nagoya and Osaka, Japan<sup>132</sup>

### Background

By the year 2000, the number of homeless population had exceeded 20,000 in Japan - not only in major cities, but also in provincial capitals and medium-sized industrial and commercial centres.<sup>133</sup> Given that the Government could no longer ignore the homelessness issue, the Parliament adopted a controversial bill in August 2002, called "Law Concerning Special Measures to Support the Self Reliance of the Homeless", known as the Homelessness Law.

Many homeless people in Japan became homeless due largely to unemployment, but also as a result of national policies to retrench the social safety-net, including access to low-income housing. Furthermore, the land use patterns of major Japanese cities changed drastically in the wake of globalisation in the 1980s. The availability of small, low-rent housing for low-income people decreased significantly because of uncontrolled market economies - as exemplified by Jiage (buy-out of housing with coercion) in inner-city areas. On the other hand, public assistance programmes were cut back under the new conservative policies. Low-income housing issues, not so explicitly evident during the 'bubble economy', became serious in the 1990s as the 'bubble' burst. Within a year prior to August 1999, during which the recession worsened, the number of full-time workers in the country was reduced by 390,000, and conversely that of temporary and day labourers increased by 260,000. To make matters worse, the labour market in the construction industry (which had traditionally provided employment to middle- to old-aged labourers) shrunk dramatically.

The time-bound Homelessness Law was controversial. In a sense, it made the provision that the central and local governments be responsible for the formulation and implementation of programmes to support homeless people by securing stable jobs and housing, extending livelihood consultation, and providing temporary shelter and daily necessities. The legal setting may provide, if sufficiently motivated by homeless groups and the civic community, a first-ever institutional framework for homeless people to negotiate, act and improve their situations.

On the other hand, the Law also stipulates in Article 11, that public authorities should take appropriate measures, in linking with measures for self-reliance of homeless people, in cases where public parks and facilities are prevented from proper use due to occupation by homeless people. It was therefore feared that this article might justify forced evictions from parks and riversides by local authorities as had happened previously. Activists claimed that if

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<sup>131</sup> Roy Sesana, and Keiwa Setlhobogwa and Others v. The Attorney General, Misc. No. 52 of 2002

<sup>132</sup> Report provided by Mitsuhiro Hosaka, Asian Coalition for Housing Rights

<sup>133</sup> Ministry of Health and Welfare, National Survey, (Dec. 1999)

the government made full use of existing laws and programmes such as livelihood protection measures and job security provisions, necessary support could be made available to the homeless, which showed that the Law was intended to segregate the homeless from main stream society and try to treat them with substandard and isolated measures. In fact, temporary shelter facilities already built by local authorities in the Tokyo and Osaka areas were very segregated, without freedom of choice, and access to the outside was strictly controlled. As a compromise, the Law was accompanied by an additional parliamentary resolution to include "due consideration of the spirit of international human rights commitments, in the case of applying the article 11".

Hence the Homelessness Law must be viewed as a double-edged sword. Whether the law can be an essential element of enabling policy environment for the poor, depends upon how people organise to protect their housing rights, The first trial in this regard took place just a few weeks after the Law was enacted on 7 August 2002. The City of Ichikawa, adjacent to the east boundary of Tokyo, had issued an eviction notice on 2 August 2002 to about 40 homeless people living beneath the elevated railway. The forced eviction was scheduled for 27 August, and the homeless group submitted an individually-signed letter of protest to the City. The media paid strong attention to the case and a large number of organisations in and outside Japan sent letters of concern to the City. The City Mayor suspended the action.



The last person taken from his tent (Photo:Mitsuhiko Hosaka)

### Eviction in Nagoya

In 2005, an estimated 1,036 homeless people lived in parks and along the riverside in Nagoya.<sup>134</sup> At 8:00 am on 24 January 2005, the eviction started at Shirakawa Park in the central part of the City. City officials, 594 guards and policemen and city officials surrounded homeless people and support groups and dismantled eight tent houses.

The City Authority claimed that the homeless people disturbed 'proper use' of the city park and planned renovation work. However, it was widely reported in the media that the primary reason for this eviction in the coldest season of the year was to clear and beautify the city before the Aichi Expo was held in March in the east of the City.

The City Authority also claimed that they prepared a 'shelter' prior to the eviction. However, this 'shelter' was only meant to temporarily accommodate those evicted - far from a step towards fundamental solutions for homelessness. Hence, very few voluntarily moved in to the shelter. In fact, a man and a wife were the only evictees who moved to an accommodation facility after 'negotiating' on the spot with city officials, saying "We were so frightened to get

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<sup>134</sup> Estimate of the City Authority. Activists claimed the figure to be approximately 3,000.

suddenly ordered the forced removal that we have decided to move out. We wish we could stay here, but no way.”<sup>135</sup> The tents and belongings of five people were forcibly removed and “their whereabouts are unknown” according to the City Authority.<sup>136</sup>

Preceding this eviction, the City Authority, sent an official letter of request for voluntary removal of tents to 40 tent residents in the park on 19 October 2004 while preparing a park renovation plan. Aware that the letter was a procedural step leading to a forced eviction, 102



lawyers submitted a joint letter of protest to the City in November. However, a monitory letter was issued to 17 tents on 12 January 2005, and despite an objection lodged by a group of homeless people and a large number of protest letters from all over the country, the final eviction notice by the City was sent on 21 January 2005. In this action, the Urban Park Law was referred to as a legal basis for proper maintenance of the park.

**Evictee with only kitchen utensils after his tent dismantled and**

**belongings packed in a truck (Photo: Mitsuhiro Hosaka)**

The City Authority had been in discussion with support groups to look for alternative options. The Mayor claimed also that they extended consultations ‘hundreds of times’. In fact, officials frequently visited homeless people, even at night. They urged them to move out “voluntarily”, often threatened to send them to a shelter, and harassed them by stating that they were illegal squatters.<sup>137</sup> More than 50 homeless people left the park, annoyed at the frequent visits and attempts at coercion, with the result that only 8 remained by January 2005. The authority interrupted the negotiation process, officially stating that although international human rights standards should be observed, the International Covenant was interpreted to declare political commitment to the realisation of the rights to adequate housing and did not refer to specific entitlement for individuals.

### After the eviction

Mr. Hotoke (a provisional name as many called the old Buddhist) lost his tent in the eviction, but remained in the park, without a tent. In February 2005, he was attacked three times by youngsters throwing stones against him while sleeping. He reported these incidents to the police, but no action was taken. Meanwhile, City officials frequently came to him, day and night, and urged him to move. On 3 June 2005, two officials visited Mr. Hotoke who continued to protest the January forced eviction; he tried to keep them away and held an official’s neckband. He was arrested and prosecuted. The prosecutor failed to show medical evidence of any physical assault, except a medical certificate estimating three days for

<sup>135</sup> The Nagoya Times, 24 January 2005

<sup>136</sup> The Mainichi Daily, 25 January 2005

<sup>137</sup> Testimony on #1546 by Mr. Ryuichi Anzai to the Nagoya District Court, 14 July 2006



recovery of 'injury' to the neck. Yet Mr. Hotoke was in custody for a year and five months until the District Court ordered the penalty of 300 thousand yen on 30 October 2006.

The City estimated the homeless population to be 804 persons as of June 2006. Of these, 663 have tents and settle in parks and under bridges. The remaining 141 persons are without tents, shift their sleeping places every night, and are often alone. Since the eviction in Shirakawa Park, the City has been strictly forbidding tent settlement, installing fences and intensifying monitoring. The homeless people without tents and without colleagues are most vulnerable. Reports have been received of their being attacked and murdered.

### **Issue of residence registration in Osaka**

In 2003, according to the Minister of Labour, Health and Welfare, the City housed about 6,600 homeless people, or nearly one quarter of the homeless population in Japan. Mr. Y lived in a tent at Ohgimachi Park in the City of Osaka. He registered his residence in an apartment owned by Mr. A, who allowed homeless people to use his address as a residence so that they could receive their pension and other entitlements. However, in February 2004, Mr. A was arrested by the Osaka Prefectural Police on an account of aiding and abetting in providing fake registration.

Being advised by the Ward Office that only a real residence could be registered, Mr. Y applied for registration of transfer to a quarter of the Ohgimachi Park. The City rejected this application. Mr. Y continued to receive postal mail at the park, and brought his case to court. On 27 January 2006, the Osaka District Court judged that one's address was recognised as far as it was a base of one's substantial daily living, and that the local authority should not deny residence registration irrespective of one's tenure status. The ruling was consistent with the Civil Code provisions and in recognition of fundamental needs of having legal residence for job seeking, welfare entitlements, voting and other civil rights.

Following this judgement, nine homeless people living in Utsubo and Osaka Castle Parks in the City also applied for registration. They, together with 13 other homeless people in these Parks, had received eviction notices from the City. The World Rose Congress and the National Urban Greenery Fair were planned in these parks respectively for March and May 2006. On 23 January, a petition of 1,114 signatories was submitted by the homeless group against the scheduled eviction. The City claimed that temporary accommodation was available, but alleged that none of the homeless people were interested due to its lack of privacy, strict controls, poor meal arrangements and unstable status after six months.

### **Evictions in Osaka**

Ignoring the court decision of 27 January, the City mobilised 400 city officials and employed guards to forcibly demolish structures in Utsubo Park on 30 January 2006. The eviction started in the rain at 8:00 am. Around noon, each affected homeless person was carried away by ten eviction brigade men and their tents were dismantled. Officials and the police tried to control media access. The situation was violent - a member of the support group broke his leg and two others were taken to hospital by ambulance. One person was arrested. At the same time in Osaka Castle Park, about 200 city officials shoved and pushed 20 supporters. It took two hours for the officials to dismantle the seven tents.

Not one of the 22 evictees went to the City's accommodation facilities and most moved to other parks or river banks. Out of nine who applied for residence registration in the parks, two took temporary refuge in a provisional shelter in the Castle Park, and the other seven were refused their applications for registration in March 2006.

In March 2007, another eviction took place. The City of Osaka planned to host the World Athletic Games in the summer of 2007 at Nagai Park where homeless people lived. Although the City claimed the reason for the eviction to be the construction of street lights and footpaths in the Park, it was obvious that the beautification of the area for the Games was their main concern.<sup>138</sup> Since October 2006, the City had been urging the homeless people to move out and be accommodated in the City's 'self-reliance support centre'. Several moved out of the park. In 23 January, 10 homeless people and 14 tents and hutches were identified for removal. On 10 January 2007, they sent a joint petition stating that they would be willing to move if alternative sites were suggested, and that they would not object to the construction work but would wish to have consultations for mutually agreeable solutions. On 19 January 2007, 70 lawyers and legal practitioners jointly sent a letter of request to the Mayor to postpone the forced eviction. In addition, more than 5,000 citizens signed a letter of protest.

On 15 January 2007, however, the City sent an order of removal of structures, a procedural step towards an eviction. On 31 January, an eviction notice was issued to six homeless people who still remained in the park. On 5 February 2007 at 9:00 am, 205 city officials and 290 guards started demolishing the structures. Six affected people and 150 supporters protested by sitting in and protecting the tent houses. However before noon, all 13 structures were forcibly demolished. One of the affected persons moved to another park, while the other five prepared their sleeping places in the same park, under the trees or on benches using cardboard and blankets donated by supporters. No one went to the City's facility.

### **Struggle for legal recognition**

On 23 January 2007, the Osaka High Court reversed the ruling of the District Court on the legal residence of Mr. Y in Ohgimachi Park, on the ground that a tent in the park could hardly constitute a continuous and stable place to live, and sustained the City's action of rejecting Mr. Y's residence registration in the park. The case has subsequently been referred to the Supreme Court.

The City of Osaka announced a plan to eliminate the residence records of 3,000 day labourers whose addresses were registered at a labour union office in the Kamagasaki district where daily workers and homeless people concentrated. According to a legal expert Professor Hiroshi Sasanuma of Shizuoka University, day labourers are bound to move from one place to another in search of work; they seldom live only at one fixed address. Yet, without such an address, they cannot claim unemployment or other benefits when they are out of work. Their registration at the labour union office has been an established practice for a long time and apparently recognised by the City. However, after a newspaper report alleged that the registrations were 'fictitious' the City decided to strip these people of their resident registry because they did not actually live at the registered addresses.<sup>139</sup>

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<sup>138</sup> The Asahi Shimbun Newspaper, 6 February 2007

<sup>139</sup> The Asahi Herald, 13 March 2007, <http://www.asahi.com/english/Herald-asahi/TKY200703130039.html>

According to Professor Sasanuma, refusal to give homeless people addresses and depriving them of suffrage because they are living in tents and are poor, violates Article 14 of Japan's Constitution which states that all people are equal under the law, and Article 44 which bans discrimination of voters because of property, income and other factors. He has advocated that in order to avoid over 3,000 people losing their addresses and civil rights, Osaka City should freeze its plan to nullify their resident cards.

On 1 March 2007, the Osaka High Court ordered provisional suspension of the City's plan, recognising legal validity of residence registration at a labour union office. Despite this move, on 29 March the City cancelled the registration of 2,000 labourers and homeless people at the union office, a day before the announcement of a local election. This elimination of resident records is, in a sense, an 'eviction' of the poor from their addresses as detailed in legal documents. According to Professor Sasanuma, this is in contradiction of Article 11 of the Homelessness Law which is interpreted to actually ban any evictions unaccompanied by measures of supporting the self-reliance of the affected homeless people.

### **Reported Case 15: Palestine<sup>140</sup>**

The existence of almost 100 Palestinian villages, neighbourhoods, communities and cities are threatened by the isolation imposed on them via the construction of the Wall, further settlements and infrastructure. Throughout the West Bank some 373,000 Palestinians face living conditions that soon will force them to abandon their homes and communities and become refugees or internally displaced people.

The number of Palestinians living within the 97 villages, towns and neighbourhoods, which are completely isolated, amounts to 373,000 persons. Approximately 5 015 Palestinians live in 8 villages isolated between Wall and Green Line; 361,680 Palestinians live in 75 villages surrounded by Wall, settlements and settler roads; and 6,305 Palestinians live in 14 villages isolated and residents threatened with expulsion.

Studies have thus far revealed three different types of isolation:

#### **1. Villages isolated between the Wall and the green line**

In the case of these villages, the occupation forces have erected a military gate on one side of the village towards the Palestinian areas within the Wall's path. Opening hours of the gates are generally restricted to three short periods per day and the inhabitants need to undergo complicated military procedures when moving through the gates. Passage of food, other basic materials, teachers, doctors and ambulances into the villages is made difficult or impossible by the soldiers at the gate. The occupation sees all activities (such as building or agricultural expansion) as illegal and people need to get permits to live in the area.

#### **2. Villages surrounded by the Wall, settlements and settler roads**

These villages are located east of the wall in one small enclave, yet between walls, settlements and settlement roads. Inhabitants have to pass tunnels or a gate controlled by the Israeli military in order to leave or access their village. The affected villages amount to between two

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<sup>140</sup> Report provided by the Anti-Apartheid Wall Campaign – [www.stopthewall.org](http://www.stopthewall.org)

and four neighbouring villages with one gate or tunnel such as the small isolated areas around Jerusalem and Bethlehem. Qalqiliya represents a city isolated on its own.

### **3. Villages isolated and residents immediately threatened with expulsion**

These villages are isolated with all the abovementioned settlement procedures. In some of these villages, the people live under the same conditions of isolation as those between the wall and the green line, as far as restrictions of movement are concerned.

However the Israeli authorities have declared these villages and communities as non-residential areas, transforming them into non-recognized villages and denying them the right to exist.

### **Support required**

The communities request support to mobilize at a local level, as well as assistance in lobbying nationally and internationally for their fate. Material as well as political support to continue in their determination to stay on their land and refuse expulsion is required.

## ANNEX 1: List of AGFE Members

### LIST OF AGFE MEMBERS, SECRETARIAT AND SUPPORT TEAM (AS OF APRIL 2007)

#### AGFE MEMBERS<sup>141</sup>

1. **Arputham, Jockin**, National Slum Dwellers Federation, India: jockina@yahoo.co.in
2. **Binner, Hermes**, Ex-Mayor of Rosario, Argentina: hbinner@tower.com.ar
3. **Bolnick, Joel**, Peoples Dialogue, South Africa: bolnick@courc.org.za
4. **Boonyabancha, Somsook**, Community Organizations Development Institute, Thailand: somsook@loxinfo.co.th
5. **Cabannes, Yves**, Development Planning Unit, University College London, y.cabannes@ucl.ac.uk (**AGFE CONVENOR**)
6. **Gaye, Malick**, ENDA Tiers Monde, Senegal: rup@enda.sn
7. **Guimarães, Pedro Wilson**, Federal Representative of the State of Goiás, Brazil: dep.pedrowilson@camara.gov.br
8. **Leckie, Scott**, Centre on Housing Rights and Evictions: scott@cohre.org
9. **Lindgren, Inger (Ms.)**, Ministry of Local Government and Regional Development, Norway: inger.lindgren@krd.dep.no
10. **Mitsuhiko, Hosaka**, Asian Coalition for Housing Rights, Japan: hosaka.m@k6.dion.ne.jp
11. **Osorio, Leticia**, Centre on Housing Rights and Evictions, Americas Programme: leticia@cohre.org
12. **Ottolini, Cesare**, International Alliance of the Inhabitants: cesare.ottolini@libero.it
13. **Pather, Coughlan**, eThekweni Housing Department (Durban), South Africa: patherc@durban.gov.za
14. **Rodríguez, Guillermo**, Executive Commission of the continental front of community organizations, Latin America: memofcoc@hotmail.com
15. **Sanchez, Luz Maria**, Huairou Commission: marilush@terra.com.pe
16. **Satterthwaite, David**, Human Settlements Programme, International Institute for Environment and Development, United Kingdom: David.Satterthwaite@iied.org
17. **Teixeira, Paulo**, Member of Parliament, Sao Paulo, Brazil: pteixeiraf@hotmail.com
18. **Weru, Jane**, Pamoja Trust, Kenya: landrite@pamojatrust.org

#### SECRETARIAT: UN-HABITAT

**Lars Reutersward**, Director Global Division

**Selman Erguden**, Head Shelter Branch

**Rasmus Precht**, OIC Housing Policy Section/ Coordinator UN Housing Rights Programme

**Agnes Kinyanjui**, Programme Management Assistant

Email: AGFE@unhabitat.org

#### SUPPORT TEAM: COHRE Global Forced Evictions Programme

**Jean du Plessis**: jean@cohre.org

**Deanna Fowler**: deanna@cohre.org

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<sup>141</sup> AGFE Members are individuals appointed by the Executive Director of UN-HABITAT. All Members, including the Convenor, serve for a term of two years. A serving member of the Advisory Group may be re-nominated to additional terms, subject to the approval by the Executive Director of UN-HABITAT.

## ANNEX 2: Letter from the Governor of Bangkok to COHRE

No. 0200/ ๓๐๓



Bangkok Metropolitan Administration  
City Hall, 173 Din So Road  
Bangkok 10200  
Tel. (662) 225 7523  
Fax. (662) 621 0831

๑๑ December B.E. 2548 (2005)

Dear Mr. Scott Leckie,

Please refer to your letter dated 1 December 2005 concerning Mahakan Fort Community. I would like to inform you that Bangkok Metropolitan Administration always respects the housing rights of our residents. The residents of Mahakan Fort community and I have come to an agreement to cooperate in developing the area into an Antique Wooden House Community.

Realizing that Mahakan Fort Community preservation should serve as an example for other ancient communities, the residents are not deemed to eviction. They will be encouraged to work closely with the organization concerned in order to promote the area as a tourist attraction under the three-party agreement between Bangkok Metropolitan Administration, Silapakorn University and the community representative that was signed in early December 2005.

I would like to thank you for your concern on this matter. Again, please be assured that we, Bangkok Metropolitan Administration, are performing our best to ensure the well-being of our residents.

Yours sincerely,



(Mr. Apirak Kosayodhin)  
Governor of Bangkok

Mr. Scott Leckie  
Executive Director  
Centre on Housing Rights and Evictions  
83 Rue de Montbrillant  
1202 Geneva, Switzerland  
Tel: 41-22-734-1028  
Fax: 41-22-733-8336

## ANNEX 3: Letter from the President of the Dominican Republic Parliament



República Dominicana  
CAMARA DE DIPUTADOS DE LA REPUBLICA DOMINICANA

Santo Domingo, D. N.  
20 de Septiembre de 2005

Señor:  
**IVES CABANNES**  
*Presidente Misión AFGE-ONU.*  
*Comisión sobre Desalojos Forzados*  
*Sus Manos.*

*Distinguido señor:*

*Por medio de la presente, primero me permito saludarle y desear que se encuentre bien.*

*El motivo principal de esta misiva es con la intención de hacer de su conocimiento. Que el proyecto de Ley de titulación, y que vendría a disminuir la problemática de la vivienda y la posesión de tierras en el país, ha sido introducido en la agenda del día jueves 22 del presente mes de Septiembre.*

*Es bueno hacer de su conocimiento que en la próxima semana comenzaran los trabajos de comisión de dicho proyecto.*

*Sin otro particular por el momento se despide.*

*Fraternamente,*  
  
**Radhames Castro,**  
*Diputado presentador del proyecto*



*Anexo: copia de la agenda del día*

ORDEN DEL DÍA DE LA SESIÓN NO.15 DEL MIÉRCOLES 21/09/2005.  
PÁGINA NO.5

23. PROYECTO DE RESOLUCIÓN DE LA CÁMARA DE DIPUTADOS QUE OTORGA UN PERGAMINO DE RECONOCIMIENTO A LA PROFESORA MARÍA ANTONIA VALENZUELA HERNÁNDEZ, FUNDADORA Y DIRECTORA DEL HOGAR DE ANCIANOS DE SAN JUAN DE LA MAGUANA, POR SU EXTRAORDINARIA LABOR CARITATIVA EN BENEFICIO DE LOS ANCIANOS (Diputado David Herrera Díaz PRD). RECIBIDO EL 30 DE MARZO DEL 2005. EN ORDEN DEL DÍA EL 20/09/2005.  
*»Expediente: 03110-2002-2006-CD*
24. PROYECTO DE LEY DE REFORMA DE LOS MERCADOS MUNICIPALES. (Diputados Pelegrín Horacio Castillo Semán PLD-FNP, Ramón Alejandro Montás Rondón PLD, José Ricardo Taveras Blanco PLD-FNP, Elías Rafael Serulle Tavárez PLD, Manuel Elpidio Báez Mejía PLD, Ramón Antonio Bueno Patiño PRD, Rafael Librado Castillo Espinosa PRD, Héctor Manuel Marte Paulino PRSC, Ósval Antonio Saldivar Mota PRD, Clodomiro de Jesús Chávez Tineo PLD, Víctor Orlando Bisonó Haza PRSC, Ramón Rogelio Genao Durán PRSC, Minerva Josefina Tavárez Mirabal PLD, Jesús Antonio Félix Félix PLD, Ramón Aníbal Páez Tertulién PRSC, Luis Simón Terrero Carvajal PRSC y César Enrique Gómez Segura PRSC). RECIBIDO EL 19 DE ABRIL DEL 2005. EN ORDEN DEL DÍA EL 20/09/2005.  
*»Expediente: 03194-2002-2006-CD*
25. PROYECTO DE LEY QUE SOLICITA LA TITULACIÓN DE SOLARES CORRESPONDIENTES A FAMILIAS DE ESCASOS RECURSOS, QUE DURANTE DÉCADAS RESIDEN EN SUS RESPECTIVAS LOCALIDADES, SIN POSEER UN DOCUMENTO QUE LES ACREDITE COMO PROPIETARIAS. (Diputado Radhamés Castro PRSC-PPC). RECIBIDO EL 6 DE MAYO DEL 2005. EN ORDEN DEL DÍA EL 20/09/2005.  
*»Expediente: 03236-2002-2006-CD*
26. PROYECTO DE LEY MEDIANTE EL CUAL LA SECCIÓN CALDERÓN CON SUS PARAJES, SITIOS Y BARRIOS, TRANSFIERE SU TERRITORIO POLÍTICAMENTE DESDE EL MUNICIPIO DE CAMBITA, AL MUNICIPIO LOS CACAOS, AMBOS DE LA PROVINCIA SAN CRISTÓBAL. (Diputado Eduar Andrés Montás Lorenzo PRSC). RECIBIDO EL 14 DE JUNIO DEL 2005. EN ORDEN DEL DÍA EL 20/09/2005.  
*»Expediente: 03315-2002-2006-CD*

INICIATIVAS PARA PRIMERA O ÚNICA DISCUSIÓN

27. RESOLUCIÓN APROBATORIA DEL CONTRATO DE FINANCIAMIENTO Y CONTRATO COMERCIAL, SUSCRITO ENTRE LA REPÚBLICA DOMINICANA Y LOS BANCOS NACIONAL DE DESARROLLO ECONÓMICO Y SOCIAL DE BRASIL (BNDES), Y EL DEUTSCHE BANK S.A.E; POR UN MONTO DE OCHENTA Y NUEVE MILLONES NOVECIENTOS VEINTICINCO MIL NOVECIENTOS TREINTA Y NUEVE CON 18/100 DÓLARES DE LOS ESTADOS UNIDOS DE AMÉRICA (US\$89,925,939.18), DESTINADOS A FINANCIAR EL PROYECTO DE AMPLIACIÓN DEL ACUEDUCTO DE LA LÍNEA NOROESTE. (PODER EJECUTIVO, APROBADO POR EL SENADO). RECIBIDO EL 05 DE SEPTIEMBRE DEL 2005. EN ORDEN DEL DÍA EL 06/09/2005. ENVIADO A COMISIÓN ESPECIAL EN LA SESIÓN NO.04 DEL 07/09/2005. CON INFORME RECIBIDO EL 20/09/2005.  
*»Expediente: 03609-2002-2006-CD*



## **ANNEX 4: Letter sent to AGFE Convenor from Pedro Franco**

Señores:  
Yves Cabannes  
Coordinador del AGFE-ONU  
Y de la MISIÓN sobre República Dominicana

COPIA: MOVIMIENTOS SOCIALES URBANOS

Por este medio les comunico que en las últimas semanas la comunidad de Parque del Este, ha venido recibiendo fuertes presiones para el desalojo de 20 (propietarias e inquilinas) familias para la terminación de la Autovía de la autopista Las Américas. El Gobierno Dominicano, a través de la Secretaría de Obras Públicas insiste en desalojar a los habitantes del lugar sin ofrecerles reubicación de su vivienda, sino pagando cantidades irrisorias de dinero que las obligará a pasar a vivir como inquilinas.

El Club Hábitat, organización comunitaria que defiende el Derecho a la Vivienda en el mismo barrio Parque del Este del municipio Santo Domingo Este, logró el pasado martes 7 organizar un Encuentro Por el Derecho a la Vivienda Digna, donde participó el Ministro de la Secretaría de Obras Públicas, Ing. Freddy Pérez, el Abogado del Estado, Nelson Montás, y el Gobernador de la Provincia Santo Domingo, Renato García, entre otros funcionarios. El barrio Parque del Este está ubicado a la entrada de la ciudad de Santo Domingo y a cinco minutos en auto al centro histórico.

En este encuentro el Ministro de Obras Públicas manifestó lo siguiente:

1. Que el desalojo es innegociable, pues en poco tiempo la Autovía Sur de las Américas debe ser entregada.
2. Dar un breve tiempo a las personas para que se preparen para el desalojo y revisar las cantidades de dinero de las tasaciones que las familias han rechazado reiterativamente, por ser irrisorias y porque demandan "casa para casa", es decir, si son desalojados que se les reubique en una nueva vivienda.
3. Ante esta posición firme de la comunidad organizada en el CLUB HÁBITAT el Ministro ha prometido tratar de buscar alguna solución a las familias propietarias y lo que cataloga de "ayuda" a los inquilinos.

Las familias y parte del barrio Parque del Este están en Vigilia Permanente por el Derecho a la Vivienda Adecuada. Agradecemos comunicaciones dirigidas al Secretario de Estado de Obras Públicas, Sr. Freddy Pérez vía el Gobernador de la Provincia Santo Domingo, Señor Renato García, e-mail: luzdelalba@hotmail.com. La comunicación puede centrarse en lo siguiente:

- Ustedes han tenido conocimiento a través del Sr. PEDRO FRANCO, Miembro de la misión AGFE organizada para República Dominicana, de la decisión del Gobierno Dominicano a través de la Secretaría de Obras Públicas presidida por el Ing. Freddy Pérez, para desalojar a 20 familias, entre propietarios e inquilinos, en el barrio Parque del Este, desalojo que conforme a lo establecido por el propio Secretario se producirá sin demora en este mes de agosto.

- Pese a que el Señor Secretario Freddy Pérez se mostró de acuerdo en revisar los avalúos realizados a las viviendas, el mismo no se ha comprometido a SUSTITUIR UNA VIVIENDA DESTRUIDA para facilitar obras del Estado, por una nueva vivienda digna para las familias desalojadas, LO QUE PUEDE SER CONSIDERADO UN HECHO.....GRAVE
- Recordar que en el mismo barrio Parque del Este y en la primera etapa de la Autovía, en tiempo pasado fueron desalojadas muchas familias, y las mismas han quedado sin vivienda en virtud del poco dinero que se les otorgó y se les negó el derecho a ser reubicadas por el Estado en una nueva vivienda.
- Recordar que el pasado mes de marzo estuvo en el país una misión de conciliación de AGFE procurando iniciar una mesa de Diálogo y Concertación que entre otras cosas, busca solucionar la problemática grave de los desalojos forzosos.
- Que el hecho de que los habitantes no posean títulos del suelo donde han establecido sus viviendas no los discrimina para ser objeto de entrega de vivienda tras ser desalojados, pues el propio gobernador de la provincia Santo Domingo ha establecido que más del 70 percent de los dos (2) millones de habitantes no poseen títulos del suelo.
- Observar que estas comunidades junto a otros barrios están organizando la COOPERATIVA DE PRODUCCIÓN SOCIAL DE LA VIVIENDA Y EL HÁBITAT, COOPHÁBITAT, en pro de garantizar la titulación, el mejoramiento y la construcción de viviendas dignas, lo que viene a ser contradicho por esta práctica de desalojos forzosos y sin ofrecer alternativas.

Sin otro particular, les saluda,

Pedro Franco  
Board HABITAT INTERNATIONAL COALITION, HIC  
Santo Domingo Este, República Dominicana  
14 de agosto del 2005.

## ANNEX 5: Letter of Invitation to AGFE from Government of Ghana



*In case of reply, the  
Number and date of this  
Letter should be  
quoted.*

Ministry of Local Government  
And Rural Development  
P.O. Box M 50  
Accra

Our Ref: .....

Our Ref: .....

Tel. M 68 20 02  
D 66 36 68  
D 66 47 63

REPUBLIC OF GHANA

March 29<sup>th</sup>, 2006

### Invitation to Assist in Relocation Plan for Old Fadama, Accra, Ghana

Dear Sandra,

You will recall that there was an eviction threat for slum dwellers of Old Fadama in Accra, Ghana which became an issue of national and international concern and attracted the attention of the AGFE which was ready to come on a mission to Ghana with the aim of assisting in finding an alternate solution through dialogue.

Following this, a joint stakeholders' meeting of concerned ministries, departments and agencies was held at which it was revealed that the Ministry of Tourism and Modernization of the Capital City (MTMCC) was in the process of developing a relocation plan for the slum dwellers. After several discussions an agreement was reached by all parties present at the meeting on relocation as the most appropriate solution for addressing the issue.

The MTMCC has at present finalized a draft relocation plan and would like to solicit support from all stakeholders to further develop the plan and implement it appropriately, in collaboration with the slum dwellers.

The Ministry of Local Government and Rural Development as follow up to its initial letter to your outfit will therefore like to invite the AGFE and UN-Habitat to assist the Government of Ghana to through this initiative of the MTMCC, both technically and financially, in developing a way forward for the relocation plan and discuss other related issues in Ghana. This mission, initially scheduled for the 18<sup>th</sup> and 19<sup>th</sup> of December could not take place due to circumstances beyond our control. I would therefore

appreciate it we could reschedule the mission to the 24<sup>th</sup> and 25<sup>th</sup> of April, 2006.

Please find attached a tentative program for the mission.

I look forward to hearing from you at your earliest convenience.

Sincerely,



**Hon. Abraham Dwuma Odoom**  
**Deputy Minister II**  
**For Minister**

Cc:  
Minister for Tourism and Modernization of the Capital City  
Accra

Minister for Water Resources, Works and Housing  
Accra

Minister for Environment and Science  
Accra

**TENTATIVE MISSION PROGRAM  
AGFE MISSION TO ASSIST IN A RELOCATION STRATEGY  
FOR  
OLD FADAMA, ACCRA, GHANA  
APRIL 24<sup>TH</sup> AND 25<sup>TH</sup>, 2006**

April 23 <sup>rd</sup> , 2006	Arrival	
April 24 <sup>th</sup> , 2006		
9:00am - 9:30am	Meeting with Minister (MTMCC)	
10:00am - 12:00pm	Stakeholders' Meeting	MTMCC MTMCC
12:30pm - 2:00pm	Lunch	To be hosted by MTMCC
2:30pm - 3:30pm	Meeting with AMA MCE	AMA
4:00pm - 5:00pm	Meeting with Regional Minister	RCC
April 25 <sup>th</sup> , 2006		
9:00am - 9:30am	Meeting with Minister (MWH)	MWH
10:00am - 11:00am	Meeting with Minister (MLGRD)	MLGRD
12:00pm - 2:00pm	Lunch	To be hosted by MLGRD
2:30pm - 3:30pm	Site visit to Old Fadama	People's Dialogue
4:00pm - 5:00pm	Debriefing Session	MTMCC
April 26 <sup>th</sup> , 2006	Departure	

## **ANNEX 6: Joint Statement of Amnesty International, the Centre on Housing Rights and Evictions (COHRE) and Zimbabwe Lawyers for Human Rights, 23 June 2005**

*Noting with grave concern the deepening humanitarian and human rights crisis in Zimbabwe, more than 200 African and international human rights and civic groups have come together to call on the African Union and the United Nations to take action*

Over the past four weeks the Government of Zimbabwe has orchestrated the widespread forced eviction of tens of thousands of informal traders and families living in informal settlements. During these forced evictions homes have been burnt and property destroyed. Many individuals have been arbitrarily arrested, detained, fined, abducted and/or beaten. Such actions continue unabated, and with impunity.

Tens of thousands of people are now living in the open - during winter - without access to adequate shelter, food or clean water. No care has been shown for these people, many of whom are vulnerable. Thousands of children, the elderly and the ill face the prospect of disease and in some cases death from hunger, exposure and drinking unsafe water. Some of the most vulnerable are dying already.

The complete and wholesale destruction of people's homes and livelihoods – conservatively estimated to have affected at least 300,000 people so far – constitutes a grave violation of international human rights law, and a disturbing affront to human dignity. There can be no justification for the Government of Zimbabwe's action which has been carried out without prior notice, due process of the law or assurance of adequate alternative accommodation. We condemn it in the strongest terms.

The African Union (AU) and the relevant bodies of the United Nations (UN), including the High Commissioner for Human Rights, the Security Council and the Secretary-General, cannot fail to act in the face of such gross and widespread human rights violations and appalling human misery. We urge the Chair of the AU and all member states to address the situation in Zimbabwe as an urgent matter at the forthcoming AU Assembly in Libya from 4 to 5 July. Similarly, the UN must act on the serious concerns raised by the UN Special Rapporteur on Adequate Housing in respect of the ongoing and massive violations of human rights in Zimbabwe.

We welcome the appointment by the UN Secretary-General of Anna Kajumulo Tibaijuka, the Executive Director of UN-HABITAT, as the Special Envoy for Human Settlement Issues in Zimbabwe. We strongly urge the UN to ensure there is no delay in either her visit to Zimbabwe or the publication of her findings. Furthermore, in light of the scale of the humanitarian crisis and the fact that forced evictions continue, the UN must call for an end to these violations and for humanitarian assistance to be provided to all those affected.

We urge all member states of the AU and UN to ensure that the relevant bodies of the two organizations:

- Take immediate and effective action – consistent with their mandates – to ensure an end to the mass forced evictions and destruction of livelihoods in Zimbabwe, including by publicly condemning these violations and calling for their immediate end.
- Call for the Government of Zimbabwe to ensure that all those who are currently homeless as a result of the mass forced evictions have immediate access to emergency relief.
- Call for the Government of Zimbabwe to respect the right to an effective remedy for all victims including access to justice, and appropriate reparations which can involve restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.

## Forced Evictions - Towards Solutions?

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### Supporting Organizations:

#### Angola

Development Workshop, Angola  
Media Institute for Southern Africa, Angola  
SOS Habitat

#### Gambia

African Centre for Democracy and Human Rights Studies

#### Burkina Faso

Fondation Aimé Nikiema pour les Droits de l'Homme  
Mouvement Bukinabè des Droits de l'Homme et des Peuples (MBDHP)  
Union Interafricaine des Droits de l'Homme

#### Ghana

Centre for Democratic Development (CDD)  
Centre for Public Interest Law  
Commonwealth Human Rights Initiative (Africa Office)  
Media Foundation for West Africa, Ghana  
People's Dialogue for Human Settlements  
Third World Network Africa (TWN)

#### Lesotho

Media Institute for Southern Africa, Lesotho

#### Liberia

Amnesty International, Liberia  
Centre for Democratic Empowerment (CEDE)

#### Malawi

Centre for Human Rights and Rehabilitation (CHRR)  
Institute for Policy Interaction  
Media Institute for Southern Africa, Malawi

#### Mozambique

APFIVA, Mozambique  
Media Institute for Southern Africa, Mozambique  
Mozambican Action on Crime Combat and Social Rehabilitation of Prisoners  
National Association of Demobilised Soldiers of Mozambique

#### Sierra Leone

Lawyers for Legal Aid Assistance

#### Sudan

Sudan Organisation Against Torture (SOAT)

#### Nigeria

Action Health Incorporated (AHI)  
Africa Alive  
African Development Network

#### Botswana

Amnesty International, Botswana  
Ditshwanelo (The Botswana Centre for Human Rights)  
Media Institute for Southern Africa, Botswana

#### Cameroon

Absolute Dispute Resolution  
Human Rights Education Centre

#### Egypt

Egyptian Centre for Housing Rights

#### Kenya

Amnesty International, Kenya  
Basic Rights  
Catholic Diocese of Kitale, Kenya  
Chemichemi ya Ukweli  
Coalition on Violence Against Women - Kenya (COVAW-K)  
Hakijamii Trust  
Illishie Trust  
Kenya Human Rights Commission  
Kenya National Commission on Human Rights  
Kisumu Urban Apostolate Programmes – Pandipieri, Kenya  
Kituo Cha Sheria  
Shelter Forum  
Trocaire  
Umande Trust

#### Mauritius

Amnesty International, Mauritius

#### Senegal

Amnesty International, Senegal  
Convergence Africaine pour la Démocratie et les Droits Humains (CADDHU)  
Organisation Nationale des Droits de l'Homme (ONDH)  
Rencontre Africaine pour la Defense des droits de L'homme (RADDHO)

Human Development Initiative (HDI)  
Human Rights Law Services (HURI-LAWS)  
Institute for Dispute Resolution (IDR)  
Institute for Human Settlement and

Ama Dialog Foundation  
Baobab for Women's Rights  
Borno Coalition for Democracy & Progress (BORCODEP)  
Care Organization Public Enlightenment (COPE)  
Central Educational Services (CES)  
Centre for Constitutional Governance (CCG)  
Centre for Democracy & Development (CDD)  
Centre for Development Support Initiatives (CEDHPA)  
Center for Law and Social Action (CLASA)  
Centre for the Advancement of Democracy and the Rule of Law  
Centre for Women Studies and Intervention (CWSI)  
Child Help in Legal Defence of Rights to Education in Nigeria (CHILDREN)  
Civil Liberties Organisation  
Civil Resources Development & Documentation Center (CIRDDOC)  
CLEEN Foundation (formerly Center for Law Enforcement & Education)  
Community Action for Popular Participation (CAPP)  
Constitutional Rights Project (CRP)  
Development Alternatives and Resource Centre  
Center (WARD C)  
Women Aid Collective (WACOL)  
Women's Optimum Development Foundation  
Youth Development Education and Leadership for Africa  
Development Concerns  
Development Network  
Development Options for Humanity (DOH)  
Freedom House  
Gender and Development Action (GADA)  
Gender Rights Project  
General Action Against the Violation of Human and Children's Rights (GAAVOHCR)  
Girls Power Initiative (GPI)  
Global Alert for Defence of Youth and the Less Hope Worldwide

### **Tanzania**

Media Institute for Southern Africa, Tanzania  
Same network of NGOs/CBOs (SANGO Network)  
Zanzibar Legal Services Centre

### **Zimbabwe**

Amani Trust  
Amnesty International, Zimbabwe

Environment  
International First Aid Society (IFAS)  
International Foundation for African Children (IFAC)  
International Press Centre  
Journalists Against AIDS (JAAIDS)  
League for Human Rights  
Legal Defence and Assistance Project (LEDAP)  
Legal Resources Consortium (LRC)  
Media Concern for Women & Children (MEDIACON)  
Media Development Network (MDN)  
Movement for Cultural Awareness (MOCA)  
Movement for the Survival of the Ogoni People (MOSOP)  
Multimedia Centre for Democracy  
NGO Guide 2000  
Nigerian Network of Non-Governmental Organizations  
Peace And Development Projects (PEDEP)  
People's Rights Organization  
Project Alert  
ProjektHope  
Save-a-Soul Foundation  
Social and Economic Rights Action Center (SERAC)  
Social Economic Rights Initiative (SERI)  
Society for Shelter, Education, Food and Agricultural Development in Africa  
West Africa Bar Association (WABA), Nigeria  
West Africa Network for Peace Building (WANEP), Nigeria  
Women Advocates Research & Documentation

### **Swaziland**

Media Institute for Southern Africa, Swaziland

### **Zambia**

Civil Society Trade Network of Zambia  
Legal Resources Foundation, Zambia  
Media Institute for Southern Africa, Zambia  
National Civil Society MDG Campaign  
Transparency International, Zambia  
Zambia Civic Education Association



## Forced Evictions - Towards Solutions?

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Catholic Commission for Justice and Peace  
Combined Harare Residents Association (CHRA)  
Crisis in Zimbabwe Coalition  
Gays and Lesbians of Zimbabwe  
Legal Resources Foundation, Zimbabwe  
Media Institute for Southern Africa, Zimbabwe  
Media Monitoring Project of Zimbabwe  
National Constitutional Assembly (NCA)  
Nonviolent Action and Strategies for Social Change  
Southern Africa Human Rights Trust (SAHRIT)  
Women of Zimbabwe Arise (WOZA)  
Zimbabwe Association for Crime Prevention and the Rehabilitation of the Offender  
Zimbabwe Association of Doctors for Human Rights  
Zimbabwe Civic Education Trust (ZIMCET)  
Zimbabwe Human Rights Association (ZimRights)  
Zimbabwe Lawyers for Human Rights

### South Africa

Amnesty International, South Africa (AISA)  
Anti-Corruption Trust of Southern Africa (ACT-Southern Africa)  
Association for Rural Advancement (AFRA)  
Centre for the Study of Violence and Reconciliation (CSVR)  
Community Law Centre  
Concerned Zimbabweans Abroad, South Africa  
Crisis Zimbabwe Coalition, South Africa  
Disabled Zimbabweans Abroad, South Africa  
Free State Rural Development Association (FSRDA)  
Glynn Hunters International  
Heal Zimbabwe Trust (HZT), South Africa  
Institute for Democracy in South Africa (IDASA)  
Land Access Movement of South Africa (LAMOSA)  
Lawyers for Human Rights (LHR), South Africa  
Masisukumeni Women's Crisis Centre  
Media Institute for Southern Africa, South Africa  
National Land Committee (NLC)  
Nkuzi Development Association  
Solidarity Peace Trust (SPT),  
South African National NGO Coalition (SANGOCO)

### International

Alliance for Southern African Progress (ASAP)  
Amnesty International  
Association of Zimbabweans Based Abroad  
Catholic Centre for International Relations  
Centre on Housing Rights and Evictions  
CIVICUS – World Alliance for Citizen Participation  
Fahamu - Networks for Social Justice

### Namibia

Clement Daniels Legal Practitioners  
Forum For the Future  
Integrated Rural Development and Nature Conservation  
Katutura Community Radio  
Legal Assistance Centre  
Media Institute for Southern Africa, Namibia  
Media Institute for Southern Africa - Regional Secretariat  
Namibia Non-Governmental Forum  
National Society for Human Rights  
The Rainbow Project  
Working Group of Indigenous Minorities in Southern Africa (WIMSA)

Southern African Action Network on Small Arms  
Southern African Women's Institute of Migration Affairs (SAWIMA)  
Southern Cape Land Committee (SCLC)  
Support Centre – ACTION for Conflict Transformation  
Surplus People Project (SPP)  
TRAC Mpumalanga  
Transparency International - South Africa  
Transkei Land Service Organisation (TRALSO)  
Treatment Action Campaign  
Zimbabwe Advocacy Campaign (ZAC), South Africa  
Zimbabwe Exiles Forum (ZEF), South Africa  
Zimbabwe Human Rights Lobby Group, South Africa  
Zimbabwe Liaison Office (ZLO), South Africa  
Zimbabwe Political Victims Association (ZIPOVA), South Africa  
Zimbabwe Torture Victims Project, South Africa

Popular Development Centre,  
Palestine  
Red Mexicana de Agricultura Urbana,  
Mexico  
Rooftops Canada/Arbi International,  
Canada  
Servicio Latinoamericano, Asiático y Africano de Vivienda Popular, Chile

## Second Report of AGFE to the Executive Director of UN-HABITAT

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FIAN International  
Habitat International Coalition  
Housing Land Rights Network, representing  
Applied Research Institute - Jerusalem, Palestine  
Arcilla Research, Netherlands  
Asia Eviction Watch, Philippines  
Asociación de Vivienda Económica (AVE),  
Argentina  
BADIL Resource Centre for Palestinian  
Residency and Refugee Rights  
Centre for Environmental Tourism Culture, Syria  
Centro de Capacitación Social Ciudad de Panamá  
Centro de Investigaciones CIUDAD, Ecuador  
Centro de Intercambio y Servicios Cono Sur  
(CISCESA), Argentina  
Centro de la Mujer Peruana Flora Tristan, Perú  
Centro Feminista de Información Acción  
(CEFEMINA), Costa Rica  
Coalición Internacional para el Hábitat, Mexico  
Comunidades Autómatas, Venezuela  
Coordinación Red Mujer y Habitat de America  
Latina, Argentina  
Defence for Children International, Palestine  
Egyptian Centre for the Rights of the Child  
Geography Department, University of Akron,  
USA  
Habitat International Coalition, Chile  
El Instituto para la Superación de la Meseria  
Urbana de Guatemala  
Land Centre for Human Rights, Egypt  
Middle East/North Africa Program, Housing and  
Land Rights Network  
Shelter for the Poor, Bangladesh  
South Asia Regional Program,  
Housing and Land Rights  
Network  
Human Rights First  
Human Rights Watch  
Inter Africa Network for Human Rights  
(AFRONET)  
International Alliance of Inhabitants (IAI)  
International Bar Association's Human  
Rights Institute  
International Commission of Jurists (ICJ)  
International Crisis Group  
International Service for Human Rights  
(ISHR)  
Refugees International  
Review of African Political Economy  
(ROAPE)  
Safeguards International

## **ANNEX 7: Executive Summary - Report of the Fact-Finding Mission to Zimbabwe by the Special Envoy on Human Settlements Issues in Zimbabwe**

On 19 May 2005, with little or no warning, the Government of Zimbabwe embarked on an operation to “clean-up” its cities. It was a “crash” operation known as “Operation Murambatsvina”, referred to in this report as Operation Restore Order. It started in the Zimbabwe capital, Harare, and rapidly evolved into a nationwide demolition and eviction campaign carried out by the police and the army. Popularly referred to as “Operation Tsunami” because of its speed and ferocity, it resulted in the destruction of homes, business premises and vending sites. It is estimated that some 700,000 people in cities across the country lost either their homes, source of livelihood or both. Indirectly, a further 2.4 million people have been affected in varying degrees. Hundreds of thousands of women, men and children were made homeless, without access to food, water and sanitation, or health care. Education for thousands of school age children has been disrupted. Many of the sick, including those with HIV and AIDS, no longer have access to care. The vast majority of those directly and indirectly affected are the poor and disadvantaged segments of the population. They are, today, deeper in poverty, deprivation and destitution, and have been rendered more vulnerable.

Operation Restore Order took place at a time of persistent budget deficits, triple-digit inflation, critical food and fuel shortages and chronic shortages of foreign currency. It was implemented in a highly polarized political climate characterized by mistrust, fear and a lack of dialogue between Government and local authorities, and between the former and civil society. There is no doubt therefore that the preliminary assessment contained in this report constitutes but a partial picture of the far-reaching and long-term social, economic, political and institutional consequences.

In assessing the scope and impact of the operation and the ability of the Government of Zimbabwe and of the humanitarian community to respond, the Special Envoy’s mission, supported by the United Nations Country Team, met with President Robert Mugabe, a cross-section of members of his cabinet and various people and institutions. These include central and local government officials, political parties, religious leaders, civil society organisations, the private sector, professional and trade associations, academia, the donor and humanitarian community, as well as some of the people affected. The mission was further informed by hundreds of written submissions and testimonials, official records and legal documents, interviews, articles and reports made by the media, and by site visits across the country. Furthermore, the mission witnessed first-hand the process of demolition and eviction and met with many of its victims.

The Special Envoy’s findings and their implications are as follows:

- (i) Operation Restore Order, while purporting to target illegal dwellings and structures and to clamp down on alleged illicit activities, was carried out in an indiscriminate and unjustified manner, with indifference to human suffering, and, in repeated cases, with disregard to several provisions of national and international legal frameworks. Immediate measures need to be taken to bring those responsible to account, and for reparations to be made to those who have lost property and livelihoods. In parallel, other confidence-building

measures need to be taken to restore dialogue between the Government of Zimbabwe and civil society.

(ii) Even if motivated by a desire to ensure a semblance of order in the chaotic manifestations of rapid urbanisation and rising poverty characteristic of African cities, none the less Operation Restore Order turned out to be a disastrous venture based on a set of colonial-era laws and policies that were used as a tool of segregation and social exclusion. There is an urgent need to suspend these outdated laws and to review them within the briefest time possible to ensure the sustainability of humanitarian response and to set the stage for meaningful physical reconstruction and the restoration of livelihoods;

(iii) The humanitarian consequences of Operation Restore Order are enormous. It will take several years before the people and society as a whole can recover. There is an immediate need for the Government of Zimbabwe to recognise the virtual state of emergency that has resulted, and to allow unhindered access by the international and humanitarian community to assist those that have been affected. Priority needs include shelter and non-food items, food and health support services.

(iv) Any humanitarian response can only be meaningful and sustainable if it contributes to the long-term recovery and reconstruction efforts of the Government and of its people. Zimbabwe is not a country at war and it remains peaceful. By African standards, it has a well maintained physical infrastructure. The international community should engage the Government of Zimbabwe and help it to address some of the issues and causal factors that led to the present predicament. These include, first and foremost, the lack of security of tenure for the poor. They also include conflicting and outdated housing and urban development policies, overlapping jurisdictions, and a lack of clear definition of and respect for the respective roles and competencies between central and local spheres of government. The humanitarian response provides a unique opportunity and entry point to link the provision of temporary shelter and other forms of humanitarian assistance with immediate security of tenure for all those affected and to prepare the ground for overcoming the failures and inherent weaknesses in governance.

In view of the above, the Special Envoy proposes the following recommendations for the Secretary General's consideration:

A. Recommendations that the Government of Zimbabwe should be encouraged to undertake:

a. On Humanitarian Issues

Recommendation 1: An estimated 700,000 people in cities across the country have either lost their homes or their livelihoods or both. The Government of Zimbabwe should immediately halt any further demolitions of homes and informal businesses and create conditions for sustainable relief and reconstruction for those affected.

Recommendation 2: There is an urgent need for the Government of Zimbabwe to facilitate humanitarian operations within a pro-poor, gender-sensitive policy framework that provides security of tenure, affordable housing, water and sanitation, and the pursuit of small scale income-generating activities in a regulated and enabling environment.

## Forced Evictions - Towards Solutions?

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Recommendation 3: There is an immediate need for the Government of Zimbabwe to revise the outdated Regional Town and Country Planning Act and other relevant Acts, to align the substance and the procedures of these Acts with the social, economic and cultural realities facing the majority of the population, namely the poor.

Recommendation 4: There is an immediate need to revive dialogue and restore trust between different spheres of government and between Government and civil society. This process should emerge from a broad-based consultation among all Zimbabwean stakeholders.

### b. On Accountability and Legal Issues

Recommendation 5: The Government of Zimbabwe is collectively responsible for what has happened. However, it appears that there was no collective decision-making with respect to both the conception and implementation of Operation Restore Order. Evidence suggests it was based on improper advice by a few architects of the operation. The people and Government of Zimbabwe should hold to account those responsible for the injury caused by the Operation.

Recommendation 6: The Government of Zimbabwe should set a good example and adhere to the rule of law before it can credibly ask its citizens to do the same. Operation Restore Order breached both national and international human rights law provisions guiding evictions, thereby precipitating a humanitarian crisis. The Government of Zimbabwe should pay compensation where it is due for those whose property was unlawfully destroyed.

Recommendation 7: The wrecking of the informal sector by Operation Restore Order will have detrimental effects at a time that the economy remains in serious difficulties. Apart from drastically increasing unemployment, the Operation will have a knock-on effect on the formal economy including agriculture. The Government of Zimbabwe has to undertake corrective policy reforms in macro-economic management and governance issues, focusing on land reform and land tenure with a view to provide secure tenure for the poor both in rural and urban areas.

Recommendation 8: The Government of Zimbabwe should grant full citizenship to those former migrant workers and their descendants who have no such legal status.

### B. Recommendations for the United Nations and the International Community

Recommendation 9: Operation Restore Order has precipitated a humanitarian crisis of immense proportions. In an apparent response, the Government of Zimbabwe has launched a counter programme, Operation Garikai (Rebuilding and Reconstruction). The Government itself, even with the best efforts, has limited capacity to fully address the needs of the affected population without the assistance of the international community. The United Nations should therefore work with the Government of Zimbabwe to mobilize immediate assistance from the international community to avert further suffering, and encourage the Government to create conditions for sustainable relief and reconstruction for those affected.

Recommendation 10: The United Nations, working with the African Union and the Southern African Development Community, at the highest levels, should assist the Government of Zimbabwe to promote real internal dialogue among its various constituencies on the one

hand, and dialogue with the international community on the other hand, with a view to working out the modalities of returning Zimbabwe into the international fold.

Recommendation 11: Although a case for crime against humanity under Article 7 of the Rome Statute might be difficult to sustain, the Government of Zimbabwe clearly caused large sections of its population serious suffering that must now be redressed with the assistance of the United Nations and the broader international community. The international community should encourage the Government to prosecute all those who orchestrated this catastrophe and those who may have caused criminal negligence leading to alleged deaths, if so confirmed by an independent internal inquiry/inquest. The international community should then continue to be engaged with human rights concerns in Zimbabwe in consensus building political forums such as the UN Commission on Human Rights, or its successor, the African Union Peer Review Mechanism, and in the Southern African Development Community.

### Lessons Learned

Recommendation 12: Operation Restore Order has to be understood within the broader context of the urbanization crisis in Africa. It is recommended that the international community draws lessons from the Zimbabwe crisis for the entire African continent and actively support the implementation of the Habitat Agenda. It makes a clarion call to the international community to realize that without a more concerted approach to promote urban environmental sustainability (Goal 7, target 10 on water and sanitation, and target 11 on slum upgrading and prevention of the Millennium Declaration), the other countries in Africa could well experience another "Operation Restore Order" sooner than later.

## ANNEX 8: COHRE Correspondence with Government of Botswana



13 September 2005

**Re: Forced Eviction in the Central Kalahari Game Reserve**

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Dear Mr. President,

The Centre on Housing Rights and Evictions (COHRE) is an independent, international human rights non-governmental organisation mandated to protect and promote housing rights throughout the world. COHRE has Consultative Status with the United Nations as well as similar status with various inter-governmental organisations around the world, including the African Commission on Human and People's Rights.

COHRE is gravely concerned about the forced eviction of Gana and Gwi Bushmen (*Noakwe*) from the Central Kalahari Game Reserve (CKGR) by the Government of Botswana. Although the Government designated the CKGR as a homeland for the Gana and Gwi Bushmen in 1961, the Government has evicted the Bushmen arguing that their hunting practices were endangering the wildlife in the reserve and that the Government could no longer afford to provide services, such as water, to the Bushmen. The Government forcibly evicted 1,500 Bushmen from the reserve in 1997. According to reports, several hundred people remained and several hundred more returned over the years. The Government again forcibly evicted approximately 700 people, destroying the houses and the water supply of the Bushmen in 2002. At least 30 people remained and others have since returned. There are currently between 200 and 250 Bushmen living in the CKGR under threat of eviction and there are another 1,800 to 2,000 Bushmen living in resettlement camps, located outside the CKGR, under poor conditions with high rates of HIV/AIDS infection.

COHRE has also received disturbing reports that seven Bushmen were allegedly tortured by wildlife officials in July 2005 in Kaudwane, a resettlement camp near the reserve. Selelo Tshiamo, one of the Bushmen reportedly tortured, died in early August 2005 due to his injuries.

The Government of Botswana has continued to delay the court proceedings that 248 Bushmen have brought against the Government in order to have their right to live on their ancestral land in the CKGR upheld. The Government has also stated that if the court rules to allow the

Bushmen to return to the CKGR, the Government will amend the Constitution to ensure that they do not.

Most recently, COHRE received reports that the Government had sealed off the reserve and threatened the remaining 200-250 Bushmen at gunpoint ordering them to leave due to the appearance of sarcoptic mange among the Bushmen's goats. However, Dr. James Wood of Cambridge University Veterinary School's Infectious Diseases Consortium has said that sarcoptic mange is easily treated in domestic animals and that "there is no reason to close a Game Reserve because of its presence there."

The Gana and Gwi Bushmen and supporting organisations, such as Survival International, argue that the true reason for the evictions is to make way for diamond mining. Shortly after the 2002 forced evictions, the Government reportedly awarded diamond exploration concessions to De Beers and its subsidiaries, as well as to BHP Billiton on Bushmen land. Although there had been concessions on reserve land before 2002, the number of exploration concessions granted more than trebled from 18 in 2000 to 62 in 2002.

We wish, respectfully, to remind you that the Government of Botswana is legally bound to respect, protect and fulfil the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and the African Charter on Human and Peoples' Rights. Indeed, the African Commission on Human and Peoples' Rights in 2002 found that the African Charter guaranteed the right to adequate housing including the prohibition on forced eviction (see SERAC and CESR v. Nigeria, ACHRP 2002). The Government of Botswana is also legally bound to respect, protect and fulfil the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In the SERAC case, the African Commission incorporated the substance and jurisprudence of international human rights law on the prohibition of forced eviction into the implied right to adequate housing in the African Charter. Since the Government of Botswana ratified the African Charter on 17 July 1986, international human rights law binding upon the Government requires that evictions can only be considered as lawful if they are deemed necessary in the most "exceptional circumstances." If such "exceptional circumstances" exist, then certain procedural protections and due process requirements have to be adhered to, including that States *must* ensure, prior to any planned evictions, and particularly those involving large groups, that *all* feasible alternatives are explored *in consultation with affected persons*. Furthermore, and in any event, eviction shall not result in rendering individuals homeless or vulnerable to the violation of other human rights. Indeed, the Government of Botswana is legally obligated to ensure that adequate alternative housing and compensation for all losses is made available to affected persons.

The forced evictions of the Gana and Gwi Bushmen were committed in violation of the Government of Botswana's legal obligations under international human rights law, for a number of reasons, including:

- (1) The evictions have not been deemed to meet the "exceptional circumstances" threshold by an independent and impartial tribunal;
- (2) The affected community has not been genuinely consulted;
- (3) Feasible alternatives to the planned eviction have not been considered;
- (4) Sufficient notice was not given to affected persons; and
- (5) No compensation was offered.

Therefore, COHRE urges the Government of Botswana immediately to:

- (1) Allow the Gana and Gwi Bushmen to return to the Central Kalahari Game Reserve;
- (2) Stop any plans to amend Botswana's constitution in a manner that would remove protection for the Bushmen;
- (3) Provide basic services including water to the community;
- (4) Provide restitution for all property which was destroyed by the Government; and



## Forced Evictions - Towards Solutions?

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(5) Provide health services for the Bushmen, particularly for those who have contracted HIV/AIDS.

We look forward to your response and an ongoing dialogue with your government on the rights of its people to adequate housing. We will be contacting your office shortly to follow up. Our staff will also be contacting your consulate in Geneva to request a consultation on these matters and our Litigation and Media Programmes will explore other forms of human rights advocacy as necessary. Thank you very much for your time and consideration.

Sincerely,

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Date: Mon, 19 Sep 2005 17:11:51 +0200  
From: C Maribe <CMaribe@gov.bw>  
Subject: Allegations of forced evictions in the Central Kalahari Game Reserve  
To: jean@cohre.org  
=====

Dear Jean du Plessis,

It has come to our attention that you have expressed some concern about the relocation of the former resident of the Central Kalahari Game Reserve and allegations made to the effect that Basarwa have been forcibly relocated from the Central Kalahari Game Reserve. Such allegations have been and are being circulated on the internet by a London based NGO called Survival International. Survival International has been provided with the true facts about the CKGR relocation, but have chosen to feign ignorance and persisted in making the grossly misleading and false allegations. Other people who have exposed to the information circulated by Survival International have made an effort to visit Botswana to establish the facts first hand. Their reports and observations stand in clear contrast to the allegations made by Survival International. I therefore suggest that you first familiarize yourself with information about this relocation which is posted at the Government of Botswana website [www.gov.bw](http://www.gov.bw) <<http://www.gov.bw/>> and you will be welcome to visit Botswana to see for yourself the situation on the ground.

I believe that the information provided in the Government of Botswana website will greatly assist you to discuss this issue with us from an informed standpoint. If you need any clarification please do not hesitate to contact us.

Sincerely,

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Dear Mr. President,

**Re: Forced Eviction in the Central Kalahari Game Reserve**

With reference to the reply of C.S. Maribe, from the Public Relations Office of the Ministry of Foreign Affairs and International Cooperation of Botswana [see Annex A], to our letter of 13 September 2005 regarding the forced eviction of the Gana and Gwi Bushmen from the Central Kalahari Game Reserve (CKGR), we wish to state the following:

We have received information from various sources on this eviction, and are fully aware that there is some debate over the Government of Botswana's motive for the eviction of the Bushmen from the CKGR. Some organizations and individuals argue that the Government evicted the Bushmen in order to make way for further diamond mining, while the Government says that it wanted to provide better services to the Bushmen, such as schools and health clinics.

What is undeniable is that many of the Bushmen never agreed to leave the CKGR, which they regard as their homeland and their way of life. Other members of the group were initially persuaded to leave and were compensated to some extent by the Government during the 1997 and 2002 evictions, but never regarded their decision to relocate as giving up their rights to their land. Later, many of the Bushmen were dissatisfied with the relocation and some even returned to the CKGR. Not only had they been deprived of their traditional way of life, they were also being forced to live in terrible conditions and without access to income-generating opportunities in the area to which the Government had relocated them.

Although the Government persuaded several hundred Bushmen to leave, many others never agreed to leave and were forcibly evicted, in the process losing their housing, property and boreholes. In addition, those who managed to stay behind, were continuously harassed and threatened.

In the light of this information, COHRE maintains that the Government of Botswana has violated its legal obligations under international human rights law for various reasons including, but not limited to:

- (1) The Government of Botswana ended negotiations with the affected community prematurely;
- (2) The evictions have not been deemed to meet the "exceptional circumstances" threshold by an independent and impartial tribunal; and
- (3) No compensation was offered for the forced eviction and destruction of property and resources, such as water boreholes.

COHRE urges the Government of Botswana to return to negotiations with the Bushmen and allow those who so desire to return and remain in the CKGR. Any housing, facilities or property that have been destroyed, and services that were terminated, should also be restored to them.

We look forward to ongoing engagement with the Government of Botswana, until this matter can be resolved, and so look forward to your reply.

Sincerely,

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## ANNEX 9: Excerpts of Interview with Miloon Kothari

**"Evictions now a national crisis"** Siddharth Narrain

Miloon Kothari is the Special Rapporteur on Adequate Housing appointed by the United Nations Commission on Human Rights. He spoke to The Hindu on resettlement and rehabilitation under development projects and forced evictions in urban centres.

**Miloon Kothari: "If internal displacement continues on this scale [it] will definitely lead to more social conflict in the future."**

**The question of resettlement and rehabilitation in the Narmada Valley has been in the spotlight. What is your position on the issue?** The issue of rehabilitation and resettlement has been a contentious one since the beginning of the Sardar Sarovar Project. The inadequacy of resettlement and rehabilitation has been a common feature of the whole process of the dam till now. Unlike any other development project in the country, a very elaborate system of mechanisms and institutions has been set up since the beginning of the project where we have the Narmada Control Authority at the Central level and grievance-redressal mechanisms at the State level. Despite this, the rehabilitation has been inadequate. There is a tremendous backlog of displaced families who have not been rehabilitated. From the human rights perspective and constitutional commitments you cannot have any kind of development that leads to a situation where people are left to fend for themselves and are not adequately rehabilitated before the development takes place. I think it is that human rights principle that the Supreme Court had in mind in its 2000 and 2005 judgments when they said resettlement has to be completed six months before displacement. But this principle has not been followed.

Successive governments have been unable to rise above political considerations and think of the human rights of those who have been displaced. I would go to the extent of saying that even the courts are party to that now. The Supreme Court has overwhelming evidence that rehabilitation has not worked. In spite of that, and despite their own previous judgments, they continue to delay the judgment. The most logical decision according to the Constitution, international human rights law, and Supreme Court judgments would have been to stop construction of the dam until rehabilitation has been brought up to speed. But that is not being done.

**What are the estimates of the number of people displaced in evictions in cities across India?**

I don't have countrywide figures but in Mumbai between December 2004 and February 2005, 350,000 persons lost their homes. In Delhi around 400,000 have lost their homes in the last four years, and this figure is rising all the time.

If you had a similar number of people who were displaced from their homes without any alternative because of ethnic or armed conflict or a refugee situation you would have had a very different response. You have [a] tragic situation now where a slum dweller displaced in Delhi or a tribal family displaced in the Narmada Valley, without being provided resettlement, have literally nowhere to go. There is no institution they can complain to, even for minimum requirements like food. If internal displacement continues on this scale [it] will definitely lead to more social conflict in the future.

### **Does the UPA Government's National Urban Renewal Mission adequately address issues of rehabilitation and resettlement?**

I am very sceptical of policy documents like the National Urban Renewal Mission whose entire focus is on infrastructure. If there is going to be displacement, and if there is a need to move [a] large number of people or certain kind of projects to feed the energy needs of the country, there should be a National Rehabilitation Policy and a National Housing Policy in place. There should be legislation in place that specifies under what conditions people can be displaced — a rehabilitation policy that said that all alternatives would be explored before carrying out a development project, or a policy that says that displacements will be minimised. The judiciary and institutions like the NHRC have to be willing to monitor and intervene in such situations.

### **Courts are increasingly being seen as enforcers of evictions. Professor Upendra Baxi has termed it "a tradeoff between judicial and executive largesse." But the traditional means of seeking redress in these situations has been to go to use legal instruments. How do you reconcile these trends?**

If the courts in India were carrying out their deliberations and giving their judgments in accordance with constitutional obligations and India's international human rights commitments, we would not see the kind of judgments that we are seeing. I don't see any conflict. The problem arises when you have a body of law, whether it is derived from the constitutional or international instruments, and you fail to uphold that law, which is premised on protecting the inherent dignity of human beings, particularly people who are vulnerable. If you fail to do that, instead of being a protector you are becoming an accomplice in the violations that are taking place.

In the last five years of jurisprudence in India, particularly in the Delhi High Court and the Supreme Court, courts have created an artificial and very disturbing conflict between human rights. For example, there are a series of judgments where the right to a safe environment is being seen as more important than the right to housing or livelihood. These judgments are not only placing poor communities in a very difficult position but are going one step further and criminalising the poor. They are actually saying that if you are living in a slum and you don't have security of tenure and you don't have rights, you are illegal — and if you are illegal you don't deserve anything. So you have a judgment like *Almitra Patel* that actually says that giving civic services and security of tenure to slum dwellers will be like rewarding a pickpocket. To have that kind of hostile language in judgments is completely unacceptable.

### **Narmada Bachao Andolan activists recently protested against the "silence of the National Human Rights Commission" on the violation of the rights of those displaced by the Sardar Sarovar Project and on the wider issue of resettlement and rehabilitation. Is this criticism justified?**

The NHRC has not been as active and forthright on the issue of evictions and rehabilitation as some would expect given its mandate. It is certainly within their mandate to monitor the situation and carry out field investigations, and to hold public hearings on sites. But they are not doing that. I think they are failing in their duty because the situation of evictions and displacement in the country now is a national crisis. We are seeing simultaneous evictions in cities and rural areas, and you are talking of hundreds and thousands of people.

There is overwhelming evidence of human rights violations. A striking feature in the evictions in the last few years has been the brutality of the police. People are not given notice, they are

beaten up, homes are demolished when people are still inside, homes are demolished at meal times, before school exams, on festival days — all completely in violation of international principles. The NHRC has an independent mandate. They can carry out independent investigations even without a complaint, and they are failing to do that.

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