



Forced Evictions - Towards Solutions?

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

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Compiling the publication was a team effort, and thanks and credit are due to many people. We will try to mention all of them below. However, if anyone is left out we offer our humble apologies.

Jean du Plessis was responsible for overall coordination, editing and production, and wrote Chapter 1 and sections of Chapter 2. Yves Cabannes, the AGFE Convenor, coordinated the AGFE missions and their reports summarised in Chapter 3, and wrote Chapter 4.

AGFE members contributed, in a variety of ways, to the contents of this report, and in particular to the 15 case studies in Chapter 2. Their names are: Jockin Arputham, Hermes Binner, Joel Bolnick, Somsook Boonyabancha, Yves Cabannes, Olivio Dutra, Malick Gaye, Scott Leckie, Inger Lindgren, Hosaka Mitsuhiko, Leticia Osorio, Cesare Ottolini, Coughlan Pather, Guillermo Rodríguez, David Satterthwaite, Paulo Teixeira and Jane Weru.

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FROM THE EXECUTIVE DIRECTOR

Welcoming address delivered by Mrs. Anna Kajumulo Tibaijuka, Executive Director of UN-HABITAT, at the inaugural meeting of the Advisory Group on Forced Evictions, Nairobi 5 March 2004



Dear Friends,

It is my distinct pleasure to welcome you to Nairobi for this inaugural meeting of the Advisory Group on Forced Evictions. I wish first of all to thank you for accepting to join this group in addition to your heavy workloads to contribute to this challenging mission.

I know that this will require that you spend even more of your time working on this controversial and difficult issue of forced evictions. But I also know, for having carefully reviewed each nomination, that all of you are contributing to this endeavour with enthusiasm and eagerness to help improve the lives of the urban poor who are striving for their rights and trying to avoid a worsening of their already difficult lives.

The Governing Council of UN-HABITAT which recently approved the establishment of this group, has only answered a legitimate (and probably long overdue) request that has emanated from the millions of those who are living on a daily basis under the threat of evictions.

During my tenure as head of UN-HABITAT, I have met and interacted with thousands of those urban poor who in their own simple (but so eloquent and moving) way have entrusted me with their pleading message: “We want to be treated as human beings, we want dignity and security for our children, we request the right to be considered as full citizens”.

As you know, UN-HABITAT has a long track record in working with its partners to improve the quality of life in our cities. Hundreds of programmes have directly enhanced the housing situation of urban populations all over the world. They have contributed in setting up sound policies, better management practices and created more inclusive environments.

In many countries, the two campaigns for Secure Tenure and Urban Governance have been successful in raising awareness, bringing stakeholders together, creating conditions conducive to positive dialogues and positive attitudes, and have given to the urban poor a respected and responsible role.

While I am personally happy to note this unprecedented progress and changes among our partners, I am still unsatisfied by practices in a number of countries that continue to ignore the rights of some citizens and more precisely those who often do not have the capacity to speak for

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themselves. It is then the role of the UN to remind our partners of their obligations and see that they fully comply with those international laws which they have agreed upon.

This is indeed a very sensitive issue and the approach to it may not be very simple. Capacity to convince and to show good practices, negotiation skills and a deep knowledge of the laws and the rules are required. The composition of your group has been based on the consideration of these principles and I am confident that you will very quickly help us to make a positive change globally.

I am looking forward to receiving your help in addressing situations where forced evictions are threatened or are on their way and to solve these situations in a manner that protects the populations at risk and ensures a harmonious development of our cities. I also expect that your periodic reports on the status of evictions in the cities of the world will be a tool that enables UN-HABITAT to engage in a strong and forceful advocacy effort. I want to assure you that I will personally give the utmost attention to your work and see that it is translated into concrete actions.

As you know, the Millennium Declaration is targeting the improvement of the lives of at least 100 million slum dwellers by the 2020. This effort must not be ruined by actions such as forced evictions, that may, at the same time, worsen the situation of millions of other urban poor.

Joining our efforts together we will fight on these fronts and we will succeed.

I wish you success in your endeavour and I am looking forward to our next meeting at the World Urban Forum in September to measure our progress.

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1 ESTABLISHMENT AND ACTIVITIES

The Advisory Group on Forced Evictions

During its 19th Session, held in Nairobi from 5-9 May 2003, the Governing Council of UN-HABITAT adopted Resolution 19/5 “Implementing and monitoring the goal of the United Nations Millennium Declaration on improving the lives of slum dwellers”.

Resolution 19/5 included a request by the Governing Council to the Executive Director of UN-HABITAT, “in line with the recommendations of the World Urban Forum at its first session, to establish an advisory group to monitor and identify, and, if so requested, to promote alternatives to unlawful evictions.”¹ (Attached as Annex 1)

Inaugural meeting and plans

On 5 March 2004, the Advisory Group on Forced Evictions (AGFE) held its inaugural meeting in Nairobi. The meeting was opened by the Executive Director of UN-Habitat, Dr. Anna Tibaijuka, who expressed her gratitude to the group for accepting the challenge and responsibility put before them in addressing forced evictions. She highlighted the cry of the urban poor who were in dire need of security and dignity. The Executive Director assured the group of her support and looked forward to receiving their advice on measures that would protect populations at risk and ensure the harmonious development of cities, especially in addressing situations where forced evictions are threatened or are in progress.

At the inaugural meeting, the group was introduced to the UN-HABITAT teams with which it would be working, in particular the Housing Rights Programme and the Global Campaign for Secure Tenure.

As a first task, the AGFE discussed its draft Terms of Reference (TOR) and decided on a process for further refinement of the document, which included the appointment of a small drafting team. Another important task undertaken at this early stage by AGFE was the collection of information on forced eviction cases. It was decided that members would, in the process of monitoring and sharing information on evictions, identify a small number of key focus cases for more intensive investigation and proposals for action. The group also discussed making use of the World Urban Forum Meeting to be held in Barcelona in September 2004 as a platform for publicising its existence, reporting on completed work and future plans, and emphasising the importance of the development of viable alternatives to forced evictions.

¹ UN-HABITAT, (2003), *Governing Council Resolution 19/5: Article 7*. (For full text of Resolution 19/5, see Annex 1.).

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The group agreed to meet again in New York on 18 April 2004, as most of the members would be present to attend the Commission on Sustainable Development. A third AGFE meeting would be held on 14 September 2004 in Barcelona. (Minutes of meetings attached as Annexes 2 and 3.)

Membership

In establishing the AGFE, the Executive Director of UN-HABITAT brought together a group of 17 experts in the fields of urban development, community participation, human rights and forced evictions. Due to the nature and focus of the organisations to which these experts belong, they have also brought invaluable networks of contacts and experience into AGFE.

The members of AGFE are:

- Jockin Arputham, National Slum Dwellers Federation, India (arcbyc@vsnl.in)
- Hermes Binner, Ex-Mayor of Rosario, Argentina (hbinner@hotmail.com)
- Joel Bolnick, Peoples Dialogue, South Africa (joelb@courc.org.za)
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- Yves Cabannes, Harvard University (ycabanes@mac.com)
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- Leticia Osorio, COHRE, Latin America (cohreamericas@cohre.org)
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- David Satterthwaite, Human Settlements Programme, International Institute for Environment and Development (IIED), United Kingdom (David.Satterthwaite@iied.org)
- Paulo Teixeira, Secretary: Housing and Urban Development, Sao Paulo, Brazil (pteixeiraf@hotmail.com)
- Jane Weru, Pamoja Trust, Kenya (Landrite@wananchi.com).

AGFE is supported by a Secretariat, consisting of Farouk Tebbal, Sandra Baffoe-Bonnie, Frederic Beernaerts and Ann Mugeni, of UN-HABITAT, who have drawn on the support of Jean du Plessis, Coordinator of the COHRE Global Forced Evictions Programme.

At the April 2004 AGFE meeting in New York, the group selected Mr Yves Cabannes, previously coordinator of the UNDP Urban Management Programme for Latin America and currently a lecturer at Harvard University, to be the first AGFE Convener.

Methodology and approach to forced evictions

During its first two meetings, AGFE members engaged in important formative debates to find common ground on methodology and approach. The huge scale of forced evictions globally was acknowledged, and the various causes and impacts of evictions were discussed. Forced evictions constitute a growing problem internationally, on such a scale that it could be described as a global epidemic. They have catastrophic consequences for millions of affected individuals, families and communities, including physical and mental trauma, homelessness, loss of wealth and assets, loss of jobs, loss of access to health, education and other services, and destruction of family and survival networks. Forced evictions are caused by a number of factors, including:

- Development and infrastructure projects;
- Large international events, including global conferences and international sporting events such as the Olympic Games;
- Urban redevelopment or ‘beautification’ aimed at drawing investment into previously neglected areas;
- Property market forces, often supported by state intervention, resulting in systematic ‘gentrification’ of areas;
- The absence or withdrawal of State support to the poor under deteriorating economic conditions;
- Political conflict resulting in ‘ethnic cleansing’ of entire communities and groups;
- Alleged natural hazards not convincingly documented or proved (e.g. flood risk, potential flooding, and Tsunami danger).

The group also took note of the fact that international human rights law on forced evictions clearly states that these amount to gross violations of human rights. They also run 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”.²

Perhaps most notable of the applicable international standards are *General Comment No. 4 on the Right to Adequate Housing* and *General Comment No. 7 on Forced Evictions*, adopted by the UN Committee on Economic, Social and Cultural Rights in 1991 and 1997, respectively.³ General Comment No. 4 defines the right to adequate housing, and declares that forced eviction is *prima facie* incompatible with that right. General Comment No. 7 affirms that forced evictions violate the *International Covenant on Economic, Social and Cultural Rights*, indicating 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 further states that “[e]victions should not result in individuals being rendered homeless or vulnerable to the violation of other human

² United Nations, (September 2000), *Millennium Declaration*, Millennium Development Goal 7 Target 11 (<http://www.developmentgoals.org/Environment.htm>).

³ Committee on Economic, Social and Cultural Rights, (1991), *General Comment No. 4 on Right to Adequate Housing (Art. 11.1 of the Covenant)*; Committee on Economic, Social and Cultural Rights, (1997), *General Comment No. 7 on The right to adequate housing (Art. 11.1 of the Covenant): forced evictions*; UNHCHR, (2004).

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rights” and prescribes procedural protective mechanisms for evictees in those exceptional cases where eviction is unavoidable.⁴

Forced evictions are also proscribed in several other human rights treaties adopted at the international and regional levels, including the *International Covenant on Civil and Political Rights*, the *African Charter on Human and Peoples Rights*, the *American Convention on Human Rights*, and the *European Convention for the Protection of Human Rights and Fundamental Freedoms*. Furthermore, the UN Commission on Human Rights has affirmed that forced evictions constitute gross violations of human rights. Again, however, there has yet to be a concerted and comprehensive effort to fully implement the right of protection against forced eviction and thereby make them a reality.

In their discussions AGFE members agreed that the focus of data collection and analysis should not simply be the overwhelming number of forced evictions taking place, but should also include success stories where evictions had been averted and replaced with alternatives acceptable to all affected parties. It was felt that, in view of the huge range of relevant experience and expertise represented in the group, AGFE meetings would offer a unique opportunity for discussion of different tools to be used in dealing with evictions, and for combining these into innovative new methodologies to begin to turn the tide of forced evictions around the world. Members could discuss best practise case studies and benefit from shared learning, monitoring, evaluation and reflection.

It was acknowledged that blueprint approaches are seldom effective in dealing with forced evictions. Methodologies need to be flexible, and adapted to specific situations using combinations of a variety of different tools, including community mobilisation, research, legal action, negotiations between parties, policy reform and community-driven planning. At the same time, members were alert to the fact that for success to be achieved in dealing with forced evictions, the affected communities themselves have to be key actors in the establishment of viable and sustainable alternative solutions. The challenge remains for AGFE to link effectively not only with governments and NGOs, but also directly with affected communities who are struggling to realise their right to adequate housing in a sustainable livelihoods framework.

⁴ Committee on Economic, Social and Cultural Rights, (1997), *General Comment No. 7 on The right to adequate housing (Art. 11.1 of the Covenant): forced evictions*, paragraphs 8 and 16.

Terms of Reference of AGFE

On the basis of these discussions and the work of the drafting committee, AGFE finalised a draft Terms of Reference (TOR) by the middle of 2004, which was submitted to UN-HABITAT for consideration and approval. This draft is attached (Annex 4), and its salient features are summarised below.

Mandate

The Advisory Group derives its mandate as an Advisory organ to the Executive Director of UN-HABITAT from a variety of sources, including governments' commitments in the Habitat Agenda (Para 40(n)) and the First Session of the World Urban Forum, held in Nairobi in 2002. The World Urban Forum urged "the United Nations System to utilise this group and / or other mechanisms to take a position on how it will monitor and respond to unlawful evictions."⁵ In May 2003, the 19th Governing Council of UN-HABITAT adopted a resolution in which it "[r]equests the Executive Director, in line with the recommendations of the World Urban Forum at its first session, to establish an advisory group to monitor and identify, and, if so requested, to promote alternatives to unlawful evictions"⁶.

Composition

The Advisory Group on Forced Evictions consists of up to 20 members, appointed by the Executive Director. The composition of this group reflects appropriate regional, institutional and gender balance.

The primary objective of the Advisory Group is to prevent forced evictions through the promotion of alternatives to forced evictions, such as *in-situ* upgrading, negotiated resettlement, and other alternative options. When relocation is unavoidable, the Advisory Group identifies alternative actions / solutions that will reduce the negative effects of such incidents. As part of these objectives, the Advisory Group advises and assists UN-Habitat to undertake activities such as:

- facilitating workshops for affected communities, government officials and key stakeholders on best case and best practice scenarios of cases which have been successfully brokered to prevent evictions through people/public/private partnerships leading to sustainable, pro-poor development;
- making submissions and presentations in connection with planned evictions, in order to promote alternative approaches;
- facilitating dialogue between the stakeholders of current or planned cases of evictions with a view of achieving negotiated alternatives;
- encouraging governments and institutions to develop proactive programmes, such as land tenure reform, to help in reducing the occurrence of large scale forced evictions;
- monitoring acts of forced evictions and facilitating information and experience exchange

⁵ UN-HABITAT, (2003), *Report of the First Session of the World Urban Forum, Annex I.1.* (<http://www.unhabitat.org/uf/ai6.html>).

⁶ UN-HABITAT, (2003), *Governing Council Resolution 19/5: Article 7.*

between the stakeholders of such incidents including press and media, professional associations;

- providing advisory services to stakeholders;
- alerting the international community and all other stakeholders, including relevant United Nations treaty bodies, on potential and current forced evictions and the effects of such incidents;
- facilitating provision of legal and other assistance to stakeholders, particularly to victims of forced evictions;
- providing assistance to research, training and capacity building activities on alternatives to forced evictions; and
- promoting advocacy activities and other initiatives combating forced evictions.

In addition to these tasks, the Advisory Group also documents selected cases of successful alternatives as well as cases of forced evictions; prepares periodic reports on its activities; and attends to other tasks related to the Group's mandate on request of the UN-Habitat's Executive Director.

Support network

The Advisory Group is assisted by a network of persons who are representatives of organisations in the fields of human settlements, law, tenure policy and human rights including civil society groupings.

This Network undertakes, on an *ad hoc* basis, activities on behalf of and upon request from the Advisory Group such as:

- Engaging in fact finding missions when cases of forced eviction are reported;
- Engaging in preliminary discussions with relevant stakeholders, when requested, to promote alternatives to unlawful evictions;
- Monitoring situations globally and preparing periodic reports on forced evictions;
- Conducting research, training and capacity building activities in relation to the mandate of the Advisory Group;
- Attending, when relevant, meetings of the Advisory Group.

World Urban Forum, Barcelona

The World Urban Forum held in Barcelona from 13 to 17 September 2004, provided an ideal platform for the first public appearance of the Advisory Group on Forced Evictions. AGFE organised a highly successful Networking Event on 15 September, attended by more than 350 people.

In addition to members of AGFE, the following participants attended the session: representatives of countries and cities that have successfully resolved eviction issues; representatives of countries and cities facing threats of eviction; organisations active in the field of housing rights; UN agencies; government representatives (including senior representatives from Ghana and Kenya, both of which countries were discussed during the presentations); and community representatives.

The AGFE Networking Event was opened by the Brazilian Minister of Cities, Olivio Dutra and the AGFE Convener, Yves Cabannes, who also served as Moderator of the proceedings. The theme of the event was: 'Fighting Forced Evictions'. In preparation for the event, AGFE had collected extensive information on forced evictions, and innovative community-driven methodologies to counter these.

Presentations at the Networking Event

The presentations were given in three segments:

1. Presentation of Report on Evictions

The AGFE report on evictions was presented, by Leticia Osorio of COHRE, together with testimonies of specific evictions by Malick Gaye of ENDA Tiers Monde, Senegal and Cesare Ottolini of IAI. The message of these presentations was that forced eviction is a global problem of huge proportions, which has catastrophic effects for communities and which has to be tackled through concerted action.

In her presentation, Osorio discussed a range of reported evictions affecting around 5 million people, in Asia (Jakarta, Thailand, China and the Philippines), Africa (Kenya, Senegal and Ghana), the Americas (Brazil, USA, the Dominican Republic and Peru) and in Europe (Italy and France). Osorio discussed the causes of the evictions, who were the evictees, and the consequences of the evictions. She concluded that "the cases presented have shown that evictions are deeply reflective of patterns of social inequalities, revealing the fault lines of social discrimination, injustice and exclusion. To work against forced evictions is to work for the protection of housing rights, as well as for social equality and social justice".⁷ Malik Gaye described the forced evictions situation in West Africa, and in Senegal specifically. Cesare Ottolini spoke on forced evictions in Europe, illustrating that this is not just a third world problem.

After these presentations the Special Rapporteur on Adequate Housing, Miloon Kothari, gave his perspective and conclusions. Kothari stressed the importance of the gender dimension of forced evictions. He pointed out that during evictions women were at high risk of being beaten, raped, tortured and even killed. He also raised the issues of the growing problem of 'land mafias' and cartels; the rural dimension to the forced evictions problem; the growing number of countries that are not responding to international pressure to comply with international and even national law; and the effects of the global war on terror on the security of communities.

⁷ Osorio, L., (2004), 'Advisory Group on Forced Evictions – Barcelona 2004: Information on Cases of Threatened and Implemented Evictions', Presentation at Networking Event: Fighting Forced Evictions, World Urban Forum, Barcelona, 15 September 2004, p.4.

2. Innovative Approaches – Overview & Preventive Policies

This segment on innovative approaches was presented by David Satterthwaite of IIED and Somsook Boonyabancha of ACHR, and community representatives invited to join them on stage. Both Satterthwaite and Boonyabancha stressed the importance of focussing on solutions rather than problems. Satterthwaite highlighted the need to also learn from cities such as Ilo in Peru, where there are virtually no evictions, as land is simply made available for those who need it.

A film was also shown by Joel Bolnick of SDI of work being done to deal with the threatened eviction of 30 000 people in Old Fadama / Agbogbloshie settlement in Accra, Ghana by organisations such as SDI, People's Dialogue and COHRE. This was followed by a presentation by Jane Weru of Pamoja Trust, Kenya who discussed innovative approaches to secure the housing rights of the poor without forced evictions. Minister of Land and Settlements of Kenya, Amos Kimunya and Mayor Adjiri Blankson of Accra, Ghana presented the perspective of the authorities in their respective countries, and engaged in a direct and positive dialogue with community representatives from both countries. At this stage members of the audience were given the chance to raise issues, share experiences and make suggestions.

The main message of the segment was that while there are many eviction problems and challenges, there have also been many innovative, community-driven initiatives that have provided viable and sustainable alternatives to eviction. Examples were given from Asia, Africa and Latin America. Such cases need to be noticed, studied, supported, publicised, and used as lessons for other situations, in order to begin to turn the tide of evictions world-wide.



Photo: UN-HABITAT

**Presentation on Innovative Approaches
AGFE Networking event, 15 September 2004**

3. Way forward: Perspective of UN-HABITAT and AGFE

The final segment of the AGFE Networking Event was addressed by Farouk Tebbal of UN-HABITAT, Inger Lindgren of the Norwegian Ministry of Regional Development and Local Authorities, and Yves Cabannes, the AGFE Convener. Farouk Tebbal recalling a situation of forced eviction which his own family went through due to a conflict in the 1950s, said that this Networking Event was in itself a step forward for AGFE. He said it had been successful in bringing together representatives of government, local authorities and communities, who had entered in an open and constructive dialogue. He said that AGFE assists the work of the Global Campaign for Secure Tenure to help governments and local authorities to find innovative solutions to the problem of forced evictions. He listed the activities soon to be carried out by AGFE, including field missions in several countries. The Executive Director of UN-HABITAT was thanked for her role in establishing AGFE to tackle the problem of forced evictions internationally.

Yves Cabannes concluded the proceedings as follows:

“This dialogue on evictions and on the ways to face them has been particularly intense and fruitful. We heard that forced evictions are not isolated. They occur world-wide, they are growing in number and are often massive. Even if they happen in different ways, they always come to the same end: the violation of a basic human right, the right to live in peace; and the unacceptable sufferings of millions of children, women and men.

“However, one conclusion can be drawn from this dialogue: solutions do exist, and innovative ways to avert evictions and to find positive solutions were presented by many of you who are inventing them, locally, on a day-to-day basis, and most of the times in difficult and dangerous contexts. These solutions are a hope for all those, all over the world, who are living under the threat of eviction, or have been violently evicted.

“The central role of local actors and particularly of the threatened and evicted communities, along with local and central governments, must be acknowledged. We need to be confident that people are an integral part of the solution. Dialogue among all interested parties, as happened today, is for sure a safe way to reach innovative ways out.

“In name of the Advisory Group on Forced Evictions, we would like to thank UN-Habitat for the confidence shown in us, and to point out the tremendous responsibility that this represents. We would like to invite you, the institutions and the networks that you belong to, to inform us about evictions and about the innovative approaches you are aware of. This will help this group to advise, in a better way, the Executive Director of UN Habitat on what should be done and what should be avoided.”

2 CASE INFORMATION

One of the first tasks facing AGFE was to collect relevant and accurate information on eviction cases. AGFE members and support organisations working on forced evictions were invited to make submissions using a standardised information sheet (see Annex 5). This data gathering process served a number of purposes:

- Firstly, the information could be stored in a database for future use by AGFE, UN-Habitat and their partners;
- Secondly, pooling information on actual cases encountered by AGFE members would enable the group to learn about different types of forced eviction and existing and potential remedial methodologies;
- Thirdly, the group could use the information to identify and further investigate particular focus cases, for which it could then develop remedial strategies and action proposals.

This chapter contains summaries of a selection of fifteen of the eviction cases submitted to AGFE for consideration and potential action during its first year of operation. The accounts given below are summaries of the essential information collected, plus analysis of the chances of positive resolution. In virtually every case considered, communities and support organisations are valiantly trying to resist the eviction, and to find ways to talk to the relevant authorities about alternatives. In a few of the cases, the authorities have responded positively to these efforts, a development which bodes well for the chances of amicable resolution and the emergence of innovative alternatives to eviction. In other cases, the prospects are unfortunately much bleaker.

It is important to note that the cases discussed below are a small sample of the total number of cases that have been reported to AGFE, and an even smaller fraction of the total number of cases encountered by AGFE members in the course of their work.¹ Throughout the past year, the AGFE Convenor and AGFE members have been alerted to an ever-growing list of serious forced eviction cases in a range of locations, including Mumbai, Johannesburg, Beijing, Port Harcourt, Lagos and Nagoya, to name but a few.

In the course of studying the cases and liaising with local stakeholders, AGFE selected an initial group of four key focus eviction cases, located in Rome, Italy; Santo Domingo, Dominican Republic; Curitiba, Brazil; and Accra, Ghana. In Chapter 3 of this report we explain how AGFE has begun, on the invitation of the respective governments, to play a direct role in developing alternatives in these cases. Special missions have already been held for the first three of these cases, the results of which are reported in Chapter 3. A similar mission is planned for the fourth, to be conducted in May-June 2005.

¹ See for example *COHRE Evictions Monitor* (<http://www.cohre.org/downloads/Evictions-Monitor-No2-Vol1-Dec2004.pdf>); and *ACHR eNews* (<http://www.achr.net/news.htm>).

Reported Case 1 - Pom Mahakan, Bangkok, Thailand

Pom Mahakan is a small yet highly significant Thai community of approximately 300 people residing next to Mahakan Fort, between the old city wall and the canal in central Bangkok. In January 2003 the residents were served with a three month eviction notice to vacate their homes which was issued by the Bangkok Metropolitan Administration (BMA). Residents were offered relocation to a place called 'Minhburi' 45 kilometres away, on the outskirts of Bangkok.

Motivation for eviction

The development is part of the government-sponsored 'Rattanakosin Island Plan'. As part of this 'conservation and development' plan, the community had to make way for a public park, similar to that established at Phra Sumen Fort. This was despite the fact that Pom Mahakan had been occupied by the residents and their forebears for up to six generations. Forced eviction from this area would amount to a violation of entrenched and housing rights.

Negative impact of eviction on cultural heritage and urban landscape

It would at the same time, mean the death of what the anthropologist Michael Herzfeld (a professor of anthropology at Harvard University) described as a "vibrant, cohesive community with a remarkable sense of collective responsibility and mutual support". In addition, the demolitions would mean the end of "a rare complex of vernacular architecture", including beautiful old teak structures, well worth preserving in rapidly modernising Bangkok. Herzfeld has added that "the city could lose a great opportunity to create a slice of Bangkok culture that would attract tourists. No western tourists would be interested in a plain park, but a community within a park would make for a real tourist attraction".²

Community mobilisation

The Pom Mahakan residents organised themselves and tried to prevent the eviction, using all the recognised methods. They staged protests, delivered petitions, built barricades and organised a night-watch system to guard the community. In the words of a community leader, when pointing out a barricade in the main gate to the settlement:

"The reason we put up this barricade is to prevent the Bangkok Metropolitan Administration from coming into our community and destroying our houses. This is the only thing we can do to protect ourselves because the BMA is determined to evict us and they can come in at any time with bulldozers and officials to do it."³

² Herzfeld, M., (2003) 'Pom Mahakan: Humanity and Order in the Historic Center of Bangkok'. *Thailand Human Rights Journal*, Vol 1, 2003.

³ COHRE, (2003) *Tawatchai Woramahakun, Community Leader, Pom Mahakan* - Quote from Pom Mahakan: People of the Fort [A short film by Fionn Skiotis, COHRE, available on DVD].

Broad based support for community initiatives

But they did not leave it at that. What is most interesting about this resistance by the residents is that they supplemented it with a number of additional, pre-emptive activities. Working with a coalition of NGOs (including the COHRE and others), professionals 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 an historical park. It was to be a vibrant “park with people”, the sort of place that would attract visitors, rather than the sterile, empty park planned by the authorities. The residents even started implementing aspects of their plan by creating meandering pathways amongst the buildings and ancient trees, and turning the oldest house in the settlement into a museum and exhibition area for their proposals. In response, many outsiders rallied to their support.

Position of Bangkok Metropolitan Administration

Yet despite the public support, repeated invitations for dialogue, petitions and pleas, the Bangkok Metropolitan Administration failed to appreciate the enormous value of this community-driven initiative, and refused to seriously consider the proposals put before them. In August 2003, an administrative court ruled that the eviction was legal and could go ahead. In January 2004, the authorities started work on the unoccupied areas of Pom Mahakan, including moving the canal pier and excavating certain areas. While the authorities confirmed that the eviction would be implemented, it remained unclear as to when this would take place.

In April 2004, the authorities again announced their determination to implement the eviction of the residents. That month, the owner of the oldest wooden house in the community lost hope and sold it to an outside buyer. Within a few days this ancient double-storey teak structure, which had become a symbol of the anti-eviction struggle of the community, was dismantled and taken away. The community had intended purchasing the building and using it permanently as a museum.

Loss of Pom Mahakan’s Oldest House



Before demolition



After demolition

Photos: www.2Bangkok.com

Current status of the eviction process

The most recent reports from Pom Mahakan indicate that the other houses are still there and that the people still hold on to the hope that somehow the Bangkok Metropolitan Administration will change its mind. However, the large vacant area that had served as meeting place, car park and market, has been turned into a manicured lawn with concrete pathways, closely resembling the “grassy void” predicted by Herzfeld. Despite all the warnings and pleas, the area has been transformed into the type of place that few people, whether Thai or tourist, would care to visit.

The community is still attempting to negotiate with the authorities in a bid to prevent its eviction. The new Bangkok Governor, Mr Apirak Kosayodhin, has shown more openness than his predecessor to resolving such issues through negotiations, which is a hopeful sign. However, the fact that the community area has been cut off from the park with a (hopefully temporary) metal fence is a much less promising development, and indicative of a growing list of missed opportunities.

In the words of community leader Tawatchai Woramahakun:

“I want to send this message to the BMA: the people of Pom Mahakan hope the BMA will take care of them, take them into account in its development plans and allow them to work with the BMA in developing Pom Mahakan. I believe that if the BMA does take care of the community and allows the community to work with it, then there will be lots of good ideas and solutions – not just removing people from their community. But if the BMA follows its original plan to evict, the loss will be more significant than they think. I look forward to an offer from the BMA to allow the community to work with them in developing Pom Mahakan.”⁴

Significance of Pom Mahakan

The case of Pom Mahakan illustrates how a small community of 300 people, through action and innovation, have tried to open up spaces for the formulation and consideration of creative alternatives to their own eviction. Yet, despite all their efforts to co-operate with the authorities and to preserve and protect their heritage, they may soon become yet another victim of forced eviction. It is, however, not too late for the authorities to take a novel approach and work towards a situation that would benefit all parties, including the community, and potentially many other Thai communities like it.

In addition, the emphasis of the Bangkok Metropolitan Administration on the economic imperatives of development over the preservation and potential of an unique urban cultural landscape reflects a short-sighted analysis of urban development requirements in the 21st century. If the authorities fail to take the opportunity, the loss could be immense. As Graeme Bristol of the KMUTT Architecture Program in Bangkok, has warned: “The BMA has a rather narrow view of what constitutes history. They are not alone in that. As a result, we often wind

⁴ COHRE (2003) *Tawatchai Woramahakun, Community Leader, Pom Mahakan* - Quote from Pom Mahakan: People of the Fort [A short film by Fionn Skiotis, COHRE, available on DVD]

up losing a lot of any city's history by defining it out of existence".⁵

The Bangkok Metropolitan Administration stand to lose an excellent opportunity to find new, pro-poor ways of making history, of shaping the future with the needs and interests of the affected communities at the centre of the process, instead of at its fringes.

The Pom Mahakan case illustrates a unique opportunity for partnerships between AGFE, other agencies such as UNESCO, community and state structures in promoting models for development which incorporate cultural and economic precincts as part of a holistic urban landscape. COHRE has been working with UNESCO on this issue, and is in the process of preparing a motivation on possible steps they could take to help secure the protection of this community.

Reported Case 2 – Lyari Expressway, Pakistan

Introduction

The Lyari Expressway is a US\$ 1.5 billion road being built on both sides of the Lyari River in Karachi.⁶ Approximately 25 400 housing units (representing 77 000 families, 230 000 people, 121 900 males, 108 000 females) are being displaced by the Expressway Project. Many of those facing eviction have legal tenancy rights that have been recognised by the Courts. The settlements were established over 200 years ago and a number of the structures date back to the 1800s. The Lyari Expressway project is also demolishing approximately 5 000 commercial and manufacturing units; and destroying 58 mosques, churches, temples and graveyards. 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.

Reasons given for the eviction

The motivation for the evictions is the development of the Lyari Expressway, a multi-lane highway to be built along the Lyari riverbed. Plans to construct a new highway were originally developed to improve access to the Karachi Port, but authorities have stated that heavy traffic from the port will not travel along the Expressway. The implementing agent for the evictions is the National Highway Authority.

Authorities have also argued that the evictions involved in the development of the highway are justifiable because they will move people out of an area prone to flooding. Evictees will then be relocated to safer zones. Many commentators believe that the present central Government is firmly committed to the project (despite massive opposition) because the evictions will give the Government access to valuable real estate. They note in particular that an area far greater than that required for the project is being cleared.

⁵ Bristol, G. (13 October 2004), KMUTT Architecture Program, Bangkok, personal communication.

⁶ The current exchange rate is 1 US Dollar = 59.6 Pakistani Rupees (21 March 2005).

Main events thus far as reported to AGFE

The Lyari Expressway project was first proposed in 1986 by a group of citizens as an alternative to plans developed in 1975 to build a new highway called the Northern Bypass. However, a government feasibility study found that over 100 000 people would have to be evicted to construct the Lyari Expressway and therefore concluded that the project was not viable. Despite this conclusion, in 1989 the Karachi Development Authority (KRA) sought assistance from the Canadian International Development Authority for the Lyari Expressway project. The Canadian International Development Authority advised that construction of an elevated corridor along the riverbed, at an estimated cost of Rs 6 billion, was the best option to pursue.

The Lyari River had been prone to flooding and, after floods caused significant damage during July and August 1993, authorities began to regard the Lyari project as a solution to the problem of flooding.

NGOs including Karachi's Urban Resource Centre (URC) objected to the project. They expressed serious concerns relating both to environmental issues and to the scale of displacement that would be caused. The NGOs decided to take action against the government's plans. They informed affected communities about the project and its likely impact. These communities then lobbied their elected representatives and government officials. The NGOs also organised Canadian press coverage of the situation. They then submitted a catalogue of their concerns regarding the project, as well as information about community opposition, to the Canadian Embassy. The Canadian International Development Authority withdrew its support for the Expressway and plans to build the elevated corridor were abandoned.

In 1994 the Karachi Metropolitan Corporation (KMC) resolved to construct the Expressway along both sides of the Lyari River, rather than as an elevated corridor, at the cost of Rs 720 million. Over 8 000 structures were demolished to make way for the development.

The Pakistani Frontier Works Organisation then became involved in the project. The design was modified and the cost escalated to Rs 3 200 million. Authorities approached an association based in Abu Dhabi in the United Arab Emirates and asked it to manage the construction of the Expressway.

NGOs, affected communities and concerned citizens continued to oppose the project. As a result, the Senior Minister of the Sindh Government organised a series of public hearings in 1996. These hearings resulted in the Government decision to cease its plans to build the Expressway in favour of constructing the Northern Bypass.

In 2000, the Karachi Port Trust (KPT) completed the proposal to build the Northern Bypass. The Government received a loan of US\$ 158 million from the Asian Development Bank for this purpose.

In June 2000, however, the new military Government led by General Pervez Musharraf amended the plans. It decided to build a shorter version of the Northern Bypass and use the money left over from the Asian Development Bank (ADB) loan to build the Lyari Expressway. The amount

of Rs 5.1 billion was allocated for the construction of the Expressway and the NHA was given the task of overseeing this process. There has been some media speculation that the Kuwait Fund for Arab Economic Development has also agreed to provide funding for the project⁷.

Compensation

Rs 2.1 billion has been set aside to cover the costs of resettling evictees. For each demolished housing unit, the owner of a plot of 80 square yards will be compensated with Rs 50 000 cash. According to the URC, Rs 50 000 is equal to a mere 10% of the minimum value of each housing unit. Resettlement sites are located in Hawkes Bay, Taiser Town and Baldia. These sites are however remote and lack essential services. NGOs have estimated that it will take over 10 years to construct the necessary roads and connect water and electricity supplies at these sites. Furthermore, ownership of the land at Hawkes Bay is disputed, the majority of the land at Baldia is already occupied and the land at Taiser Town must still be transferred from the Board of Revenue before it can be distributed to evictees.

“Resettlement is a cumbersome procedure. It takes at least six months to get a plot allotted. The affected families have to rent a house and then go through the hassle of shifting twice. The meagre Rs 50 000 paid as the overall compensation gets spent in this interim period. The government functionaries must be knowing it all too well that not even a proper toilet can be built in Rs 50 000, let alone a house.”

Noman Ahmed, “Lyari Expressway: human settlement issues”, in *Dawn, Eco & Bus Review*, 28, April 2003

Equally significantly, no compensation or alternative plots of land will be provided for owners of businesses and informal factories. Between 5 000 and 6 000 people living in the affected communities were employed by these businesses and factories.

Thus far the Government has not complied with its own laws and policies regarding land acquisition and relocation. If it were to do so, the cost of relocation would greatly exceed the cost of building the highway. The Government launched a state policy on resettlement on 15 January 2001, but this policy has not been observed. The Government has also ignored a stay order issued by the Sindh High Court suspending the evictions. The Court recognised that the people who face eviction have legal tenancy rights that give them the right to compensation if they are forced from their homes.

The Government has also disregarded national laws that state that public hearings and environmental impact assessments must be conducted before projects such as this one are implemented. Furthermore, the Karachi City Government and affected communities agreed in writing to review the project and established a 9-member committee for this purpose. The national Government has taken no notice of this agreement.

⁷ See for example ‘Lyari Expressway: The Kuwait Development Fund will provide funding for controversial Lyari Expressway Project’, in *Daily Dawn Karachi*, 21 February 2004.

Since the 2000 decision to restart the Lyari project, approximately 3 375 homes have been demolished along with 2 384 businesses. Demolitions commenced on 21 January 2001.

Community and civil society opposition to the Expressway Project

Those who oppose the project have employed a number of strategies to generate support and pressure the Government of Pakistan to change its plans. Affected communities have organised themselves to form a large and powerful resistance base. These communities have initiated legal action to have their rights recognised and enforced. They have also held large public forums on the project called 'All Party Conferences'. All interested parties including government officials and politicians were invited, and the events received substantial press coverage.

The Expressway issue has received extensive publicity. NGOs have worked to inform the media by holding press conferences and conducting tours for journalists around the affected



Photo: Urban Resource Centre, Karachi.

Devastation in the wake of an eviction Lyari Expressway - Karachi May 2003

communities. Media support for the affected communities has been a key force in opposing the evictions. This media coverage, together with NGO efforts to lobby prominent citizens and political parties, has succeeded in mobilising broad civil society opposition to the project.

The URC has also initiated ongoing studies on the Lyari project and its impact on affected communities. In addition to conducting community surveys, the URC has analysed the technical and planning aspects of the project. With the assistance of other concerned parties, it has prepared three full alternative proposals to the Expressway.

Furthermore, a series of international interventions has boosted the campaign against the Expressway. On 17 July 2002, the United Nations Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, sent a letter to the President of Pakistan. In his letter, Mr Kothari stated that serious human rights violations appeared to have been committed during the implementation

of the project and asked the Government to suspend all forced evictions of people living along the Lyari River immediately. Mr Kothari also expressed concern that the Government was only planning to resettle and compensate a fraction of the evictees. In addition, he was critical of the fact that resettlement sites lacked sufficient infrastructure and were located outside the city - long distances from evictees' places of work. He also found that evictees were not given adequate notice of the evictions nor information about the project.

After receiving a request from the URC, the Asian Coalition for Housing Rights (ACHR) and Habitat International Coalition organised an international fact-finding mission in February 2003. The report that resulted from this mission strongly criticised the Lyari project and was circulated at public meetings by the URC.

In addition, over 1 000 human rights organisations and housing organisations internationally have joined in a letter-writing campaign. In consultation with the Urban Resource Centre (URC) in Karachi with which it has a close association, COHRE has also written a number of letters to the Government of Pakistan, calling for a moratorium on the evictions and for discussions on alternatives. To date there have not been any responses to these letters. COHRE has also communicated the facts of the case to the Asian Development Bank and requested them to cease all support to the Lyari Expressway project. In reply COHRE received a response indicating that the ADB was not a funder of the project. This denial has been questioned by local groups.

Acts of violence and intimidation against activists

Activists have received repeated death threats as a result of their involvement in campaigns opposing the Lyari project and recent events have demonstrated the urgent need for intervention at the highest level of the Government of Pakistan. Baseer Navaid, a well-known Karachi journalist and social and political activist, is also the convenor of the Action Committee for Civic Problems, and has been the main organiser of the movement against the Lyari Expressway. Like other anti-Expressway activists, Baseer has received numerous death threats, aimed at weakening his resolve to resist. He did not take these threats seriously. However, on 10 November 2004, the body of his son Faraz Ahmed was found in an empty plot behind his office. Faraz, a 22 year old philosophy student at the University of Karachi, had been tortured, before being murdered.

NGO activists and representatives of the Lyari communities are convinced that this brutal killing was meant as a punishment and warning to Baseer for his actions in opposing the Lyari Expressway project. At a meeting held on 23 November 2004 at the offices of the Human Rights Commission for Pakistan, civil society organisations demanded that an inquiry into the death of Faraz be conducted by a judge of the Sindh High Court. To date, no such inquiry has been initiated.

After Faraz's murder, his parents received further threats over the telephone. Quite understandably, his mother now wishes to leave Pakistan with her two surviving children. She is afraid that they, too, might be murdered. The anti-Expressway activists living in the settlements are also terrorised, but have indicated their resolve to continue their struggle to save their homes.

Implementation of the Lyari Expressway project continues, despite a Sindh High Court order to the National Highway Authority, the government of Sindh and the City District Government of Karachi to review the design of the project so as to minimize the number of people to be affected. Despite the Court Order, about 500 more homes have been demolished in the past few months.

Proposed alternatives to the evictions

The Urban Resource Centre (along with others) has prepared three alternatives that aim to meet the transport needs of the city while avoiding evictions. The full cost of implementing each alternative has been calculated and each proposal is cheaper than the Lyari Expressway.

Alternative 1: Northern Bypass

This proposal was developed by the URC and the KDA. It would take one year to complete at a cost of US\$ 45 million. No evictions would be required. This project would decrease traffic congestion across Karachi.

Alternative 2: Redevelop Existing Access Roads

The URC proposed this plan, which would take two years to complete and would cost approximately US\$ 25 million. No evictions would be required. If this project were to proceed, existing traffic congestion in Karachi would be removed.

Alternative 3: Alterations to the Lyari Expressway Plan

Muhammad Shoaib Ismail, a local engineer from Planning Engineering and Services Consultants, proposed these alterations to the current Lyari plan with the support of the URC. If the alterations were adopted, the Expressway would cost US\$ 25 million and take two years to build. No evictions would be required.

Reported Case 3 – Kibera, Nairobi, Kenya

Introduction

Early in 2003, the inhabitants of the following communities in Nairobi, Kenya were threatened with eviction: Kibera, Korogocho, Kahawa Soweto, Kamae, Kware, Kamwanya, Kanguku, Kandutu, City Cotton, Mutumba, Kareru, Kirigu, Muria-Mbogo, Mutego, Njiku and others of the most populated among the 199 Nairobi slums. The reason given for the evictions was that the residents were living illegally on road and rail servitudes, electricity wayleaves and other reserved land. Over 300 000 people were potentially affected.

After widespread condemnation of the eviction plan, the Government of Kenya - to its credit - declared a suspension of the eviction plan. Since the announcement of this suspension, the Government has also shown a growing willingness to engage with some civil society groups

on the issues of slum upgrading and forced evictions. These are very positive developments, which bode well for constructive participation by AGFE and its members in the process of finding lasting solutions to the problem.

However, the suspension unfortunately came too late for 400 families in Raila Village, who were evicted from their homes in February 2004. Furthermore, while the Government's suspension of the planned Nairobi evictions is still in place, residents have no firm guarantee that they will be able to stay, or that they will be provided with reasonable alternatives should they have to relocate. Also worrying are recent reports of a spate of evictions elsewhere in Kenya, particularly in rural, forest areas.⁸

Most residents of the informal settlements settled in Nairobi long ago and no longer have rural homes or alternative residences to return to. These residents are primarily workers from nearby factories and greenhouses or those who work informally at the Korogocho dumpsite, in small businesses, transportation and services.

There are two critical factors which have increased living insecurities, namely:

- The large area of land on which the shacks stand is publically owned.
- About 80% of the inhabitants are not owners of the shacks in which they live, but rather rent from owners who live outside the slums.

Background and history of the case

There are currently 199 informal settlements in Nairobi which are home to over two million people. Residents of Nairobi's informal settlements constitute approximately 55% of the city's total population yet they are crowded onto only 5% of the total land area in the city. This situation has its historical roots in the failure of the State to provide low-cost housing for the poor. As a result, thousands of residents of informal settlements in Nairobi have encroached on unoccupied land, including that set aside for road reserves, railway lines, forests and public utilities, where they have put up semi-permanent structures. The larger settlements have existed for decades.

The main reason being advanced in justification by the government for the evictions on railway reserves and power line wayleaves is that it is dangerous for people to live near the rail lines and power lines. That position is indisputable. However, the current situation in the informal settlements is extremely complex due to its historical context. It is thus imperative that any solution to the current problem must consider the origins of the informal settlements.

Most structure owners in Kibera, Korogocho and the other affected areas have paid a 'fee' to the local administration including chiefs, *wazee wa vijiji* (village elders) and the police in exchange for 'official permission' to occupy the space where they live. These irregular allocations by the

⁸ See for example the editorial in The Nation, 3 March 2005: "One of the challenges the administration has been grappling with is how to evict people living in forests... In the latest case, some 1,000 people have been evicted from Enosupukia forest in the past few days. The campaign is then expected to move to other forests like Mau."

local administration are normal business practices in the informal settlements. As recently as 19 February 2004, Kenya Railways issued receipts for 'rent' paid by people occupying plots located on the rail line operational corridors. People have occupied space near the rail line and under power lines for decades - with the full knowledge and sanction of the Government.

In addition, UN-Habitat has undertaken to support slum upgrading in the Nairobi slums. After an initial agreement with the former government, the Executive Director of UN-Habitat entered into an official Memorandum of Understanding with the Ministry of Roads, Public Works and Housing in January 2003. The agreement was widely publicized and hailed as a positive step forward in improving the conditions of the informal settlements. This combined Government and UN-Habitat project is specifically designed to improve the housing and infrastructure of the Soweto village in Kibera. Since the signing of that agreement, however, the project has been characterized by confusion caused by a lack of information and consultation. An apparent lack of coordinated thinking by the Government has frustrated initial good intentions that are now marred with plans for forced evictions by different Ministries in the very area that was to be regenerated. A 'secure tenure zone' for Soweto has also not been declared, or enforced, despite it being a key part of the project's documentation. Further, a National Slum Upgrading Policy – part of the Project's intended inception phase – was not announced. This has meant there are no clear and transparent guidelines for slum upgrading which has compounded the confusion and fears of displacement.

The legal grounds of the case against evictions

The threatened evictions are in contravention of:

- The *International Convention on Economic, Social and Cultural Rights* (art. 2, 7, 11, 12, 13e, 15) signed by Kenya on 3 January 1976, as well as the Habitat Agenda and Agenda 21, which provide for the obligation to find alternative solutions when evictions are unavoidable.
- The *Children's Act*.
- The *Railways Corporation Act*.

Ongoing and threatened evictions

The Ministry of Roads, Public Works and Housing has already effected demolitions in Kibera as part of the construction of a city bypass. On Sunday 8 February 2004, tractors demolished the settlement commonly referred to as 'Raila Village'. Approximately 400 structures were demolished, including schools, clinics and churches. This single eviction has led to the internal displacement of approximately 2 000 people. It has also caused property losses worth millions of shillings.

Contrary to established international norms, residents of Raila Village were not given any demolition notices. In further violation of law, the community was not consulted nor given a resettlement plan. Instead of taking steps to inform and involve the community, orders were issued to the Provisional Administration to take all steps necessary to clear the village.



Photo: Christ the King, Catholic Church, Line Saba, Kibera.

Demolition of Raila Village, Kibera, 8 February 2004

In addition to the demolition of Raila Village, there have been numerous announcements, meetings and press statements over the last few months indicating that different government Ministries will undertake demolitions and evictions in designated slum areas within Nairobi.

These demolitions essentially pertain to structures located in three main areas:

- within 100 feet of either side of the rail line
- under power lines, and
- the area earmarked for the new road bypasses.

Effect of demolitions by the Kenya Railways Corporation

On 29 January 2004, the Kenya Railways Corporation issued notice in the daily papers that it intended to demolish all structures located within 100 feet on either side of the railway line in Kibera starting on 3 March 2004. The rail line is five kilometres long and passes through the entire community of Kibera from Soweto/Highrise to Gatwekera.

One study showed that over 20 000 structures along the rail line will be demolished and over 108 000 people rendered homeless and internally displaced. The extended Kibera community will also be detrimentally affected. A more recent study calculated 51 000 people would be affected. The demolitions will destroy thirteen primary schools which provide vital education for thousands of poor children in Kibera. In addition, the planned evictions will result in the demolition of two churches, the Kikoshep Clinic and Aids testing centre and three meeting halls.

Demolitions by the Kenya Railways continued. During the week of 8 March 2004, thirty-one structures in the informal settlement of Soweto/Kahawa West were demolished leaving 500 people homeless. Ten more houses have been earmarked for demolition in addition to several local businesses.

Effect of demolitions by the Kenya Power & Lighting Co. Ltd.

On 1 February 2004, the Kenya Power & Lighting Co. Ltd. (KPLC) issued notice that it would demolish all structures located on KPLC's land and under power lines. In Korogocho, studies show that 2 500 households will be affected by power line related demolitions. However, the losses are not limited to domiciles. In Korogocho, the planned demolitions will destroy 132 kiosks, 4 churches/halls, 80 public baths and toilets, 4 public water taps and 8 chemist shops. In Kibera, reports show that 3 255 structures are located under or near power lines. The demolition of these structures will render 76 175 people homeless and cause similar destruction of community structures.

Similarly, the planned demolitions for the settlements in the Mukuru kwa Njenga will render 900 people homeless. These communities will also lose a Catholic church, classrooms, the church/community hall and over 25 public toilets. In addition, over 75 kiosk owners along Mpaka Road have been given notices of eviction. Most of these people live in their kiosks and have no other means of shelter.

These demolitions will also affect tens of thousands of people living in the informal settlements of Kahawa Soweto, Kamae, Kware, Kamwanya, Kanguku, Kandutu, City Cotton, Mutumba, Kareru, Kirigu, Muria-Mbogo, Mutego and Njiku, among other informal settlements.

Effect of demolitions for the Bypass

The Ministry of Roads, Public Works and Housing has announced that in Kibera, structures on the proposed bypass site will also be demolished. The intended bypass extends from Makina to Highrise estate. Reports show that 16 800 structures will be demolished which will in turn render over 170 000 people homeless. A more recent study calculated that 10 000 people would be affected but there is no clear information upon which to calculate the affected structures. The demolitions that will be undertaken to make room for the bypass and to clear structures under power lines in Kibera will have a devastating effect on the community. According to the most recent assessments, fifty-four churches have been earmarked for demolition. In addition, thirteen primary schools will be demolished, as well as three medical clinics and two community centres.

Responses of the affected communities

The intended demolitions have caused fear, panic and confusion among the affected communities – particularly as many people were not given official notice or the actual parameters and dates for the evictions. In Kibera, for example, chiefs and the Provincial Administration who are to effect the evictions do not have maps to identify which structures are earmarked for demolition. As a result, no one knows with certainty if and when they are likely to be evicted. This lack of information has created a vacuum that has been filled by rumour mills, speculation and exploitation (often by local politicians).

Notwithstanding the information blackout, communities immediately began to organize themselves to resist the forced evictions and to request an opportunity for dialogue with the Government as a means of seeking an alternative to the planned evictions. In Kibera, religious

leaders requested and were granted a meeting with the District Officer on 20 February 2004. In addition, an ongoing signature campaign was launched to collect 500 000 signatures to protest the evictions. The communities also successfully organised a prayer rally on 1 March 2004, which was led by Catholic Archbishop Raphael Ndingi Mwana 'a Nzeki and a representative of the Anglican Church. In his prayer, the Catholic Archbishop asked God to grant the government grace to fight the slums and not slum dwellers.

In Kibera, over eighty residents living on the rail line operational corridor have filed a case in the High Court against the Kenya Railways Corporation, seeking an injunction to restrain the Railways from forcibly evicting them: *Nderu & Others v Kenya Railways Corporation*. The complaint was eventually settled in May 2004 with the applicants withdrawing the case and the Kenya Railways agreeing to enter negotiations. However, no direct negotiations have commenced, although an enumeration of the affected villages was recently attempted. The lawsuit argued that the plaintiffs (who are all long-term residents of structures located near the rail line) were issued with temporary occupancy licenses by the Railways and that such licenses have not expired. Furthermore, the argument is made that the threatened evictions are in contravention of the *Railways Corporation Act*, the *Children's Act* and international procedures which prohibit forced and arbitrary evictions.

However, in another case in Lugari District - *Samoei Kirwa and others vs. Kenya Railways Corporation* - a High Court granted a temporary injunction ahead of a full hearing of the issue on the following basis:

“The plaintiffs [residents] are likely to establish that the notice was issued unprocedurally and unlawfully. They are also likely to establish at the hearing of suit that the notice was arbitrary and unreasonably inadequate.”

The judge also commented:

“The other matter which has struck my attention is that the conduct of the defendant has not been impressive. They have allowed the plaintiffs to occupy its land for a period of over 30 years without removing them. Why would it now give such citizens a 30 days notice to remove what they have invested for such a length of time? Why has the defendant failed to comply with Section 16 (3) of the Kenya Railways Corporation Act?”

Actions taken by the community and supporting agencies to resist the eviction and to develop creative, alternative solutions

Civil Society and Faith Based Groups

Upon hearing of the threatened evictions, civil society organisations and faith based groups (which have worked for many years on housing and land issues facing the urban poor) mobilized themselves and the affected communities to protest against the evictions. These structures argued in motivation for their stance that forced evictions of the scale and nature envisaged could not be tolerated in a democratic state that purported to uphold the rule of law.

NGOs working on land and housing issues paid for a full page advertisement on 20 February 2004 urging the Government to fight poverty and not the poor, and to stop slum evictions. They

pointed out that procedures for carrying out justified evictions had to be followed including providing adequate and reasonable notice, consultation and planning with the affected communities, and appropriate resettlement. The NGOs involved included Shelter Forum, Kituo Cha Sheria, Pamoja Trust, Kenya Land Alliance, Maji na Ufanisi, African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN), Basic Rights Campaign, Concern and Mazingira Institute. Many of these NGOs also work under the banner of the Coalition Against Forced Evictions, which is coordinated by Shelter Forum.

Notably, during the last week of February 2004, Cardinal Renato Martino, President of the Pontifical Council for Justice and Peace, visited Kenya. The Cardinal along with Archbishop Giovanni Tonucci, the Apostolic Nuncio to Kenya, had the opportunity to visit Kibera including the areas marked for demolition. While addressing representatives of the Kibera community, the Cardinal underscored his concern over the crisis in Kibera. He called for respect of the human rights of slum dwellers and stated that every effort should be made to provide alternative accommodation before the government proceeded with any evictions.

The NGOs along with church and community leaders have also organized to meet and engage in dialogue with different Ministries and officials involved in the planned evictions. These include the Mayor, the Provincial Commissioner, the Kenya Railways Corporation, Kenya Power and Lighting Co. Ltd., UN-Habitat, and the Director of Housing amongst others. The aim of these meetings is not only to stop the planned evictions, but also to request the Government to work closely with the affected communities in developing an alternative resettlement plan.

International Solidarity Campaign

There are three international agencies working in alliance and support of the affected communities, namely

- International Alliance of Inhabitants (IAI)
- Centre on Housing Rights and Evictions (COHRE)
- Shack Dwellers International (SDI)

The International Alliance of Inhabitants, together with the Kutoka Network of Parishes in the informal settlements and with support from personages such as Abbé Pierre, launched an international solidarity campaign that in only a few weeks had gathered more than 6 000 supporters from all over the world who targeted the e-mails of approximately 100 institutional structures requesting the following:

The Kenya Government and the Nairobi Mayor

- To comply with the obligations stated by the *International Convention on Economic, Social and Cultural Rights*.
- To immediately end all demolitions and forced evictions.
- To open a real debate with all concerned communities in order to find acceptable solutions on limiting evictions, reaching an agreement on possible relocations, granting suitable compensations to the evicted.
- To develop a new public housing and urban policy starting from the protection of housing rights of all (housing security, planning, urban renovation, sanitation).

- To appoint a coordinated and impartial body to be responsible for orderly and peaceful evictions.
- To appoint an Inter-Ministerial consultative group to coordinate all plans related to evictions and demolitions that will take place in the informal settlements.
- To provide immediate assistance to all those already evicted.

The European Commission, Governments and European Bank of Investments

- To discontinue any funding to Kenya meant to build infrastructures related to forced demolitions and evictions, if conditions earlier stated are not respected.

UN-Habitat

- To take immediate action to persuade the Kenya Government to accept proposals meant to reach suitable solutions for the protection of the housing rights of all.

The Special Rapporteur on Adequate Housing

The Special Rapporteur on Adequate Housing to the UN Commission on Human Rights, Miloon Kothari was in Kenya on a two-week mission in mid February 2004 on the invitation of the Government of Kenya. The motivation for his visit was to evaluate the extent to which the right to adequate housing was being realized in the country. During his visit, the Special Rapporteur visited a number of informal settlements and was informed of the ongoing evictions that were taking place.

In his Preliminary Report, the Special Rapporteur highlighted that these evictions were conducted in flagrant violation of the international laws to which Kenya is a signatory. Citing *General Comment 7 of the Covenant on Economic, Social and Cultural Rights*, he specifically stated that:

“I am concerned that the Government is not following an adequate procedure keeping in mind the human rights of those affected by these evictions, thereby impacting on many innocent families and individuals... There is need for a clear evictions policy and even specific legislation in this regard. Meanwhile, there should be a moratorium placed on demolitions and evictions. In addition, and the local administration and authorities must refrain from aggravating the situation by further participating in malpractices that have contributed to this crisis.”⁹

Centre on Housing Rights and Evictions

The Centre on Housing Rights and Evictions (COHRE) sent correspondence to the President of Kenya and the relevant Ministers on 24 February 2004 stating that the threatened mass evictions in Kenya were “a violation of international human rights law and in particular the right to adequate housing.” They further stated that “examples from all over the world have shown that the social and economic cost of forced evictions includes deeper poverty, reduced levels of employment and lower health standards.” COHRE strongly urged the Government of Kenya to abide by its legal obligations which required the government to “explore all feasible

⁹ Kothari, M., (2004), Special Rapporteur on Adequate Housing - Report on Mission to Kenya, UNCHR.

alternatives to the evictions, that no person be rendered homeless, and that there be genuine consultation with those affected".¹⁰

A 2005 report produced by COHRE titled '*Listening to the Poor? Housing Rights in Nairobi, Kenya*' comprehensively analyses the eviction threats in Kibera and other settlements. The report also:

- Examines abuses by officials and large structure owners in the informal settlements and notes the lack of effective protection for residents.
- Critically analyses the Soweto slum upgrading project in Kibera and the need for a National Slum Upgrading Policy that will enable other settlements to start upgrading, particularly those with strong community associations.
- Notes that Kenya's housing policy of allocating further parcels of serviced land to cope with the burgeoning urban population has not been implemented.
- Demonstrates the need for the Ministry of Lands and Housing to set a date for the establishment of the institutions required to implement the *Ndung'u Land Report* recommendations for the retrieval of irregularly and illegally allocated public land since allocations of public land for speculative use are continuing, for example in Kiambiu.

The COHRE Report has 25 recommendations directed to the Kenyan government, including 11 Urgent Action points:

- Declare and enforce a moratorium on forced evictions.
- Investigate, with threatened communities, alternatives to forced evictions.
- Provide victims of forced evictions with assistance and compensation.
- Develop a policy and law on preventing forced evictions, consistent with international standards. The South African model could be adopted.
- Formally recognise the informal settlements.
- Provide access to basic services in informal settlements, in particular water, sanitation, garbage disposal, health care and free primary education.
- Adopt a comprehensive and funded national policy for slum upgrading.
- Officially declare Soweto, Kibera, a 'tenure secure zone' for the KENSUP project and ensure proper representation of tenants.
- Carry out early social impact assessments for all major development projects.
- Increase accountability of Provincial Administration to local communities.
- Establish effective and legal mechanisms to enforce temporary ban on sale of undeveloped lands.

The report made the following recommendations to Bilateral agencies, the World Bank, corporations and NGOs:

- Bilateral agencies: Adopt in-country policies to prevent forced evictions through funded projects.

¹⁰ Letter from Centre on Housing Rights and Evictions to the President of Kenya, 24 February 2004 (for copy see <http://www.cohre.org/kenya/>)

- World Bank: Engage with civil society on projects that may result in evictions.
- UN-Habitat: Consider working with government to redesign Kibera project.
- Bilateral agencies and corporations: Provide grants to the proposed 'Slum Upgrading and Low Cost Housing and Infrastructure Fund' to be operated as a trust by Ministry of Lands and Housing.
- NGOs: Work together to empower communities in informal settlements and develop effective community representative mechanisms.

Upon the public release of the COHRE report, the Kenya National Commission on Human Rights committed itself to lobbying for guidelines on evictions, particularly in light of recent evictions in forest and rural areas. One of the first initiatives of the Commission has been to organise a one-day meeting of experts and government officials and civil society stakeholders to assist them draft a guideline on prevention of forced evictions. The meeting has been set for early April 2005.

Pamoja Trust

The Pamoja Trust (a local NGO which works closely with local communities in the affected areas) identified that the crux of the problem was the approach used by the Kenyan Government in attending to slum development. Reflecting on international Shack Dwellers International (SDI) experiences, Pamoja Trust recognised that there could be a way to resolve the situation by a reversal of perspective. In its analysis, Pamoja Trust utilised the best practice precedent of SDI affiliates in India; particularly that of the Mumbai slum dwellers and their negotiations with the Mumbai Railways. In March 2004, approaches were made to Kenya Railways Corporation, recommending that a longer term resolution of the matter required the Kenyan Railways Corporation to engage constructively with affected community groups.

These discussions resulted in an agreement that parties would travel to Mumbai, India to learn from experiences there. The methodology demonstrated in the India example was based on an acceptance that participatory inclusive processes with communities in partnership with municipal authorities could result in planning, design and implementation of programmes of slum rehabilitation and relocation which would be beneficial to all parties. The Indian example demonstrated that there were advantages to governments working together with communities, rather than excluding them. According to Pamoja Trust, the suspension of evictions in Kibera has enabled people-driven mapping, enumeration and land identification processes to be initiated in a manner which has facilitated a more people-centred approach to development.

Others

In addition, housing rights monitors from a number of other countries (including Egypt, Pakistan, Philippines, India, South Africa and Brazil) have issued statements objecting to the planned forced evictions in Kenya. All of these organisations work in countries that have experienced housing crises affecting the urban poor. Their message was unanimous: forced evictions will not resolve the housing problem. Instead, affected communities must work together with the local government, civil society and professional urban planners to survey and map the affected areas and develop alternative plans.

Conclusion

These initiatives have collectively blocked the intended demolitions and favoured negotiations between the various parties involved.

Discussions held thus far with the government have involved the possibility of voluntary relocation of some of the residents. The proposed location, about 40 kilometres from the slum, is not acceptable to the community as this would take people further away from their work and sources of income.

Reported Case 4 – New York City, United States of America

The cases submitted to AGFE have clearly illustrated that housing rights violations and evictions are by no means limited to poor and developing countries. In 1937, slum-dwellers and activists in the United States won the battle to create publicly funded housing for low-income people. However Public Housing is now facing increasing insecurity, resulting in increasing housing deprivation for the poor. The federal government has reduced funding year after year and has introduced legislation to chip away at the structures that keep public housing affordable to low-income residents.

Furthermore, the government is decreasing the amount of public housing units through various means. There is currently a moratorium on public housing, making it illegal to build new units, while federal funding for public housing is 19% less than it was at the beginning of the Bush administration with drastic cuts planned for fiscal year 2005. There is an annual loss of housing units leading to a constant depletion in the housing stock. For example, HUD's annual plan for Hope VI for 2002, contains the goal of demolishing 78 259 units of public housing and replacing them with 33 853 new units, for a net loss of 44 406 units. While federal policies are reducing the number of housing units nationally and in New York City, residents also face controversial eviction policies.

Although the *1937 Housing Act* was an impressive victory, public housing residents have always had to fight to keep their housing, and at no time has it been in more danger than it is now. Public housing resident and activist, Sylvia Velazquez explains the growing insecurity:

“Residents believe that because they work and pay their rent, nothing can happen to their tenancy. This is a very serious mistake.”¹¹

“Public housing and its residents have been under attack...without restraint, reservation or regard.... The 1937 Housing Act accomplished what it was created for: it provided clean, decent, affordable housing for thousands of people in this city and throughout the country.... If today public housing is deemed a failure, then everyone responsible must accept their share of the blame. From the mayors to their appointees, contractors to designers and inspectors, HUD's massive budget cuts to the police merger, and last but not least, the compromising of the rules,

¹¹ Sylvia Velazquez, (2004), NYC Public Housing Resident Alliance News Release.

regulations and standards by our landlord, 'the Housing Authority'.

"If today the taxpayers are impatient with the spending of federal dollars on public housing, so are we the recipients, who have lived and witnessed the waste and mismanagement of those dollars.... Our developments deteriorate with age as the funding which maintains, operates, and modernizes our developments has systematically, severely, and massively been slashed. Our voices of concern fall on deaf ears. We have no choices, no real input and make no real decisions."¹²

New York City Public Housing

New York City runs the largest public housing programme in the United States, with the second-largest programme of Chicago being only one-fourth of the size. There are 175 335 households living in public housing with almost as many (namely 142 514) on the waiting list. Public housing constitutes 8.6% of the city's rental apartments and houses 5.2% of the city's population.

The population remains highly segregated as 53% of residents are African-American, 36% are Latino, 8% are white and 3% are other. There is a mixed-income policy leading to only 55% of resident households having incomes below the federal poverty line and 53% on public assistance. The average household income is US\$ 17 712 a year.

Current Attacks on Public Housing in New York City

The federal government is trying to extract itself from the responsibilities of the provision of public housing. It is doing this through encouraging privatization, pushing the financing responsibilities onto state and city governments, and promoting legislation to make it easier for public housing residents to be evicted. Public housing programmes around the country are in crisis as units are being destroyed, there is insufficient funding for maintenance of existing buildings, and there is a moratorium on the construction of new buildings. Section 8, which has been a fall-back for people pushed out of public housing, is losing funding; fewer vouchers are being issued; the original 20-year contracts between owners and the federal government are running out leading to rising rents; while waiting lists are longer than they have ever been.

¹² Sylvia Velazquez, (2004), *Public Housing in the United States: A Tenant's View*



Photo: COHRE.

Less space for public housing – Harlem, New York City, 2004

The ‘Superwaiver’

One of the most pressing issues residents are mobilizing to stop is the passage of a ‘superwaiver’ – a proposal which was introduced as part of a funding re-authorisation process of a larger welfare Bill, the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*.

The superwaiver would give state governors the power to waive federal regulations on some social services, including public housing and homelessness programmes. This would give state governments the ability to halt all state funding for such programmes, to set time limits for residents, to make residents pay more of their income for rent, and to accept people with higher incomes into public housing who would pay higher rent - thus supplanting lower-income residents in order to finance operating costs.

Evictions

One of the most egregious policies by which residents can be evicted is through what is termed ‘chronic rent delinquency’. Whereas private landlords will only sue to evict a tenant after a significant violation of their lease, the New York City Housing Authority will begin eviction procedures after a resident is several days late in paying their rent three times in a row. Advocacy groups such as Legal Aid Society argue that this is particularly strict, as a resident who pays their rent, yet pays it on the 6th day of the month instead of the 1st of the month is subject to eviction.

At the federal level, Congress passed the *Anti-Drug Abuse Act* in 1988 (amended in 1990) making it possible for a tenant to be evicted for any drug-related offence committed by a member of the household or a guest, even if the tenant had no knowledge of the activity, any reason to know of the activity, or did everything possible to stop the activity. The resident can be evicted after only one offence and even if the activity did not occur on HUD property.

Judith Goldiner of Legal Aid Society and Sheila Crowley of the National Low Income

Housing Coalition argue that these policies treat residents of public housing more harshly and unreasonably than other renters or homeowners in the US. Crowley contends that “[t]he decision by the Supreme Court to uphold the ‘one strike’ rule serves to deepen the chasm of inequity between people who are poor and everyone else. Because they receive federal housing assistance and therefore the rules governing their tenancy can be legislated by Congress, public housing residents are more vulnerable to losing their homes through no fault of their own than anyone else.”¹³

Policy discrimination against women and people of colour

Current federal laws have also garnered criticism for discriminating against women in evictions. The same *Anti-Drug Abuse Act* of 1988 has been used by housing authorities to evict households after only one offence for other illegal activities, such as domestic violence. However, several women have launched lawsuits arguing that this is treating the victim unfairly by evicting the person who was abused along with the abuser. Michael Steinberg, Legal Director of the ACLU of Michigan, argues that this policy “overwhelmingly harms women”, as women are the victims of domestic violence up to 95 % of the time. While women have won several cases against their local housing authorities, not all women are aware that they can take such actions when they have been evicted and the issue has not been addressed at the federal legislative level, but only on a case-by-case basis.

While problems persist at the federal level, some progress against discrimination has been made in New York City. In the 1990s, NYCHA was criticized for discriminating against people of colour in admission policies. Legal Aid Society participated in the lawsuit *Davis vs. NYCHA*, in which it was alleged that there were some housing developments that were considered to be for white people, while black people were not being told about vacancies. The Housing Authority settled out of court and agreed to a centralized, computerized admissions procedure.

The Community Service Mandate

Residents also face a requirement to participate in eight hours of community service each month or risk eviction for their entire family. The federal government passed the *Quality Housing and Work Responsibility Act* in 1998 and although New York politicians and public housing residents have been strongly opposed to it, NYCHA is required by federal law to implement it. Despite efforts since 1998 to de-fund the programme, the legislation eventually took effect in January 2004.

The program is widely regarded as an attack on public housing residents. City Council member Charles Barron of Brooklyn expressed his outrage in the *Gotham Gazette*, saying: “People are already living under challenging conditions in public housing. To now enforce an eight hour rule is an attempt to get some cheap slave labour. This will add to homelessness.”¹⁴

There are exemptions to the requirement, including but not limited to people under 18 years

¹³ Crowley, S., (2002), *Statement of Sheila Crowley, President, National Low Income Housing Coalition on the Supreme Court’s decision in the case of HUD vs Rucker*. National Low Income Housing Coalition.

¹⁴ The *Gotham Gazette*, 2004, “The Community Service Requirement in Public Housing”, January 2004.

old, over 62 years old, people with disabilities, people receiving public assistance, people in school, and people working a certain amount of hours per week, such as a single person with no children under 13 who earns at least US\$ 8 034 a year or works over 30 hours per week.

It is in each city's power, rather than the federal government, to decide what exemptions are given. Many cities have offered broad exemptions because the legislation is unfunded and they do not have the resources to organize the programme without taking from other services. Nevertheless, NYCHA has been criticized for not offering even broader exemptions, following cities like Chicago, which exempts single residents if they work 10 hours a week or more, rather than 30.

Community Responses: New York City Public Housing Resident Alliance

The NYC Public Housing Resident Alliance (NYCHRA) was formed in 1996 as a city-wide organisation of concerned public housing residents seeking to improve homes and communities. The Alliance also identified a need for New York public housing residents and leaders to be educated about major changes to public housing policy under consideration in Congress, so as to have a strong and effective voice and secure greater accountability in local, state and federal policy decisions that affect public housing in New York.

Since its inception in 1996, the Alliance has demonstrated that an informed resident voice promotes participation both in federal legislation and in housing authority decisions. The Alliance has involved thousands of New York City public housing residents in letter-writing campaigns, speaking out at public hearings and participating in protests. In addition to protesting against NYCHA or HUD plans, the Alliance and residents inform themselves about policies and advocate to make these more suitable, as well as planning their own programmes.

When the repeal of the Brooke Amendment (which kept rents at 30% of a resident's income) was being debated in 1996, the Alliance initiated a letter-writing campaign, which helped to stop the Bill. In 1997, when NYCHA applied for a HUD 'Moving to Work' demonstration programme that would deregulate NYCHA and abolish ceiling rents, the Alliance spread information about the plan and mobilized hundreds of residents to protest. This resulted in the withdrawal of the application by the NYCHA. The Alliance has been active in informing residents about the implications of the *Quality Housing and Work Responsibility Act of 1998*, at first to advocate against parts of it and later to educate people about the new requirements. The Alliance undertook this initiative as NYCHA was not properly disseminating information. In order to educate residents, the Alliance conducted several city-wide forums, organized over 1 500 residents to attend hearings and sponsored a televised programme.

The future of the alliance

The Alliance continues to fight for the repeal of the Community Service Mandate, in particular, to reach out to other groups and organisations around the country to write letters and meet with their Representatives to urge them to sign on to Charles Rangle's Bill '*H.R. 1431*' calling for the repeal of the Community Service Mandate. Until recently, the Alliance has focused on

advocating among New York City public housing residents. However, they have also initiated efforts to reach out to residents from other cities in order to have a stronger voice in addressing issues of common concern at the federal level.

In its eight years, the Resident Alliance has grown and become respected as a strong, articulate voice of residents around the city of New York. They plan to lobby more young people between the ages of 25 and 30 who are not as yet involved in the fight for their public housing. In addition to linking with other residents around the United States, Alliance members have also identified the need and value in establishing relationships globally in order to learn from and share strategies with other people who are fighting for adequate housing and against evictions.

The Alliance is also supported in its efforts by other groups and agencies such as the following:

- Community Service Society
- Jobs with Justice
- Legal Aid Society
- National Congress of Neighbourhood Women
- Huairou Commission

Calls for support

The Resident Alliance has called for assistance to bring visibility to the tactics of the United States federal government against public housing in order to put pressure on the government to change its policies. They also want to establish relationships with other groups and organisations around the world that are fighting similar challenges to learn and share tactics for organizing and advocating against such legislation, policies and practice.

Reported Case 5 – Gypsies and Travellers in the UK

Introduction

Travellers and Gypsies¹⁵ are one of the most vulnerable and marginalized 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 housing rights.

Of the 200 000 - 300 000 Gypsies and Travellers in the UK, Romani Gypsies (who have been in England since the early 16th century) constitute the largest group. Gypsies have been recognised as a racial group in the UK since 1988, while Irish Travellers received such legal recognition in 2000. As such, Gypsies and Travellers are protected by the 1976 *Race Relations Act*, which makes it unlawful to treat someone less favourably on grounds of colour, race, nationality or ethnic or national origins. Alongside this ethnic definition, the legal definition of a ‘Gypsy’

¹⁵ 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.

encompasses ‘persons of nomadic habit of life, whatever their race or origin’. Such definition excludes persons who wander or travel for the purpose of making or seeking their livelihood. The absence of precise and reliable data on the Gypsy and Traveller population in the UK implies that little is known about their experience and needs, as well as the difficulties they are facing in different sectors, including employment and access to basic services. In policy-making terms, the absence of clear statistical data regarding Gypsies and Travellers raises concerns regarding the adequacy and efficiency of policies and programmes aimed at addressing their situation, notably with regard to housing.

Today, not all ethnic Gypsies and Travellers travel regularly and different travelling patterns can be found, including nomadic groups, partly nomadic ones or communities no longer living a nomadic way of life but settled in housing or caravans on public or private sites. This move from a traditionally nomadic lifestyle to a more sedentary one can be explained by different factors, including the restrictions on education and healthcare that a nomadic lifestyle places upon a family.

The current legislation, which criminalises Gypsies and Travellers from stopping anywhere along the road, together with the fact that public caravan sites are being reduced and are often inadequate, also constitute important factors explaining why this group is becoming more and more sedentary. However, a large psychological barrier to living in a built home remains, and psychological and physical problems often ensue after a Gypsy or Traveller has moved into a bricks and mortar house. Many Gypsy and Traveller communities still want to live in their caravans, albeit that the caravans may be standing still. Hence, they face serious difficulties and constraints due, among other factors, to the existing legislation and prejudices against them.



Photo: COHRE

**Two UK Gypsies outside their caravan at Woodside, UK.
This couple have resisted eviction for years to protect their lifestyle.**

Entrenched Discrimination against Gypsies and Travellers

As Gypsies and Travellers have a different lifestyle which does not fit into the mainstream society's values, prejudices and stereotypes against them remain prevalent throughout the country. The mainstream population remains reluctant to interact with Gypsy and Traveller communities and does not welcome the settlement of communities around their neighbourhoods. The media, often using racist language and referring to negative stereotypes about Gypsies and Travellers, tends to legitimise existing discrimination and prejudices against them.

Such discrimination against Gypsies and Travellers affects different areas of their social life, including housing and access to basic services. Reported manifestations of such discrimination include the difficulties faced by them to acquire planning permissions, refusals to settle in specific areas or enter specific places, as well as violent attacks against them. For instance, holiday parks are suddenly full when Gypsy and Traveller caravans drive in, with signs at the entrance notifying that 'no van dwellers' are admitted. Such discriminatory signs and advertisements also appear in pubs and other public spaces, in blatant breach of the law.

While these prejudices clearly fuel existing discriminatory practices against the Gypsy and Traveller communities, interviews conducted during a COHRE fact-finding mission highlighted that genuine concerns expressed by the local communities had to be taken into account in order to address the overall discrimination faced by Gypsies and Travellers. Hence, in some instances, dialogue has taken place between the local communities and Gypsies and Travellers. These discussions have often resulted in innovative proposals to address the housing situation of Gypsies and Travellers. For instance, in a joint statement the Cottenham Resident's Association and the Gypsy & Traveller Law Reform Coalition stressed the need to meet accommodation needs of the Gypsy and Travellers communities in a way that would respect their traditional way of life.

Legal and policy interventions

In the 1960s, Gypsy and Traveller communities faced forced eviction by the police and bulldozers from land which they had often bought. This crisis led to a number of Gypsies and Travellers organizing themselves into policy reform groups. The 'Gypsy Council' as it was called, was originally founded in 1966, leading to the formation of the first World Romani Congress in 1971.

Due to the rising pressure of these groups and their sympathizers, the UK government introduced the 1968 *Caravan Site Act*, which provided in Section 6 that it should be the duty of local authorities to provide adequate accommodation for Gypsies and Travellers living under or resorting to their jurisdictions. As such, the Secretary of State could direct local authorities to provide caravan sites where deemed necessary. These sites were to be different to the normal transit sites in that they were sites where the Gypsies and Travellers could park their caravans without fear, knowing that it was safe and that there would be space for them.

The *Criminal Justice and Public Order Act* of 3 November 1994 repealed Sections 6-12 of the 1968 *Caravan Site Act*, removing local authorities' obligations to provide sites for Gypsies and

Travellers. The government explained this change by the fact that the public provision of sites had reached acceptable levels; that it was not in the public interest to maintain an open-ended commitment to provide sites for all Gypsies and Travellers seeking accommodation at public expense; and that the right approach was to encourage more Gypsies and Travellers to establish their own sites through the planning system.

The 1994 *Act* also introduced enhanced powers for local authorities and the police to remove unauthorised camping by Gypsies and Travellers. Section 77 of the 1994 *Act* provided the authority to local authorities to direct an unauthorised camper to move. An unauthorised camper is defined, under this section, as “(...) a person for the time being residing in a vehicle on any land forming part of the highway, any other unoccupied land or any occupied land without the owner’s consent”¹⁶. A failure to comply with such a direction, or re-entry upon the land within three months, is considered as a criminal offence. Under section 78 of the 1994 *Act*, local authorities can apply to a magistrates’ court for an order authorising them to remove unauthorised campers.

While this Act gave sweeping powers to local authorities to move Gypsies and Travellers from any highway, as well as unoccupied or occupied land, a guidance issued by the Secretary of State on 23 November 1994 (*Circular 18/94*) required local authorities to adopt a “policy of toleration towards unauthorised gypsy encampments” and stressed that “local authorities should not use their powers to evict gypsies needlessly”.¹⁷ The *Circular 18/94* also required local authorities to consider their obligations under other legislation (including the duties concerning pregnant women and newly born children, the welfare and education of children and the housing of homeless persons) before taking any decision in terms of the 1994 *Act*. In addition, in accordance with *Circular 18/94*, local authorities were expected to retain and maintain existing sites and could still use the 1960 *Caravan Sites and Control of Development Act* to provide new sites where needed. However, practice highlights that local authorities have hardly taken into account recommendations encompassed in this document.

Circular 1/94, adopted along with the 1994 *Act*, also advised Local Councils to help Gypsy and Traveller families to find land. *Circular 1/94* replaced the duty contained in the 1968 *Act* and was supposed to create a relationship between local authorities and Gypsies and Travellers by which the former would assist the latter to purchase their own land and develop sites. As a result of *Circular 1/94*, many Gypsy and Traveller families invested their own money into purchasing land with the belief that they would be given planning permission to develop their own sites. However, the circular failed to produce the expected results, in part because as a recommendation, it did not specifically mandate local authorities to provide such assistance to Gypsies and Travellers. In addition, some local authorities developed strict sets of criteria to obtain planning permission - thus rendering the obtaining of planning permission almost impossible for Gypsies and Travellers

The current situation in the UK continues to be regulated by the 1994 *Act*. Its implementation

¹⁶ Criminal Justice and Public Order Act of 1994, Section 77 as quoted in COHRE, 2004, Initial Report of Fact-finding Mission to the UK.

¹⁷ UK Secretary of State, (2004), *Circular 18/94* as quoted in COHRE, 2004, *Initial Report of Fact-finding Mission to the UK*.

has had the expected and desired result, i.e. encouraging Gypsies and Travellers to establish their own sites through the planning process. Although it could be assumed that such an outcome is the result of the implementation of a policy or programmes to promote and support land purchase by Gypsies and Travellers (as recommended by *Circular 1/94*), such measures have not been put in place. Gypsies and Travellers have received little, if any, guidance from local authorities on this matter.

The Dale Farm case

A Traveller Community which has recently been threatened with eviction is resident on the property known as 'Dale Farm' in Oak Lane, Crays Hill near Basildon in the county of Essex in England. The farm is rural and located in the midst of fields, although close to the urban area of Basildon. The land is owned by the resident Traveller community. Some members of the community have lived on the farm since the 1960s. Others have joined over time, resulting in the gradual expansion of the community over time. Many of the people currently on the land are 'internal refugees' who were displaced from evictions ordered against them elsewhere.

The community, which comprises approximately 1 000 people (including families and children) has to contend with the fact that almost half of the residents of the community face eviction due to a lack of planning permission to reside on the farm. Fifty of the family caravan plots have Enforcement Notices placed on them.

Evictions are now threatened in the case of plots which were built on land previously used as a scrap metal yard. The main reason given by the authorities for the eviction is the apparent 'Green Belt' status of the land – this despite it having been used as a scrap yard previously. The responsible authority is the Basildon District Council.

Opposition to the Travellers living on Dale Farm has existed in the area for several years. This opposition is now led by the local Conservative Party Member of Parliament, who introduced the *Green Belt Bill* into Parliament, which was intended to increase legal powers to evict people. The Bill was fortunately defeated in Parliament.

For the Traveller Community, 13 May 2005 will be a critical date in their struggle to remain on the farm. This is the day when the two-year suspension of the 50 outstanding Enforcement Notices will expire. The affected members of the community will submit new planning applications and the Trans-European Roma Federation (TERF) is also seeking a meeting with the Basildon District Council to discuss the future of the community. A critical focus issue for this discussion will be clarification of the Council's position regarding any consideration being given to options to re-accommodate the affected families if they are evicted. In addition to TERF, the National Travellers Action Group and the National Association of Gypsy Women are supporting the Dale Farm Travellers Community in their efforts to protect and assert their rights to remain on the farm.

The Commission on Racial Equality has sent also letters to the Council focusing attention on the need to consider the future fate of the Traveller Community if eviction goes ahead after 13 May 2005. It has been pointed out to the District Council that it has particular duties and

obligations in terms of the *Race Relations Act* as Travellers are a recognised ethnic group.

Suggested alternatives to the proposed eviction are the following:

- the granting of planning permission where needed by affected families resident on the farm;
- an offer of suitable alternative land by the District Council for the use of members of the Travellers Community.

Possible actions in support of Gypsies and Travellers in the United Kingdom

- Lobby the United Kingdom government to introduce a statutory obligation to be placed on all local authorities to meet the accommodation needs of Gypsies and Travellers in a way that would respect their traditional way of life. This would include the provision of adequate sites (both public and private), as well as residential and transit sites. Such statutory duty is currently included in the Commission on Racial Equality (CRE) draft for the *Housing Bill*.
- Make representations to the UK government to develop and implement a coherent and clear national policy towards accommodation for Gypsies and Travellers. This could include the obligation to undertake periodical review of housing needs, incorporating Gypsies and Travellers into an housing accommodation needs assessment.
- There is a need to make planning permissions processes easier for Gypsies and Travellers and to put in place favourable treatment for Gypsies and Travellers throughout the planning process.
- Most Gypsies and Travellers have limited knowledge about the planning system and regulations. As such, they are vulnerable to abuses and are often unable to understand or engage effectively with the requirements of the planning systems. Steps should be taken to improve their access to information and capacity to use it.

Reported Case 6 - Kampala, Uganda

In 2002, approximately 1 500 people living on the Naguru and Nakawa estates in Kampala, Uganda were threatened with eviction by the Kampala City Council which intended to use the land for the construction of retail and middle-income housing.

The community was assisted locally by Evelyn Nassuna, Naguru and Nakawa Estates Tenants Organisation. The organisation was supported in its efforts by a Member of Parliament, and also by COHRE, which on their request submitted a Protest Letter to the Government of Uganda, the Kampala City Council, and Members of Parliament on the committee that needed to approve the evictions, and the media.

A few weeks after the submission of the protest letter, the following correspondence was

received from a local COHRE contact:

“I am happy to inform you that ... the President of Uganda [has just] intervened to stop the eviction of tenants from both Estates. He did not agree with Kampala City Council, when it argued that people had to be evicted so that KCC should erect a modern satellite city in the area. Instead, he said that housing units for low income people should be put up. The challenge now is whether government is really committed to redeveloping the area in favour of the tenants. People are a little bit suspicious of the President, and they are saying that the President might have halted the evictions in preparations for elections campaigns that will kick off sometime next year.”¹⁸

Such successes may be small but they are significant. They illustrate the importance of a community-driven process, supported by organisations at different levels, each playing their part in convincing the relevant authorities that an alternative to eviction is possible. However, simply halting an eviction is not sufficient. Further work would be required to gain security of tenure for the residents, and also to initiate processes to realise all dimensions of their right to adequate housing.

Since 2003 UN-HABITAT has engaged with the Government of Uganda and other stakeholders, including community organisations, in a Secure Tenure Campaign that has brought together all protagonists. The aim of the campaign is to ensure that the urban poor’s right to the city is recognised and protected and that no forced evictions will take place in Kampala or other Ugandan city or town. The campaign is supported by a ‘Cities without Slums’ programme in the city of Kampala that will translate the outputs of the campaign into concrete actions including the revision of the existing land and tenure systems, capacity building of all partners in view of engaging in city-wide, participatory, slum-upgrading programmes. It is expected that an action plan, based on the recognition of housing rights principles, will be adopted on a consensual basis and officially launched at the end of 2005. AGFE intends to monitor and work with this process to ensure that the number of forced evictions in Uganda is significantly reduced.

Reported Case 7 - Digya National Park, Ghana

The indigenous community which was threatened with eviction reside in Digya National Park, Afram Plain District, Ghana. The Government of Ghana threatened the community with eviction in June 2002 as they resided in a forest reserve which did not allow for human habitation. This was despite the fact that the community had resided in, and lived in harmony with, the forest for some forty years. The community, numbering approximately 7 000 canoe fisherman, has lived in the forest reserve since the 1960s. They had migrated to the area after being displaced after their source of livelihood was cut off by the construction of the Akosombo Dam.

The community was threatened with eviction in June 2002. In early 2003, COHRE provided a legal memorandum and supporting documentation to its locally-based partner, the Centre for Public Interest Law (CEPIL). 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. In January 2003, legal arguments and documentation were relayed by CEPIL to the Minister for Land and Forestry in Accra, Ghana. The Minister responded to the concerns raised

¹⁸ COHRE, (2004), Priority Eviction Case Report, Kampala, Uganda.

by CEPIL in the letter and directed that the planned eviction be suspended within days after receiving this information.

This case illustrates that informed support for affected communities by local and international agencies can positively influence government departments and provide appropriate resources for advocating on human rights issues within the context of accepted international law and practise. However, it is acknowledged that simply halting a threatened eviction is not sufficient, at least until security of tenure has been guaranteed by the State. Indeed, local sources have recently indicated that there is renewed talk of moving the inhabitants from the forest reserve. Efforts to achieve full security of tenure for the occupants should and do continue.

Reported Case 8 – North Railway and other evictions, Philippines

Introduction

The Government of the Philippines has initiated infrastructure programmes to develop Metropolitan Manila into a prime city comparable to others in neighbouring countries. Metropolitan Manila is home to 10 million people, 4 million of whom are poor and live below the poverty line. These infrastructure programmes would affect approximately half a million of the urban poor population who live in slum communities. There are some 276 recorded slum areas in Metropolitan Manila, which are home to 223 947 families. At approximately five members per family, the number of slum dwellers totals more than one million people. These families live either on government or private property.

According to the Task Force Detainees of the Philippines, between January to June 2003, demolitions resulted in 8 289 people becoming victims of human rights abuses. The bulk of these abuses took place in the National Capital Region with four cases recorded which involved 8 070 people.

The widening of the Philippine National Railway in the south of Manila and the revival of the railway in the north of Manila is a large infrastructure project that will result in widespread evictions. The project will affect at least 15 000 families in the south portion and at least 70 000 families in the north portion. Twenty percent of the population of these areas have been resident for more than 20 years, 40% for more than 10 years, 10% have stayed between 7-10 years, 20% between 3-6 years, while 10% are relatively new. Almost all the residents originally came from rural communities and moved to the city looking for work as they lost their land in the provinces or had no alternatives sources of income. Families living along the railways work as vendors, peddlers, small store owners, factory workers, drivers, or are engaged in informal work.

The government's offer to relocate families to another site is not acceptable to those families who are scheduled for eviction, amongst other reasons because the relocation sites being offered are distant from their existing homes and current sources of livelihood. In addition to the lack of livelihood opportunities in the relocation sites, these sites also lack essential social services

such as schools, health care, drainage, potable water or electricity.

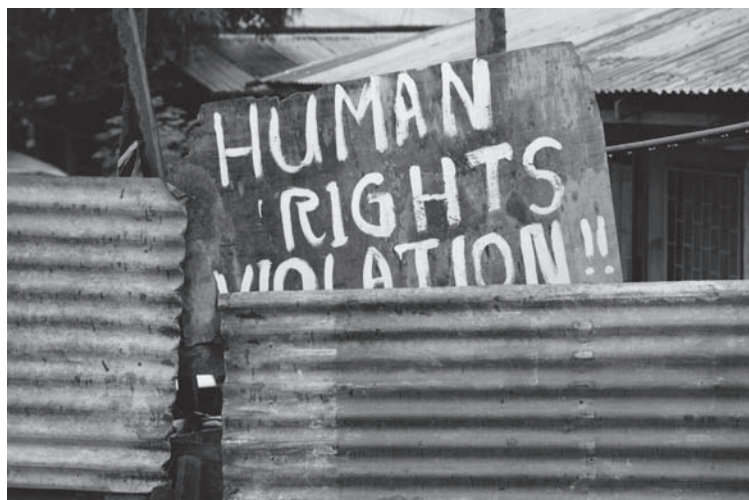


Photo: COHRE

Community resistance against evictions, Philippines

The North Railway Project

The North Railway Project will be constructed from Caloocan City in the heart of Manila up to the northern region of Ilocos. This project aims to revive and modernize the rail transport north of Manila which has been abandoned for a quarter of a century. The project has various phases for implementation, namely

- Phase I : Caloocan City to Malolos, Bulacan.
- Phase II : From Bulacan province to the Subic Freeport Zone in Zambales province.
- Phase III : From Caloocan to the Fort Bonifacio Global City in Taguig.
- Phase IV : Extends all the way to the north to San Fernando, La Union passing through Pampanga, Tarlac and Pangasinan provinces.

The project will affect 70 000 families who have lived in the area between five and forty years. Their houses have to give way for the construction of the railway that will modernize transportation to and from Metro Manila and the north of the island of Luzon. An amount of US\$ 400 million is being allotted for Phase 1 of the project. The total project cost is estimated at US\$ 26.1 billion.

The Government Development Plan

In September 1994, a Memorandum of Understanding (MOU) was signed between President Fidel V. Ramos and King Juan Carlos of Spain to jointly develop the rail system to Northern Luzon. Subsequently, a Joint Venture Agreement (JVA) was agreed upon on 10 June 1995 between the Bases Conversion Development Authority (BCDA), the Philippine National Railways (PNR), the Spanish Railways Corporation (SRG), and the Euroma Development Corporation. This Joint Venture was intended to accelerate the development of infrastructure and the delivery of basic services at a pace synchronized with the vision of Philippines 2000.

On 7 February 1996, an Engineering, Procurement and Construction (EPC) Contract was executed between NorthRail and the SRG which is composed of Construcciones y Auxiliar de Ferrocarriles (rolling stock), Cobra Instalaciones y Servicios (electrification, signalling and communications) and Cubiertas y Entrecanales (civil works). This was terminated on 14 August 1998 as parties could not agree on the Guaranteed Maximum Price.

On 8 February 1996, the JVA was amended to include D.M. Consunji, Inc. (DMCI) as private sector investor. Subsequently, on 17 July 1996, Fort Bonifacio Development Corporation (FBDC) and Metro Pacific Corporation (MPC) were also included as private sector investors.

On 17 July 1996, the NorthRail Board resolved to increase its NorthRail's authorized capitalization. However, on 13 May 1997, the application for the increase in authorized capital stock was withdrawn to comply with the Obuchi Fund requirement that the Borrower had to be wholly owned by the Philippine Government.

In September 1999, the NEDA-Investment Co-ordinating Committee (NEDA-ICC) approved the Manila-Clark Rapid Railway System (NorthRail Project Phase 1 - Caloocan to Calumpit) with Japan Bank of International Co-operation (JBIC Obuchi Fund) as the source of funding. As part of the JBIC requirement, the initial relocation activities were undertaken by NorthRail at Caloocan on November 2000. However in February 2001, a Presidential Directive was issued declaring a moratorium on demolition and relocation activities.

The NorthRail Project was included in the 8-Point Agenda (priority projects) of President Gloria Macapagal-Arroyo. Thus, on 14 September 2002, a Memorandum of Understanding was signed between NorthRail and the China National Machinery and Equipment Group (CNMEG). The Feasibility Study of the NorthRail Project was updated to incorporate the presidential instruction that the new alignment would be from Caloocan to Malolos, among others.

On 5 August 2003, the NEDA-ICC approved the NorthRail Project Phase 1, Section 1 (Caloocan to Malolos) with the CNMEG proposal as financing facility. On 20 August 2003, a Memorandum of Understanding was signed between the Department of Finance and the Export-Import Bank of China for the utilization of US\$ 400 million for the construction of the NorthRail Project Phase 1, Section 1.

Implementing agencies for the evictions

The following have been identified as the implementing agents for the evictions, namely

- Housing and Urban Development Co-ordinating Council (HUDCC)
- Presidential Commission for the Urban Poor (PCUP)
- National Housing Authority
- Philippine National Railways
- National Development Company
- North Luzon Railway Corp.
- Bases Conversion Development Authority

- Local Governments of affected communities.

Residents' responses to the proposed evictions

Residents have resisted the proposed evictions. Should eviction become inevitable, they have stated that they want either relocation to a nearby area so that they will not be displaced from their places of livelihood and social support systems such as children's education facilities and families or alternatively, relocation to an area that has existing livelihood opportunities and social service facilities.

The government is preparing two relocation areas, namely Towerville in San Jose del Monte, Bulacan for residents of Caloocan City and Norzagaray in Bulacan for residents of Malolos, Bulacan.

The Towerville relocation area has been used as relocation for victims of demolition in other parts of Metropolitan Manila for the past ten years. The earlier evacuees have managed to develop some social support systems, but the provision of government social services such as health and education is still poor - for example there is no high school in the area. An issue of particular concern is that Towerville is at least 40 kilometres away from Caloocan City and thus far from the livelihood sources of the affected people.

In Caloocan City, 433 families were scheduled to be relocated in January 2004 to Towerville. These families defied the Housing and Urban Development Co-ordinating Council, the Presidential Commission for the Urban Poor, the National Housing Authority and the Philippine National Railways. They ignored a 30-day notice of eviction issued by the Caloocan City government on 15 January 2004. The Head of the Caloocan Urban Poor Affairs Office, Violeta Gonzales said the government would have to relocate the families forcibly if they did not leave in 10 days.

In Sangandaan, another part of Caloocan City, 350 families protested their relocation to the Towerville subdivision relocation site in San Jose del Monte, Bulacan in February 2003. These families were prepared to 'defend their homes' from the demolition crew. The protesting residents claimed that they had lived along the PNR railroad track in Caloocan, Malabon, and Valenzuela cities for over 30 years, and said they would not settle for a relocation site that offered poor living conditions far from their sources of livelihood. They ignored the 30-day notice of eviction issued by the Caloocan City government on 15 January 2003.

The Bulacan relocation site would entail an additional expense ranging from P70 to P80 daily for transportation. Due to this, most of those who had already relocated to the area have subsequently sold their rights and returned as squatters to Metro Manila.

Construction delays and budget constraints

The Philippine Government is preparing another relocation site, the Bulacan Housing and Agro-Industrial Project (BUHAI) in Norzagaray, Bulacan to accommodate the families that would be affected by the project in Malolos, Bulacan. Although this site is supposed to accommodate 10 000 housing units, only 60 houses had been built by August 2003. Of additional concern is

the fact that the BUHAI project can only accommodate 1/7 of the total families affected.

Media reports in Malolos state that residents are already being evicted in terms of the North Railway Project. Occupants of the area deny this however, saying that such reports have scared other occupants. A government representative, Alex Flores of the Project Management Office (a division of the provincial government which handles issues of the relocation of informal dwellers along the PNR right of way), said that as of February 2004, only 60 houses out of the targeted 10 000 houses had been built. The housing project is thus behind schedule.

Apart from the delays in construction, there is also a lack of preparation for the establishment of a local interagency council that would oversee the relocation process of families affected by the project. This council should be composed of urban poor leaders, representatives from the National Housing Authority, the Housing and Urban Development Co-ordinating Council, PNR and North Rail, the Department of Social Welfare and Development, the local police, human rights groups and other concerned government agencies.

The Philippine government requires 4 billion pesos to relocate all the 70 000 affected families. However the National Housing Authority (NHA) currently has only 550 million pesos available for relocation. An agreement has been reached that a semi-government facility, the National Development Company (NDC) will provide the NHA with additional funding requirements for the resettlement programme. The amount will be sourced from NDC development bonds.

Other eviction threats as a result of government infrastructure projects (as reported by Urban Poor Associates)

<p>Radial Road 10</p>	<p>A road widening project along the piers of Delpan to Navotas. The existing concrete road was funded by the Overseas Economic Co-operation Fund of Japan (OECF) and the widening will be funded by the National Government.</p> <p>Based on the latest census conducted by the Department of Public Works and Highways (DPWH), the number of urban families to be affected by the construction is estimated at 10 000. These families have stayed in the area for a minimum of two years and a maximum of ten years.</p>
<p>Circumferential Road 5</p>	<p>A project requiring the construction of a circumferential road which starts from C.P. Garcia Street at the University of the Philippines in Diliman, Quezon City and ends at Letre Road in Malabon.</p> <p>The total number of urban poor families affected by the project is estimated at more than 10 000. Their length of stay in the area average from seven to 15 years.</p> <p>The majority of the residents derive their livelihood by working as drivers, vendors, factory workers, mechanics, sewers, sari store owners, tricycle/ jeepney/taxi operators, and as construction workers.</p>

<p>Pasig River Rehabilitation Programme</p>	<p>This area is bounded by the municipalities of San Juan, Pateros, Taguig and the cities of Manila, Makati, Mandaluyong, Pasig, Marikina and Quezon City. It stretches from Manila Bay for approximately 25 kilometres to Laguna Lake.</p> <p>The DENR-River Rehabilitation Secretariat (a technical arm of the PRRP) estimates that about 9 000-10 000 families live along the easements (the main river). This estimate represents a reduced population as the government had already relocated 2 000 families who lived on stilt houses along the river to Dasmari Cavite.</p> <p>The people are mostly informal workers - vendors, stevedores and drivers. Others are employed in nearby private and public companies and factories. Many of them have been in the communities since birth. The length of stay ranges from 6 to 70 years.</p> <p>Reason given for demolition: for parks, roads and beautification of the river and its environs as mandated in the PRRP. Another reason: to facilitate construction of townhouses for young professionals.</p>
<p>National Government Centre Housing Project</p>	<p>This involves the construction of medium-rise buildings and a 100-metre wide Economic or Enterprise Zone fronting Commonwealth Avenue. The zone will be allocated to shops and businesses, including residential areas.</p> <p>The NGC, situated near the Batasan Complex in Quezon City, forms the largest concentration of urban poor families in the entire Philippines. Some 42 000 families or 250 000 individuals reside in the NGC area covering Barangays Batasan Hills, Commonwealth, Holy Spirit, and Payatas A for a total area of 350 hectares.</p> <p>Some 6 000 families are set to be evicted from their homes for the establishment of the Economic or Enterprise Zone. The majority of the residents have lived in the area for almost 10 years.</p>
<p>Intramuros (Maestranza Compound) Beautification and Historical Parks, Commercial Development projects</p>	<p>The project aims to develop the Intramuros area into a tourist destination by highlighting its historical and commercial value.</p> <p>Approximately 800 urban poor families will be affected by the project. These families derive their income by working as construction workers, vendors, sidecar drivers, stevedores, and waterboys.</p>

Documented demolitions: January to June 2003 (as reported by Urban Poor Associates)

<p>6 March: In front of Sandigan Commonwealth Avenue, Quezon City</p>	<p>Fifty residential / commercial structures were demolished by the DPWH for the government's road widening project. The affected families were offered resettlement in Bitungol, Norzagaray, Bulacan. They received notices of demolition in January 2003. The DPWH had no prior clearance from PCUP. The families complained about MMDA confiscation of their possessions such as cooking utensils and furniture.</p>
<p>7 March: Panama Veterans Village Brgy. Holy Spirit, Quezon City</p>	<p>Three hundred families lost their houses during a demolition ordered by the Court. They lost their ejectment case at the Supreme Court. The people did not resist the demolition. A backhoe machine was used during the eviction during which 10 SWAT and 5 policemen were present. A Mr. Que claimed ownership of the land. The affected families received a 5-day notice from the court sheriff on March 3. Demolition took place on March 7. The people are still in the area and want to negotiate with the landowner with the intention of buying his land. They want to use the CMP and have asked the PCUP and LGU for assistance. There is a dispute as two organisations in the area stated that they had title deeds to the land, while the other organisation intended to negotiate with the land owner.</p>
<p>20 March : St. Peter's Church, Commonwealth Avenue, Quezon City</p>	<p>AMMDA demolition crew demolished ten structures along Commonwealth Avenue, near St. Peter's Church. The demolition was conducted without prior clearance from PCUP.</p>
<p>Last week of March: Katipunan Road, UP Diliman, Quezon City</p>	<p>MMDA demolished the structures of 150 families along C-5. It did not offer relocation. It had no prior clearance from PCUP.</p>
<p>2 April : Sangandaan, Caloocan City</p>	<p>The houses of more than 500 families were demolished as part of the government's North Rail project. Some families were taken to Towerville for lot-only relocation. The others refused to be relocated. They proposed that instead of clearing 15 metres, the government reduce the clearing to 10 metres so that they could stay in the remaining space.</p> <p>Policemen, SWAT, MMDA demolition crews, and a Caloocan demolition crew took part in the demolition. Backhoes were used to demolish commercial establishments. NHA, CHR, PCUP and HUDCC personnel were present. The demolition had prior clearance from PCUP.</p>
<p>9 April : Foremost, RCAM, Corte Real Streets, Intramuros, Manila</p>	<p>Some 124 families were evicted and relocated to Kasiglahan Village I in Montalban. They were occupying lands privately owned by Mr. Barcelon. Manila City Hall provided transportation. Manila DSWD provided food for three days. The process was peaceful, mainly because negotiations with the landowner and the government had been ongoing since the previous year. PCUP assisted the people.</p>

<p>11 April : San Miguel, Malacanang</p>	<p>Manila City Hall demolished the houses of 25 families occupying an alley in the area. The government offered P15 000 as compensation to six families, while the rest (who did not meet the pre-qualification survey conducted by the city government) did not receive any compensation. Other structure holders received P6 000; renters were only given P2 000. PCUP assisted the families.</p>
<p>1 May : Luzon Avenue, Commonwealth, Quezon City</p>	<p>Some 150 families were evicted by the MMDA from 1 to 4 May. They did not receive any written notice nor were they offered relocation. They went to the Carangay chairman for assistance. The chairman and the people went to the UPAO, the office of the Mayor and PCUP. PCUP filed a complaint at the CHR.</p>
<p>12 May : Brgy. 654 Intramuros, Manila</p>	<p>Some 23 families voluntarily dismantled their houses. They were relocated to KVI.</p>
<p>12 May : FF Cruz, La Mesa, Quezon City</p>	<p>Some 42 families voluntarily dismantled their houses. The MWSS gave each family P10 000 as financial assistance while the HUDCC promised lots.</p>
<p>Second week of May: Banana Island, Intramuros, Manila</p>	<p>Some 25 families voluntarily dismantled their houses and were relocated to KVI.</p>

<p>20 May : East Avenue, across the Philippine Heart Centre, Quezon City</p>	<p>A military colonel led the demolition of the houses of 23 families along East Avenue. He came at 07h30 and told the affected families to get whatever property they would like to save as demolition would start at 08h00. The demolition crew arrived at 08h00 and started their business.</p> <p>The demolition caught the community by surprise as in the previous days they had been involved in consultations with government agencies such as the DENR-NCR, PCUP and the Quezon City Hall. DENR owned the land. It had requested the local government to conduct the demolition.</p> <p>DENR-NCR Director Corazon Davis was not happy with the negotiations and she turned to the MMDA for help. MMDA sent 15-day demolition notices to the affected families citing violations of PD 772. UPA responded by writing to MMDA asking for the postponement of the demolition as the Marcos law had been repealed in 1998.</p> <p>The demolition was violent. The demolition leader threatened people with his gun. Some 10 policemen accompanied him. Guns were fired.</p> <p>Dante Reyes, son of the President of the people's organisation, was mauled by 5 MMDA men. Dante had just alighted from a bus and was rushing to their place which was being demolished. Unfortunately in his haste he bumped into the demolition leader who interpreted Dante's action as intentional. They then loaded Dante in one of the MMDA vehicles and took him to a Balintawak precinct. The people have not seen Dante nor his father since the incident.</p> <p>A local woman who took pictures of the demolition received the ire of the leader of the demolition who grabbed her by the neck and threatened to do her harm if she would not turn over the camera or the roll of film to him. The woman refused.</p> <p>Some of the members of the community went to the Commission on Human Rights office to ask that it send personnel to the demolition site. They were told that the person in charge was not around and were asked for one of them to wait for the person's arrival. The people left in disgust. The demolition crew took away the housing materials of the poor families. They were not informed where the materials were taken.</p> <p>Twelve affected families transferred to the adjacent DENR land. The DENR said only six would be accepted but the people, with the help of PCUP, insisted on 12 families.</p> <p>The demolition had no prior clearance from PCUP.</p>
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<p>28 May : Quezon Bridge Creekside, Brgy. Sta. Cruz, Quezon City</p>	<p>Approximately 100 families lost their houses. A military colonel led the demolition operation. There was no notice given, no consultation with the families and no relocation offered. The demolition took place in the heavy rains accompanying Typhoon Chedeng. The evicted families were part of the total 123 families that MMDA wanted to evict.</p> <p>MMDA offered to give them temporary shelter in Fabella Compound of the DSWD in Mandaluyong City. They were told not to bring their housing materials but only a few personal items. UPA later called Fabella Compound and was informed they were not allowed to receive evicted families.</p> <p>The demolition had no prior clearance from PCUP. The evicted families were temporarily housed at the Tomayo building owned by the Barangay Council.</p>
<p>23 June : San Simon Road, Commonwealth Avenue, Quezon City</p>	<p>MMDA demolished 50 houses, including a childcare centre for poor and special children that a local organisation had built with the help of donations from private organisations and individuals.</p> <p>MMDA personnel verbally informed the residents on the Friday about the impending demolition, which took place the following Monday. MMDA used a mechanical backhoe. Confronted by the Barangay chairman, MMDA personnel cited an existing MMDA resolution which authorized the MMDA to carry out demolitions without prior warning. The demolition had no prior clearance from the PCUP.</p>

The case of the Philippines illustrates an important lesson in relation to the work of UN-HABITAT and its partners. A Secure Tenure Campaign was launched in October 2003 in the Philippines, with the adoption of a joint declaration which committed the Government to avoid forced evictions; and a very progressive Presidential Decree making idle public land available for social housing to benefit the urban poor. The ongoing violations listed above illustrate that political will, even when expressed officially in events of high visibility, are not sufficient to avoid breaches to housing rights and that local and international partners need to establish monitoring mechanisms to ensure that all parties adhere to their commitments.

Reported Case 9 – Various Areas, Jakarta, Indonesia

Reports received by AGFE indicate that forced evictions in Indonesia have reached alarming levels. Jakarta's Governor recently ordered the new mayors of West and Central Jakarta to accelerate the eviction of street vendors and squatters in their respective mayoralities.

In 2001, in Jakarta alone, an estimated 50 000 people were forcibly evicted from their homes and places of work. Between August and October 2003, the Jakarta city administration evicted over 15 000 city dwellers. In other parts of the country, including strife-torn provinces, the destruction of housing and the loss of land have also been recorded.

According to Cassandra Goldie, a COHRE fieldworker, “The evictions are carried out violently ... with bulldozers, sometimes with people still living in their homes”.¹⁹

Total estimated number of implemented / threatened evictions Dec. 2003 - Sept. 2004

Implemented evictions

Location	Date	No of people affected	Reason
Pulomas Dam, Kayuputih, East Jakarta	15/12/2003	1 800 (residents)	Eviction carried out by the Jakarta City Administration. No information available as to the motivation for the eviction.
Cipinang Riverbanks, East Jakarta	December 2003	3 000 (slum dwellers)	No information available as to the motivation for the eviction.
Muara Baru, Penjaringan, North Jakarta	December 2003	384 (slum dwellers)	No information available as to the motivation for the eviction.
In front of Senen Atrium shopping mall & beneath the Senen overpass, Jakarta	7/01/2004	36 (sidewalk vendors)	The Jakarta City Administration evicted sidewalk vendors. Vendors claimed that they paid police officers between Rp 50 000 (US\$6) and Rp 100 000 a day to keep running their stalls. On 7 January 2004, public order officers evicted vendors and carted away their merchandise.
Pasar Minggu, Ragunan and Rajawali, South Jakarta	8/01/2004	36 (sidewalk vendors)	The South Jakarta Administration forcibly relocated vendors to a new site after requesting them to move to this site in November 2003. The vendors had refused to move to the new site in front of the Pasar Minggu bus terminus as they claimed that it was already full of other vendors.

¹⁹ COHRE, 2004, Evictions Monitor, vol.1. no.2.

<p>In front of the Taman Ismail Marzuki arts centre, Cikini, Central Jakarta</p>	<p>10/05/2004</p>	<p>200 (street vendors)</p>	<p>The eviction formed part of the Jakarta City Administration's campaign to evict street vendors. The vendors reportedly paid a 'security fee' of a minimum of Rp 17 000 per month to Cikini subdistrict officials.</p> <p>On 10 May 2004, the eviction was carried out by approximately 500 public order officers. Vendors' carts and goods were confiscated. Officers returned the following day to confiscate any carts and goods which they had missed.</p> <p>In the days following the eviction, vendors held protests and demanded the return of their belongings.</p>
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Threatened Evictions

Location	Date	No of affected people	Reasons
<p>Jl. Kebon Melati, Tanah Abang, Central Jakarta</p>	<p>2004</p>	<p>5 136</p>	<p>Neighbours in the area complained that the houses were being used for prostitution. City officials claimed that the threatened eviction was justified in terms of <i>Bylaw No. 11/1998</i> on public order.</p> <p>The Central Jakarta City Administration is threatening to implement the eviction and has offered each evicted house owner Rp 500 000 (about US\$ 60) in compensation.</p>

Jl Surinam, the Scabbing district and the Cikini district, Central Jakarta	May 2004	not available	This threatened eviction was part of the Jakarta City Administration's campaign to evict street vendors.
Kemayoran, Central Jakarta	May 2004	900 (residents)	<p>A threatened eviction of residents living in Block B2 and B3 of the old airport. The Kemayoran Complex Development Board (DP3KK) plans to build a commercial centre on the site and has signed an agreement with a developer.</p> <p>Abdul Muis, head of the DP3KK, stated that residents will be compensated, but 'it may not be in full'. The Board may also relocate the residents within the complex and grant them legal leases.</p> <p>The DP3KK and residents have set up a co-ordinating team to negotiate compensation and relocation. The DP3KK has agreed to suspend all legal action against the residents.</p>
Jl Let Jen Soeprapto, Jl Suryopranoto, Pasar Senen, Harmoni, Roxy, Lapangan Banteng and the Taman Ismail Marzuki arts centre	5 and 6 November 2004	500 (street vendors)	<p>The Jakarta Authorities plan to evict street vendors to enable the construction of the second and third bus-way corridors which will extend from Pulogadung in East Jakarta to Kalideres in West Jakarta, passing the National Monument.</p> <p>The eviction was scheduled to take place before the Idul Fitri holiday on 5 and 6 November 2004.</p>

Examples of implemented evictions

East Cengkareng, Jembatan Besi and Kampung Sawah in West Jakarta and Teluk Gong in North Jakarta

Between August and October 2003 the above communities, totalling over 15 000 urban poor, were in spite of determined resistance removed from their homes by the Jakarta City Council and the local governments of Jakarta. According to an Asian Human Rights Commission (AHRC) statement at the time, this left the evicted people “in a miserable situation and they are afraid that the situation will be getting worse because of the upcoming rainy season”. AHRC expressed the concern that “the large-scale eviction is spreading to other cities in Indonesia”.²⁰ AHRC, COHRE and the Asian Coalition for Housing Rights (ACHR) took joint action to try to secure remedies for the evicted and to prevent further evictions. Victims of the evictions demanded that the Indonesian National Commission for Human Rights (Komnas HAM) form an independent team to probe human rights violations during the evictions.



Photo: Urban Poor Consortium

Residents refuse to leave their home even as a bulldozer begins to destroy it, Jembatan Besi - Jakarta, August 2003

Muara Angke River, Penjaringan, North Jakarta - December 2003

In spite of resistance, the evictions continued. For example, approximately 1 800 people living along the banks of the Muara Angke River in Penjaringan, North Jakarta were evicted by the Jakarta City Administration on 11 December 2003. The members of the community had worked as fishermen along the river.

The eviction was conducted by the Jakarta City Administration as the community lived on land

²⁰ See ACHR Urgent Appeals (<http://www.ahrchk.net/ua/mainfile.php/2003/583/>).

belonging to the State and did not have official authority to live there.

The evictees filed a case against the North Jakarta mayor and the Penjaringan district in the State Administrative Court in December 2003. The Court found the eviction was legal as the evictees occupied state land without consent, prohibited by Article 3 of *Law No 51/1960*. While this law only permitted the Governor to issue an eviction notice, the municipality administration could issue a notice on the Governor's order. However, Jodi Martono, the presiding judge in the case, stated that the evictees could file a civil case against the Administration for material losses suffered during the eviction.

Taufiq Basari and other People's Legal Aid Institute lawyers represented the evictees in their case against the North Jakarta Mayor and the Penjaringan district.

Examples of threatened evictions

Koja, Muara Baru, North Jakarta; Kebon Tebu, Muara Baru, North Jakarta; Cakung, East Jakarta; Cipinang Besar Selatan, East Jakarta; Under Penjaringan toll road, North Jakarta; and Bambu Larangan, West Jakarta.

The following numbers of people are threatened by the evictions in these areas:

Koja, Muara Baru, North Jakarta	9 000 people
Kebon Tebu, Muara Baru, North Jakarta	9 000 people
Cakung, East Jakarta	3 000 people
Cipinang Besar Selatan, East Jakarta	3 000 people
Under Penjaringan toll road, North Jakarta	12 000 people
Bambu Larangan, West Jakarta	9 000 people
Total	42 000 people

Jakarta's Governor initiated a plan to rid the capital of its slums and relocate squatters from State or private land. The affected squatters live on Government-owned land, but many have paid to obtain permits from subdistrict officials to live in the areas, access water, electricity and sometimes telephone lines. Some have even paid property tax.

In order to house the evictees, the City Housing Agency has announced plans to build 500 apartments in Kapuk Muara, North Jakarta, and 600 in Tipar Cakung, East Jakarta in 2004. Only evictees from surrounding areas would be eligible for the apartments. The Ministry of Settlements and Regional Infrastructure and the state-owned housing company, PT Perum Perumnas, plan to build 100 units in Pulo Gadung, East Jakarta. Not enough apartments are being built to accommodate all those who will be evicted however. Of further concern are reports alleging that City Housing Agency officials have in the past sold low-cost apartments intended for the city's poor to wealthy people.

The Governor has stated that evictees without Jakarta ID cards will not be able to stay in Jakarta. Approximately 75% of evictees hold Jakarta ID cards.

Along with 300 victims of evictions carried out in 2003, potential victims of evictions planned

for 2004 have demanded that the Ministry for Settlement and Regional Infrastructure prevent Governor Sutiyoso from carrying out further evictions until alternative housing has been provided. The Ministry claimed that it could not interfere with the City Administration's policies.

Pluit, North Jakarta – 2004

There is a planned eviction of residents who objected to a planned rent increase of 72% for their low-cost rental apartments owned by the City. The apartment operator PT Jakarta Propertindo has indicated his intentions to implement the eviction. The operator frequently cut off water and electricity supplies to residents and security guards employed by PT Jakarta Propertindo have intimidated residents to force them to pay the rent increase or leave.

Indonesian Legal Aid and Human Rights Association (PBHI) lawyer David Sitorus says that residents do not object to a rent increase as such, but demand to discuss it with the Operator before a final decision is made.

Residents sought help from the City Council and the National Commission on Human Rights (Komnas HAM), who have asked the operator to delay the eviction until it has discussed the rent increase with the tenants. Komnas HAM has agreed to mediate between the residents and the Operator.

Tanat Merah, Plumpang, North Jakarta – January 2004

This planned eviction by the Jakarta City Administration of squatters living on land within a 50m radius of PT Pertamina state oil company depot is motivated by claims by State officials that a buffer zone needed to be cleared around the plant for security reasons. Farmers initially grew vegetables on the land in 1997 with the permission of Pertamina. Eventually permanent dwellings were erected on the site.

The Ministry of Settlement and Regional Infrastructure has reportedly been asked to build low-cost apartments for the squatters. Reports also indicate that Pertamina is considering whether or not to provide another 13.06 ha plot not far from the depot for the residents. Some squatters say they would prefer compensation to resettlement if the amount were adequate, that is, above the usual amount (between Rp 250 000 and Rp 500 000) offered by the City Administration.

Pinang Ranti, East Jakarta – January 2004

The Harapan Kita Foundation claims to be the legal owner of the land, and has granted permission to the Jakarta Military Command (Kodam Jaya) to build a hospital on the site. This hospital would replace the existing military hospital in Kramat, Central Jakarta. While the Harapan Kita Foundation maintains that it owns the land, the residents claim the land belongs to the family of Emmy Ningtyas de Groot, who passed away in late December 2003. They have a copy of a certificate secured by Emmy, giving them permission to live on the land. No evidence of the Foundation's ownership has yet been produced.

Notice of the eviction was received on 9 December 2003, then again on 18 December, and

finally on 2 January 2004. The eviction was scheduled for 3 January 2004, but was not carried out on this date. Each family has been offered Rp 3 million (US\$ 353) in compensation by Kodam Jaya. According to the residents' lawyer, Bartholomeus Diaz, only eight families have accepted the money. Residents say they will leave without taking any compensation money if evidence of the Foundation's ownership can be shown to them. Residents claim they are now being intimidated by the Administration to encourage them to leave.

Residents filed a lawsuit against the Municipality Administration in the Jakarta State Administrative Court on 30 December 2003, challenging the validity of the eviction notice. There have been two hearings of the matter. Komnas HAM, the National Commission on Human Rights, has assisted the community and attempted to mediate between Kodam Jaya and the families, but no agreement has been reached.

Malati Shopping Centre, Jakarta – Threatened eviction, July 2004

Local residents living on the site of the former Melati Dam, Kebon Kacang, Central Jakarta are threatened with eviction as there are plans to construct a wholesale shopping centre on the site. The developer, PT Jakarta Realty, will have to acquire land belonging to these local residents. The Jakarta Governor has supported the project.

The developer is currently in the process of acquiring the necessary permits for the development to proceed. The Governor has reportedly ordered the permits to be processed. On 18 June 2004, the developer submitted the environmental impact analysis to the Jakarta Environmental Management Agency. The usual processing time for an environmental impact analysis is four to six months. Construction will begin as soon as the permits have been issued. The shopping centre is intended to open towards the end of 2005.

The developer has reportedly not yet reached agreements with a substantial number of residents regarding the amount of compensation to be paid for land and homes that will be compulsorily acquired. Some residents have been offered Rp 1.4 million per square metre, but are asking for Rp 20 million per square metre. Other residents have not yet been contacted about their homes. The developer expects the necessary permits to be issued in the near future.

The development has been opposed on the basis that it is too close to other markets. According to *Bylaw No. 2/2002*, a private market that covers more than 4 000 square metres cannot be located within 2.5 kilometres of other traditional or community markets. The present site for the new shopping centre is less than a kilometre from Tanah Abang textile market.

Examples of ongoing evictions

Jakarta North Coast

Residents living along the entire 32 kilometre Jakarta North Coast, from Muara Kamal to the East Flood Canal, are threatened with eviction by Jakarta City Administration's Jakarta Waterfront Development Board (BP Pantai). A group of people living in Ancol Timur, North Jakarta, have already been evicted. This is the fourth time in seven years that the Ancol Timur community has been evicted. They were first evicted in 1997, then in 1999 and then again in

2001. After each eviction, the families moved to a different site in the area.

The reasons given for the eviction are plans to pursue a waterfront development, for which land will have to be reclaimed. The development will include luxury houses, hotels, condominiums, an industrial zone, a port, business centres, shopping malls, offices and recreational areas. The project will cost Rp 20 trillion (US\$ 2.13 billion) and, if approved, will take approximately 30 years to complete.

The executive chairman of BP Pantura, Moch Sidarta, stated at one point that none of the fishermen and their families who live in river estuaries and along the shore would be evicted, but the project has already caused the eviction of fishing communities.

On 10 April 2004, a fishing community of 160 people located at Ancol Timur, North Jakarta, was evicted. The community lived behind the PT Manggala Krida Yudha Rukindo building. City public order officers conducted the evictions. Officers, along with heavily armed military troops, blocked land access to the site and the homes of Ancol Timur residents were burnt down by city public order officers. Since the eviction, land access has been blocked by unidentified men. Approximately 80 people have been living on their boats since the eviction. Some families are staying temporarily at the offices of the Jakarta Legal Aid Foundation (LBH Jakarta) in central Jakarta.

Residents threatened with eviction filed a class action suit in 1993 contesting the legality of the Project. They were assisted by lawyers of the Jakarta Legal Aid Foundation (LBH Jakarta), but were unsuccessful both in the Jakarta State Administrative Court and in the Jakarta High Court, and have appealed to the Supreme Court. No judgement has yet been delivered.

State Minister for the Environment, Nabel Makarim, has also taken legal action against BP Pantura in opposition to the project. The case is currently before the Supreme Court. In January 2004, an expert from the Agency for the Assessment and Application of Technology (BPPT) stated that further feasibility studies were required before the development could proceed. President Megawati Soekarnoputri has expressed concern about the project's adverse environmental effects. On 24 June 2004, she asked Jakarta Governor Sutiyoso to commission a new plan and environmental impact assessment in conjunction with the State Ministry for the Environment.

Reported Case 10 - Villa Bermejo, Buenos Aires, Argentina

The city of Buenos Aires, capital of Argentina, has approximately 2 900 000 inhabitants. According to the census of 2001, 108 056 people live in low income communities known as 'villas' in 20 settlements of 28 125 low income housing units.

Villa Bermejo is a settlement located around the rail crossing called 'Bermejo' near the former railway of Belgrano at Villa Luggano in the south area of Buenos Aires. Sixty families have been resident in the area for five years on allotments owned by the federal government. The governmental body ONABE 'Organismos Nacional de Administración de Bienes del Estado'

(responsible for administering the public assets of the country), initiated a legal process of eviction against these families. The families living at Villa Bermejo only heard about the legal procedures through the media.

The following statements made by dwellers in the area reflect the lack of communication or notice given about the eviction plans: “No one from the government came to talk to us. We bought the houses from a man who disappeared after receiving the money”, stated Ms. Carolina Aldapio, president of the neighbouring commission, who together with her four children has been resident in the area for five years. “We paid 1 400 pesos but we have no receipts at all. And as time went by, we improved our homes”, stated Mr. Anibal Romero, father of seven, formally unemployed for four years. “I hope the government doesn’t take us away from here”, he concluded.

“We don’t want to leave this area, I didn’t eat to have the floor made” stated Ms. Irma Leguizamón who, among other concerns, was worried about not having her children living close to a school if the eviction was carried out. “We live here because we have no other option, we have been here for five years and no one ever said anything about having to leave the area”.

The eviction case

In May 2004, the population of Buenos Aires heard via the media about an unprecedented judgement delivered by Mr. Claudio Bonadio, Legal Judge from the ‘Criminal y Penal Correccional Federal’. The judgement denied the request to forcibly evict the 60 families from Villa Bermejo that was initiated by ONABE, the government body that had attempted to terminate the residents’ occupation of the area.

The judge not only refused to criminalize the occupation of the land, but also ordered that the government, more specifically the ‘Ministerio de Economía y Desarrollo Social’ (the Ministry of Economic and Social Development), suspend the planned relocation of the community until a definitive housing solution was presented to the families. His judgement was based on the argument that every citizen held the right of having a house in which to live – in terms of Articles 14 and 14a of the National Constitution and international treaties, including the *Covenant on Economical, Social and Cultural Rights*, ratified by Argentina and incorporated into the National Constitution during the reforms of 1994.

The Economical, Social and Cultural Council (ECOSOC) has a commission that is responsible for the legal interpretation of the obligations related to the Covenant. In terms of Resolution 1991/26, this Commission has stated that member States must implement measures to guarantee the right to housing and are therefore legally obliged to providing adequate housing to their population. The concept of housing must be broader than having a roof above heads, it must mean having a place that guarantees privacy in a sufficient area, with the legal security of tenure, affordability, sufficient light and ventilation, provided with basic infrastructure, provision of water and sanitation, in an area that facilitates access to work and to facilities and services.

ONABE's intentions

In their motivation for the eviction, ONABE argued that occupying land was a criminal matter in terms of Article 181 of the Criminal Code ('Codigo Penal'). Article 181 of the Code stipulated that a person who, using violence or any sort of threats, occupied or entered a property, be it a house, an open field or a building, in an open attempt against the right to property, be sentenced to between 6 months and 3 years imprisonment. In his judgement, the Honourable Judge Claudio Bonadio stated: "I refuse to criminalize citizens in social disadvantage with a low-income profile".

Implications of the Bonadio judgement

The judgement delivered highlighted the State's obligation to solve the housing problem with coherent housing policies rather than criminalizing social problems, particularly occupations of land as the direct result of housing shortages. In addition, the judgement also advocated that the State implement and fulfil its obligations in terms of the legitimate rights of communities, beyond merely the legal requirements.

Strategies to halt evictions

The media played a vital role in informing the public and specifically the residents of Villa Bermejo about the threatened eviction. The headline of the national newspaper *La Nacion* on 27 April 2004 stating that "Judge refuses to evict building", provided the necessary information about the case and judgement and served as an important medium to inform the public about ONABE's intentions and also the rights of the citizens of Buenos Aires.

SENECA 'Secretariado de Enlace de Comunidades Autogestionarias' published an article entitled "Before illegality or adequate housing?" by Eduardo Rozas, in the magazine *Vivienda Popular* Issue No. 52/53, June 2004 which highlighted the importance of this judgement as a precedent to future eviction requests by the national government.

Further developments in resolving the Villa Bermejo matter

The director of ONABE, Mr. Fernando Suarez responded that the request to evict the families was initiated by the previous administration in April 2003. The present administration took office in June and was analyzing the ownership regularisation of the area or resettlement options with facilitated loans to the families. Suarez guaranteed that his office would work in collaboration with 'Plan Arraigo - Programa Nacional de Regularización Dominial de Tierras Fiscales' (the National Programme of Ownership Regularization of Land from Federal Assets) in the search for a solution. "We will not evict the families", he stated.

Reported Case 11A - San Juan de Lurigancho, Lima, Peru

Introduction

This community is vulnerable due to the special project 'Periferico Vial Norte' in the area of Juan Pablo II, in the district of San Juan de Lurigancho in the east area of the Metropolitan Region of Lima, Peru. Approximately 800 000 people live in this district.

Of the 430 immediately affected families, 230 do not possess any form of land title and live in inadequate housing conditions and with no provision of water or sanitation; 180 families do however hold land titles and have some basic service provision. Most of the affected families live in rented houses in the surrounds of the original community. The family units consist mainly of young couples with an average of 3 to 4 children per family. Members of the community work primarily in the low income informal and service sectors.

Information on the history of the case

The families threatened with eviction live near the housing municipal programme of San Juan Pablo II, and were resident in the area before the implementation of the project for the new road system called 'Periférico Vial Norte'. This project was initiated by the Ministry of Transportation and Communication during the presidency of Mr. Fujimori and later remodelled by the Metropolitan Municipality of Lima. The motivation for this project was based on the need for a more fluid transportation system between the central area of Lima and the city's airport.

The design of the project ultimately affects eight districts of the city of Lima including the district of San Juan de Lurigancho. Based on this project, La Comisión de Formalización de la Propiedad Informal (COFOPRI), the group contracted to resettle the residents, conducted research in each of the affected houses. The aim was to prevent the families from building new housing units or improving the existing ones, in the light of the pending road project. However, due to the financial costs required to implement the project, a definitive deadline has not yet been set for the actual beginning of road construction. The families have therefore been prevented indefinitely from constructing or remodelling their homes, and continue to be vulnerable to constant threat of imminent eviction by authorities from the Metropolitan Municipality of Lima, CEPRI – LIMA.

Main facts to date

- 1997 - the project 'Periferico Vial Norte' was approved and recognised as a public utility.
- July 1999 - the project signed an agreement with COFOPRI to resettle the affected families.
- November 1999 - COFOPRI carried out field research to set standards regarding the affected families.
- 6 June 2000 - the Ministry of Transportation prohibited the construction of new housing units and the improvement of the existing houses by a Supreme Court Decree No. 128-98.

- July 2001 - the Ministry of Transportation transferred the project to the Municipality of Lima.
- January 2002 - the Municipality issued Rule No. 348 which threatened to demolish any housing improvements made in the identified communities.
- April 2004 - the first coordinated meeting was held by the special project 'Periferico Vial Norte' to discuss the problem of the affected families. The meeting was attended by representatives from the Ministry of Transportation and Communication, COFOPRI, Cepri Lima, IMP, ICIL, EMAPE, Cenca, DMDU and the 'Comite de Defensa de Viviendas Vulnerables Afectadas por el Anillo Vial'.

Level of organisation of the affected community

Communities involved in the conflict are organised at the district level, but are not very active. The community is supported in its stance against the evictions by the Municipality of San Juan de Lurigancho and private institutions such as the 'Instituto de Desarrollo Urbano Cenca', TACIF, ADRA, EDUCA.

Efforts have been made to improve the social organisation of the most vulnerable families. Requests for interviews have been made to the central and metropolitan governmental authorities. In addition, a meeting of conciliation has been proposed for the parties involved, but to date there have not been any satisfactory developments in this regard. Although the authorities have offered to analyse the case, they have not presented any concrete information thus far.

Future initiatives and strategies to resolve the threatened eviction

This case focuses on the violation of rights of a large group of residents to improve their homes and secure tenure for their families. They are prohibited from improving the conditions of their dwellings on the threat of demolition if they violate Municipal rules. In addition, they face the threat of eventual forced removal.

Despite motivations made by the affected communities and supporting agencies, governmental authorities have not committed to consultation or negotiations on this matter, nor have they presented any acceptable or viable alternatives to communities affected by the threatened eviction.

Discussions have been held on the possibilities of viable resettlement options and also consideration of a proposal to purchase a private allotment as alternative land for the affected residents. An additional proposal made is that land titles be issued to ensure the security of tenure of vulnerable communities. The affected communities have also proposed that there be a 're-study' of the present project's road design.

Reported Case 11B - Tambo Grande, San Lorenzo, Peru

Introduction

Tambo Grande is a community of about 3000 houses located in the fertile agricultural valley of San Lorenzo in the district of Piura in the north of Peru, close to the border with Ecuador. The community resides in a village of 3 284 housing units with schools, health centres, communication centres, churches and recreational areas. The valley is the richest area on the Peruvian coast and produces more than 40% of the mango and lemon harvest of the whole country. These crops are sold on both the national and international markets. The majority of the population carries out economical activities related to agriculture.

The community was threatened with eviction as mining explorations had found that there was 70 million tons of minerals (mainly silver and gold) in the land on which the community is situated. The implementation of the mining operations will require the excavation of a large tract of land resulting in the destruction of 1 800 housing units, in addition to half of the city, 12 schools, one health centre, three management offices, five security and services offices, four centres of communication, five churches and areas that are being presently repaired. In addition, a major project of the government in the 1950s to irrigate the fertile land of the area would be affected as the opening of the mining operations would contaminate the water of River Piura, causing great environmental damage to the area.

Expressed reasons to justify the evictions (official and unofficial)

During the office of Mr. Fujimori, the Decree 016-98-EM was issued stating that the concession of the mining exploitation in Manhatan would be an activity of public utility. At the same time, the mayor of Tambo Grande issued a permit to exploit the urban area. The stated economic advantage of the mining exploitation was that it would be more profitable than agriculture. According to the Constitution of Peru, natural resources in the soil (including minerals) are the sole property of the National State.

Main events that have occurred regarding the eviction

In June 2002, a local referendum took place in Peru in which 98,2% of the population stated that they were opposed to the mining exploitation.

The Ministry of Mining and Energy was responsible for approval of the Environmental Impact Assessment. This approval would allow mining operations to commence. In October 2003, the Ministry announced informative workshops to explain to the population the advantages of the mining project, as a preparatory measure for the public hearings that were scheduled for the following month.

The communities refused to attend the workshops, as part of an organized protest movement. In November 2003, the group entitled 'Colectivo Tambo Grande' conducted a vigil in front of the School of Engineering of Peru regarding a public hearing called by the Ministry of Mining and Energy. The public hearing was intended to legitimise the irregularities that had

been committed by the Mining Company Manhattan during the elaboration of the study on the environment impact of the project.

On 5, 6 and 7 November 2003, peaceful demonstrations were held in the cities of Tambo Grande, Piura and Lima in response to the public hearings called by the Ministry of Mining and Energy. The Technical Support Group to Tambo Grande issued a public manifest in which it stated its concerns about the continuous postponement of a final solution to the matter, noting that this was creating general uncertainty and instability amongst the population.

Outcome

An extraordinary meeting of the Governmental Regional Council from Piura (Consejo del Gobierno Regional de Piura) ratified a regional agreement declaring that the Valley of San Lorenzo and the surrounding areas be exclusively utilised for agricultural and cattle activities in accordance with sustainable use of the land. In addition, Centromin Perú decided not to approve documents intended to credit Compañía Minera Manhattan Minerals Corporation (MMC) with the right to explore and exploit the mining facilities of Tambo Grande.

Level of organisation of the affected community in response to the threatened eviction

The announcement of the mining project in Tambo Minero resulted in the organisation of the communities into a Defence Front to claim their legitimate rights. The inhabitants demonstrated their capacity to mobilise support for their stance including the involvement of other groups. Public announcements against the feasibility of the mining project and expressions of support for the cause of Tambo Grande by the Regional Government of Piura, the Municipality of Piura, congressmen from the Republic, political parties, the Archbishop of Piura and Tumbes, national and international institutions, artists and intellectuals reflected public opposition to the mining project.

The mayor of Tambo Grande, Francisco Ojeda, the community of Tambo Grande, the Bishop of Piura and other institutions such as Colectivo Tambo Grande, Mesa Técnica de Apoyo a Tambo Grande (Technical Support Group) were all involved in seeking solutions to the matter.

Impact on existing policies, legal framework and jurisprudence

The activities carried out by the mining company Manhattan affected the right to adequate housing of the inhabitants in Tambo Grande, as well as the security of their properties. Proceeding with the project of eradicating the housing and livelihoods of an entire population to carry out mining activities, would have created a serious precedent in Peru with the potential to impact on hundreds of communities resident near mining sites. In addition, the concessions granted by the State did not comply with the National Constitution. The specific legislation regarding mining activities in urban areas could be legitimised by international treaties like ALCA or TLC – this would have made revising the process of the concessions already granted even more complicated, as companies could file legal papers against governments that attempted to protect the environment and the health of their citizens.

Strategies to halt the evictions

The strategy used was to mobilize the communities based on popular consultation that clarified the opinion of the local inhabitants in Tambo Grande regarding their future and their opinions on the mining activities. The strategy also included the organisation of a large support group formed by local and regional entities and institutions.

Way forward

The case demonstrates the success of popular mobilisation of a community affected by large international interest groups. A highlight of this case was the ability and capacity of structures to mobilise other institutions and also public opinion in support of a community stance against mining operations and vested interest groups.

However, this case also demonstrates the need to establish clear policies and controls over globalisation trends that have the potential to negatively impact on the interests and needs of local communities.

Reported Case 12 – Various Areas, Dakar, Senegal

Introduction

The economic crisis of the 1970s and 1980s and the devaluation of the franc in 1994 resulted in people relocating to the capital city Dakar in the hopes of improving their economic well-being. This exacerbated increasing demands for housing and resulted in people building homes in informal sites adjacent to residential quarters near the capital. In recent years, a number of these sites have been evicted, or threatened with eviction. Communities, with the assistance of Enda-RUP and other support organisations, have been trying to prevent these evictions and secure viable alternatives.

Captage

The site of Captage grew through rural migrations but also the movement of refugees and displaced people from other sites in Dakar. Its proximity to HLM, Sicap and Dieuppeul resulted in it becoming an area for marginalised people to congregate. Between 8 000–10 000 people are resident in the area, living primarily in wooden houses or shelters made of wooden sheets. Most dwellings accommodate between 7 and 15 people. There are different types of tenure rights within the resident community. It is difficult to assess the percentage of homes owned, as many residents have experienced legal problems in regularising their occupation and rights due to administrative blockages. Women however have to rent their homes.

In terms of service provision, water is collected from public fountains and traditional wells; there are septic artesian pits but no sewage removal facilities; refuse disposal is through conventional

and traditional methods; communication is via public telephones; and there is some, basic electrification. There are literacy classes, religious schools and informal training opportunities. The community does not however have any healthcare facilities.

People in Captage are involved in a variety of formal and informal occupations. These include washerwomen, market gardeners, mechanics, weavers, domestic workers, travelling salesmen and shoeshine boys. People walk or use public transport to reach their places of employment.

Most residents have not invested in upgrading of their dwellings as the site on which the settlements are located has been designated for agricultural purposes. Although there is a market garden and poultry production, the close proximity of the houses in the settlement has created problems.

The land is designated for agriculture as it is on a flood plain. The strip of land on which shelters were built was therefore deemed inappropriate for habitation by Dakar's urban plan. All attempts to regularise the occupation have met with administrative blockages. Despite promises made by the Mayor that land would be given to people, residents still wait for this promise to materialise.

Reason given for the evictions

The reason given for the evictions was the irregular occupation of zones designated by lease to several people. The evictions were instituted by the Governor of Dakar and the Mayor of the Common District of Grand Yoff. The evictions were implemented by the Deputy-Prefect and the policemen of Hann. The duration of the summons issued was from 20 February – 15 April 2004. Offers of relocation were made verbally by the Mayor of Dakar, who was also the President of the National Assembly.



Photo: COHRE

Eviction, Captage, Senegal - September 2002

The Captage evictions have affected between 7 000 and 10 000 people. Shops and micro-enterprises, churches, mosques, the water fountain, rubbish dump site and the children's playground were destroyed. The implementation of the eviction was brutal and without respect for the rights or dignity of the residents. The area was sealed off and people who resisted the eviction were harassed and intimidated.

Other violations affecting rights to housing:

- Harassment - attempts at corruption by a local elected official.
- Increase in rent as a consequence of the eviction.
- The site was razed and the perimeter market gardeners evicted.
- All basic services were destroyed.
- Obstacles to access to housing and basic infrastructure: administrative blockages and the prohibitive cost of plots.
- Obstacles to participation: judicial and administrative complications, and financial difficulties.
- Human rights abuses: humiliations and citizens' rights to decent shelter ridiculed by officials.

Alternatives to the eviction

There was potential for the *in-situ* upgrading of Captage, instead of forced eviction.

Grand Yoff

The demolitions began at 07h00 on 15 April 2004. The number of people affected by the evictions in this area totalled between 7 000 and 10 000 people. Approximately 1 085 families were affected. Approximately 200 houses were demolished.

On 20 February 2004, a 30 day Notice of Eviction was issued. This Notice was signed by the Governor of the Region of Dakar. The evictions were authorised at an administrative level by the Governor, Prefect, Deputy-Prefect and Mayor of Grand Yoff. The Deputy-Prefect, police and tractors were responsible for the implementation of the evictions.

Allegations were made by individuals in the affected community that other parties, such as the Elf-Total/Fina company and also individuals with political and business connections, were implicated in the motivation for the evictions. These motivations included the potential benefits of quotas on recovered land.

The consequences of the forced eviction included the following:

- People lost their housing and were forced into temporary shelter.
- Years of agricultural and poultry farming investments were destroyed.
- Material and domestic property lost by thousands of poor families.
- Poverty was made worse.
- Proliferation of malaria.
- Deaths of children, the elderly and spontaneous abortions by women.

The Mayor of Dakar arranged rescue missions, distributing tents, medication and food to the victims of the displaced districts. He made promises that people would be given land. In anticipation of this, a proportion of the evicted inhabitants were willing to settle informally on land close to the resettlement area. All expressed the hope of one day acquiring a section where they could settle in total security.

Although the official reason for the forced evictions and demolitions was the alleged irregular occupation of an allocated zone which was apportioned through lease to several people, this is contested by members of the affected community. Allegations have been made that the real reasons were that a particular lobby group sought to redistribute the land occupied by settlers.

Alternative options proposed to avert the eviction

There were other alternatives available. The community sought to hold negotiations before the demolitions in the hope of developing options for possible relocation and resettlement, with tenure security, of the victims of the forced eviction. Approaches made by community representatives seeking discussions and negotiations were discouraged by State officials. In addition, documents submitted requesting the regularisation of occupational rights were rejected.

Representations were made to the Mayor of the District of Grand Yoff, the Mayor of Dakar and numerous dignitaries and traditional chiefs for compassion on the matter and requests for them to communicate these requests to senior State officials. Various delegations visited the local and State authorities, and were promised assistance. The assistance, however, never came.

Keur Mbaye Fall Extension / TF 147 D-P

The forced eviction in the Keur Mbaye area affected 2 000 people (300 families, 66 women, 1 500 children), and other vulnerable groups from the West African sub region. In total, 308 houses were destroyed (both occupied and vacant) with each house numbering between four and seven children.

Official reasons for the eviction

Allegations have been made that there was miscommunication and vested interest in access to land in the area under threat; and that there was a failure on the part of officials to reach agreement between the parties on the issue of land usage and resale. In addition, people tasked with negotiating with the authorities, are deemed to have failed to secure appropriate alternatives to the evictions.

The forced eviction was overseen by the Mayor of Pikine who thought that it was based on the land belonging to the State. STC Pikine, the departmental service of Pikine, implemented the eviction in the presence of the Prefect.

The process of the eviction

The eviction was implemented on Thursday 5 June 2003, without any summons being served on the occupants. The sector was sealed off and barricaded by the police, who forbade press coverage of the eviction. As it was a working day, the heads of families and owners of property were not present at their homes and were therefore unable to protect their property. The police also prevented residents and children telephoning their families and neighbours to inform them of the eviction taking place. The eviction caused considerable distress, trauma and frustration for all the residents of the community.

In response to the eviction, the Association quickly reacted to organise help for the needy. Victims of the eviction squatted in the houses under construction in the area. Even the police were sympathetic and offered practical assistance to the victims of the displacement.

Violations of Rights

Earlier, the Mayor of Pikine had said to the community that “if someone wants to demolish my house, he will have to kill me inside it because we cannot displace you”. This promise was refuted by the subsequent events on 5 June 2004, in which residents of the community were forcibly evicted without any summons or legal basis for the eviction being given.

Oest Foire, Dakar

The number of people affected by this eviction numbered between 600 and 750 people. Twenty-nine homes were demolished during the initial eviction, with more under threat. The homes affected were mostly well-built brick and mortar structures.

The eviction was authorised by the State, particularly the governor of the region of Dakar. The evictions were implemented by the Governor’s assistant and the national police. The official reason given by the State for the demolitions was that the homes posed a security risk as they were built in the flight zone for the airport.

Concern has been expressed that certain high profile individuals within State structures were implicated in the events which led to the demolitions. Allegations were made that even if flight zone security was the official reason, there were other issues influencing the matter – including vested interests by certain political leaders, property agents and civil servants. An additional issue of concern was that in spite of the fact that the traditional village of Yoff-Toughor is situated directly under the flight zone, it was not subjected to the same eviction and demolition of homes as that of the other community.

The events

The summons was issued on Thursday 11 February 2004. Seventy-two hours later the bulldozers arrived, on the morning of Sunday 15 February, to start the demolitions.

Representatives sought audiences with religious and political authorities to request their

assistance and interventions to resolve the situation. Although initial representations had been made particularly to religious leaders prior to the demolitions, they were unable to change the decision of the State on the matter. After the governor had called a meeting with the residents' group and negotiations commenced, it seemed as if the demolitions would be halted. However a new order was given and the demolition of homes began.

In response to the activities of the bulldozers, residents began to blockade traffic on a major roadway. Within the community, women had spontaneous abortions due to the shock of the demolitions, and children and families were traumatised at the loss of their homes.

Violations of Rights

The summons issued to the occupants of Ouest Foire did not allow sufficient opportunity for residents to gather their belongings and make alternative arrangements for shelter. In addition, although initial representations were made, the speed with which the summons was issued and demolitions implemented, did not allow the occupants to enter into proper negotiations with the authorities in an attempt to find alternatives to the eviction. The community and their supporters believed that there could have been alternatives to the eviction, if proper time and negotiations had been held to explore such options prior to the demolition of homes and livelihoods.

The lack of consistency in the authorities' issuing of the eviction summons to the residents of Ouest Foire, but not to Yoff-Toughor (the latter should have been a more critical eviction if the motivation of the danger of living in a flight zone was true), increased concerns that there were other more speculative reasons which may have informed the evictions and demolitions.

Way forward

The Ouest Foire community and their representatives have requested assistance to network with other communities affected by similar evictions and demolitions, with the aim of getting redress.

They also seek assistance in lobbying international agencies and stakeholders to assist their cause in search of redress.

Reported Case 13 – Roma Communities, Greece

Introduction

Forced evictions of Roma communities frequently take place in Greece and have been comprehensively reported by local organisations, including the Greek Helsinki Monitor (GHM). These reports have highlighted a pattern of severe discrimination against Roma communities throughout the country, notably in the housing sector. In most cases, these forced evictions are carried by or with the 'tolerance' of local authorities and frequently involve situations of police brutality.

In the majority of cases of forced evictions affecting Roma communities in Greece, the Greek authorities have failed to provide adequate compensation, reparation and resettlement to the victims. In rare cases where resettlement plans are foreseen, the authorities often fail to implement such measures. Even when authorities commit themselves to resettlement and compensation, these measures only cover Greek Roma. Non-Greek Roma who have legal residency status, such as Albanian-Roma, are systematically excluded from these measures. The European Roma Rights Centre (ERRC), the Centre on Housing Rights and Evictions (COHRE) and the Greek Helsinki Monitor (GHM) have been working together with the affected groups to try to address some of these evictions.

Forced evictions of Roma communities and the Olympic Games

The relationship between the preparation of the Olympic Games and forced evictions of Roma communities in Greece is twofold. In the first scenario, municipal authorities used the need for preparation of the Olympic Games as a pretext to carry out forced evictions of Roma communities. The Municipalities of Halandri, Aghia Paraskevi, Aspropyrgos and Aharnai/Menidi, located in or near the Greater Athens area, have all resorted to this argument to threaten Roma settlements with forced eviction or to actually carry out forced evictions. According to the Greek National Commission for Human Rights, “it is also a fact that the holding of the Olympic Games has been an occasion for driving the Roma out of many regions. Local communities (very often untruthfully) invoked the need for the construction of sports facilities in order to get rid of the Roma, as was the case in Mexico in 1968.”²¹

In the second scenario, the actual construction of infrastructure for the Olympic Games has resulted in the forced eviction of the Roma community of Marousi, located in the Greater Athens area and adjacent to the main Olympic complex.

Attempted and actual forced evictions using the Olympic Games as a pretext: the Roma settlements in Aspropyrgos

The Roma settlement of Aspropyrgos, situated near Athens, is an example of a settlement where municipal authorities used the preparation of the Olympic Games as a pretext to prevent the relocation of Romani communities. While, in the build-up to the Olympic Games it was not clear whether Olympic facilities would be built in Aspropyrgos (a GHM letter to the International Olympics Committee and the Athens 2004 Organising Committee in which these two bodies were asked to make public where Olympic Games related infrastructure would be built was never answered), the Mayor of the town had referred to this possibility. In the end, no Olympic facilities were constructed in the area.

From 1999 onwards, Roma communities of Aspropyrgos have been threatened with forced eviction either by police officers or by civilians threatening to call the police. On 14 July 2000, a municipal bulldozer, allegedly accompanied by the Mayor and the police, demolished numerous Roma huts in a Roma settlement situated on a garbage dump in Aspropyrgos. The huts, which

²¹ See the report of the Greek National Commission for Human Rights, http://www.nchr.gr/category.php?category_id=99

belonged to Greek and Albanian Roma, contained the inhabitants' personal belongings. Those families whose shacks were not demolished were ordered to leave within three days. The Roma tent dwellers living in the upper part of the garbage dump were evicted some days before this incident, when the Mayor of Ano Liosia (a Municipality located near Aspropyrgos) offered each Roma family 100 000 drachmas (US\$ 266) to leave the settlement. Following the Roma's departure, the municipality demolished their homes. All the affected Roma (the ones evicted on 14 July and the ones evicted a few days earlier) resettled in other areas around Aspropyrgos.

In September 2001, the municipal authorities of Aspropyrgos, under the orders of the Mayor, proceeded to destroy six homes and damaged others under the pretext of carrying out a 'cleaning operation'. The operation of September 2001 took place in a settlement close to one which had been destroyed in July 2000. The demolition of the shacks was stopped following the intervention of GHM and of the Greek Ombudsman's Office.

A Findings Report by the Greek Ombudsman, released on 26 January 2001, condemned the July 2000 operation and found that "in all likelihood, members of the Municipality of Aspropyrgos have committed criminal acts". The Findings Report was submitted to both the Prosecutor's Office and the Ministry of Interior. The Prosecutor's Office immediately launched criminal proceedings against the Mayor of Aspropyrgos for breach of duty. To date he remains in function, while the trial has yet to take place as it was postponed twice (on 21 May 2004 and 17 February 2005). It is now scheduled to take place on 2 November 2005 – which is five years after the event. At the administrative level, administrative proceedings were launched against the Mayor of Aspropyrgos for the disciplinary offence of 'violating the human rights in a settlement of gypsies' (sic). The Mayor was nevertheless absolved of any responsibility.

The Roma community of Marousi and the Olympic Stadium

In 2002, the Roma community of Marousi was asked by the municipal authorities to vacate their settlement because the 2004 Olympic Games Committee had decided to extend the Olympic installation into that area to construct a parking lot or road enlargement for the Olympic Games.

At that time, the Municipality of Marousi assured the Roma families that special measures would be taken for their resettlement. An agreement to this effect was signed on 1 August 2002 by the Marousi Mayor and a representative of the Roma association 'Elpida'. However, this agreement was only applicable to the Greek Roma but not the Albanian Roma. Such exclusion reflects Greece's general policy to use its various plans only for Greek Roma and not for immigrant Roma, even if they are legal residents.

In terms of this signed agreement, the 40 Greek Roma families would vacate the plots of land where they had been living for decades. In return, the agreement stipulated that they would receive a significant amount of money, as a rent subsidy, every month. As the Roma had to find houses/apartments, the monthly subsidy from the Municipality would help them to pay the rent.

The agreement also stipulated that the Roma families would, in the future, be resettled in heavy duty prefabricated houses to be constructed by the Marousi Municipality. In the longer term, the agreement also emphasised that this relocation would be temporary and that the Municipality would also work towards guaranteeing permanent resettlement to the 40 families. Furthermore, under the agreement, the municipal authorities agreed to provide special assistance to the Roma families in clothing and food, as well as to elaborate on a special plan for the Roma's integration in the local society.

The Municipality's failure to implement the agreement

From September 2002 onwards, and on the basis of this agreement, Roma families started to leave their settlement. Some of them rented houses, while others preferred to go and stay in houses owned or rented by relatives. Although the Roma promptly kept their part of the agreement, the Municipality of Marousi has reportedly failed to implement the agreement signed with the Roma association 'Elpida'. Due to this, some Roma families have voiced their concern that the agreement with the Municipality was merely a pretext to lure them to vacate the land where they had been living, as infrastructure related to the Olympic Games had to be constructed there.

According to reports, the municipality soon defaulted on the payment of subsidies. As a result, certain Roma families fell in arrears and were evicted by their landlords. In September 2003, the two Roma families of Dimitris and Panayota Nikolaou and Petrou Mitrou and Dimitra Karagianni were evicted by their landlords because they could not pay the rent. Other families also faced severe economic hardship, as they relied heavily on the subsidies to cover their rental costs. In addition, in March 2004 the Mayor informed the Roma families that he would withhold payment of the subsidies until they had filed applications for housing loans. The Mayor alleged that as soon as all of them had made the loan applications, he would resume payment of the monthly subsidies. Such a move constituted a clear breach of contract, as no such provision or stipulation existed in the initial agreement.

In January 2004, the Municipality of Marousi claimed to have paid the Roma families the money it owed them (money which in some cases concerned the subsidies of 6 months or more). According to the official responsible at the Marousi Municipality for the payments to the Roma, with whom a representative of the Greek Helsinki Monitor (GHM) spoke during the week of 19 April 2004, all forty Roma families were paid through to December 2003.

Nevertheless, the Mayor of Marousi, in a letter to the Greek Ombudsman's office dated 12 February 2004, stated that only 14 Roma families had been paid all the money which they were owed until January 2004. The letter also mentioned that another 21 families had been paid until November 2003. The Ministry of the Interior, in an answer to a Parliamentary question on 29 January 2004, reiterated this fact. In addition, both the Mayor's document and the Ministry's document referred to 35 families, whereas the agreement referred to 40 Roma families. No justification has been advanced for this discrepancy.

As a result of the above, as of March 2005, the Municipality owes each Roma family the

equivalent of eight months' subsidies, while those families who have rented houses are now facing the imminent threat of eviction, as they have fallen in arrears in the payment of rent to their landlords. In addition to the Municipality's failure to provide the subsidies, reports indicate that it also failed to take steps to implement the resettlement parts of the agreement (i.e. temporary resettlement into prefabricated houses and permanent ones). Although the Roma families have reportedly asked the Mayor several times to tell them where the prefabricated houses will be located, he has not yet answered.

Forced eviction and house demolition of Albanian Roma in Patras

The municipality of Patras and the local police, without any official warning, arrived at the settlements of Makrigianni and Glafkos on 30 October 2004 and proceeded to force the Roma to dismantle the structures in which they lived. In some cases, even though the occupants were not present, the officials proceeded to demolish the homes after asking one of the Roma to move any belongings out of the sheds. Only one home was saved after a young Romani man stood in front of the bulldozer.

These families, along with 27 other families, had their homes (which contained many of their personal possessions) razed to the ground by the same municipality in August 2004, during the holding of the Olympic Games. The demolition of October 2004 occurred as they were just starting to rebuild their lives.

The Roma evicted on 30 October 2004 were migrants from Albania. However, despite having legal residence permits, they were denied due process. In a statement dated 4 November 2004, the Municipality of Patras denied that the evictions carried out on 30 October 2004 had targeted Albanian Roma, stating that it was targeted against Greek Roma not registered in the local municipal rolls. Indeed, thirteen neighbouring Greek Roma families (also victims of the earlier evictions) had been threatened with forcible eviction in the past, yet in this case their houses were spared.

Following criticism of the municipality's actions by the local media, the Albanian Roma have not been harassed since and have proceeded to set up impromptu shacks in the areas where the evictions took place, in order to cope with worsening weather conditions.

Local authorities however did not give up attempting to expel the Roma from the site. On 14 February 2005, six Greek Roma families were served with protocols of administrative evictions, calling upon them to vacate the plot of land on which they were squatting within 30 days. With the help of GHM and ERRC, the Roma filed an injunction against these protocols, scheduled to be heard on 16 May 2005. Many references were made in the injunction to both domestic and international human rights standards and jurisprudence, calling for the non-eviction of Romani communities from plots of land on which they were squatting until suitable alternative relocation sites have been found. The Roma were also granted a temporary injunction suspending their eviction from the site until the adjudication of the injunction on 16 May 2005.

Forced eviction of a Roma family in Aghia Paraskevi

On 1 February 2005 at 08h30 in the Pfekakia area of the municipality of Aghia Paraskevi, Greater Athens, a court bailiff and a bulldozer, escorted by police officers tasked with ensuring the execution of a judicial decision, proceeded to demolish the house belonging to Thanassis Mitrou, a Roma suffering from a serious heart condition.

According to the information received, Thanassis Mitrou and his family were told to vacate their house. The court bailiff then started taking out all their belongings and once this was completed, the bulldozer began demolishing the house. The whole operation lasted until approximately 11h30, when both the bulldozer and the police left the site. It is reported that the police force oversaw the execution of the judicial decision, while two young Roma, Ms. Evangelia Mitrou and Mr. Yannis Mitrou, were slightly injured by plainclothes police officers, who allegedly resorted to the use of excessive force. The police commander had earlier, on 31 December 2004, insulted and exerted pressure on Thanassis Mitrou to vacate the land on which he was living. The Mitrou family currently lives in a tent across the yard from where their home was located. Judicial decisions have been served on another two families who currently face the imminent threat of eviction.

According to *General Comment No. 7* of the Committee on Economic, Social and Cultural Rights, which is mandated to monitor compliance with the Covenant, forced eviction shall not result in rendering individuals homeless or vulnerable to other human rights violations. Indeed, the Government of Greece is obligated to ensure that adequate alternative housing and compensation for all losses is made available to affected persons. *General Comment No. 7* also specifies that States must ensure, prior to any evictions, that all feasible alternatives are explored in consultation with affected persons, with a view to avoiding, or at least minimizing, the need to use force. According to *General Comment No. 7*, adequate and reasonable notice should also be given to all affected persons prior to the scheduled date of eviction.

In 2001, the Greek Ombudsman highlighted, when referring to the Roma living in the Pfekakia area, that "...the violent expulsion of these persons from the lands they now occupy, can only be permitted on the condition that their removal is preceded by the implementation, from the administration, of measures which would ensure their proper relocation in another suitable space, where they will reside permanently under conditions which meet the basic health and human dignity standards of living". The Greek Ombudsman again reiterated such concerns in 2002.

In this case, the Mitrou family had not been informed that the eviction would take place on that day. While under Greek law, the court bailiff has no obligation to give prior notice of a pending eviction; this requirement is clearly spelled out under international human rights law. Furthermore, in terms of Greek law this eviction is considered lawful as it was implemented following a court order and as the land in question was privately owned. The law has not taken any cognisance of international human rights law, nor has it complied with the minimum requirements prescribed.

Indeed, no adequate resettlement has been provided to the Mitrou family, or to the two other

families facing a pending eviction order. In addition, while no genuine consultations have taken place with the Roma, pressure has been recently exercised on them to accept a resettlement offer which they had no opportunity to discuss and that they ultimately disagreed with, while a previously agreed upon resettlement has not been implemented. In this respect, the European Commission against Racism and Intolerance highlighted its concern that in Greece "... forcible collective evictions of Roma families have taken place without any resettlement alternative being proposed".

Information received by COHRE has highlighted that while the municipality of Aghia Paraskevi undertook concrete measures to relocate the Roma by purchasing a plot of land in the neighbouring municipality of Spata in September 2002, the opposition of this municipality to the process prevented the actual relocation from taking place. The Aghia Paraskevi municipality soon abandoned the plan of relocating the Roma to Spata and started examining other potential relocation sites. In the end, it decided upon a site located in Ano Liossia, far away from Aghia Paraskevi and outside Greater Athens, without however consulting with either with the Roma or the Mayor of Ano Liossia beforehand.

In a meeting between the Aghia Paraskevi Mayor and the Roma on 28 January 2005, the Mayor issued an ultimatum, telling the Roma that a proposal concerning their relocation to the Ano Liossia municipality would be his last and final offer. The commander of the local police station also attended the meeting and implicitly exerted pressure on the Roma to accept the mayor's offer. Following a visit to the proposed relocation site, Roma made it clear that they did not wish to be relocated to Ano Liossia, but preferred to be relocated in Spata, as they had agreed to in the past. The municipality of Aghia Paraskevi has made it clear that the relocation to Spata is no longer feasible and has encouraged the Roma to find plots of land up to a certain value, which the Municipality of Aghia Paraskevi would then purchase and transfer to the Roma. According to latest information received, four Roma families have expressed an interest in this proposal.

Remedies

The above cases reflect a widespread practice of illegal forced evictions of 'undesirable' Roma in Greece. In most cases, local municipal authorities are responsible for the implementation of the forced evictions. In addition to evicting Roma, they fail to implement agreed resettlement and compensation plans. Furthermore, in cases where compensation and resettlement are provided, these often exclude non-Greek Roma, who have legal residency status in Greece.

This discriminatory practice should be condemned at the highest official policy level, and eradicated at the level of implementation.

There is an urgent need to guarantee that local authorities in Greece abide by international human rights law and standards related to the protection and enhancement of housing rights, especially where these relate to non-discrimination and protection from forced evictions.

In cases where local authorities fail to do so, administrative or criminal sanctions should be applied in a consistent manner. As long as such measures are not taken and implemented,

concern has been expressed that municipal authorities will have no incentive to change their attitude and abide by international human rights standards.

Finally, adequate compensation and restitution should be provided to all victims of forced evictions.

Reported Case 14 - Alcântara, Quilombo Communities, Brazil

Introduction

The Quilombo communities located in the municipality of Alcântara, State of Maranhão, northeast region of Brazil which are 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.

Reasons given by the State for the eviction

The motivation given for the eviction is the necessity of expansion of the Space Launch Centre in Alcântara (CLA), which was 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 not authorized by the management of the Centre to receive investments in basic sanitation, housing improvements or the construction of schools and health clinics, even without the budgetary resources from the Brazilian Space Agency which has been allocated for the expansion of the CLA.

According to the Ministry of Science and Technology, the CLA is strategically placed due to its geographic location, being just two degrees south of the equator. This location permits rockets and satellites to be launched with 13% less fuel than at Cape Canaveral in the United States of America, and 30% less than at Baikonur, Kazakstan, which are the two main commercial launch centres in the world.

The area of 62 thousand hectares on which the CLA is located, was slowly appropriated by the Federal Union and the state of Maranhão from 1979 to 1991. The Space Launch Centre currently occupies almost 50% of the municipal territory of Alcântara, which is 149 thousand hectares in extent, and practically prevents all access to the beaches as it occupies almost the entire area of the coast.

Estimated number of families affected

The complete project of the CLA is designed to be implanted in four phases. Phase I (1986) and Phase II (1987) have already been completed, resulting in the forced displacement of nearly 1 350 people. Most of these people did not receive compensation nor titles to the lands where

they were precariously resettled. The expansion of the CLA and the implementation of Phases III and IV will result in the forced displacement of more than 1 500 inhabitants of Quilombo communities.

Background and history of Quilombo communities

Quilombos are the communities which were constituted out of the struggle of rebel slaves during the centuries of slavery – from the 17th to 19th centuries – as territories of housing, resistance and social organization. They represented the enjoyment of autonomy as a reaction to white domination. The majority of Quilombo lands have been occupied and managed collectively. They can be considered as indivisible territories where the communities live, work and express their cultures and beliefs. However these communities have been living under the constant threat of land conflict.

The northeast comprises 60% of these communities which are concentrated in the States of Bahia and Maranhão. In the state of Maranhão, the municipality of Alcântara comprises of 400 Quilombo communities.

The municipality of Alcântara was founded in 1648 and its economy was based on the production of sugar cane and cotton sustained by slave labour. At the end of the 19th century, with the decline of the economy, the abolition of slavery and the appropriation of lands by the church and state, many Quilombo communities were formed in the municipality. This resulted in the establishment of permanent communities as is currently reflected in the municipality. Located 22 kilometres from São Luís, the state capitol, Alcântara has 21 000 inhabitants and is mainly sustained by tourism as the city has rich historical assets. It is considered a ‘National City Monument’ according to national legislation. Nowadays, Alcântara is acknowledged as ethnic territory as the Quilombo communities constitute the majority of its population. Their subsistence is guaranteed by the practice of fishing and agriculture. However most of them live under conditions of poverty and exclusion with precarious access to water, education and health facilities.

The Quilombos represented resistance to white domination. The slaves destroyed tools and plantations, murdering landowners and organizing rebellions and mass escapes. This led, in some cases, to the establishment of Quilombos. However, their current goal is to change the concept of a ‘Quilombo’ so that it is not simply associated with situations experienced in the past by rebel slaves; the Afro-descendants wish to be looked upon from the perspective of their current values and culture.

The Quilombos adapted to the ecological and economic conditions of the region where they were settled, and produced the food and materials needed for survival in accordance with their traditions and the opportunities available in their environment. They practiced community-based agriculture instead of the monoculture system and were also engaged in complementary activities to meet their needs. The largest and best-organized Quilombos had complex relationships with broader society. They formed alliances with small landowners, peddlers and traders in order to barter their surplus production for goods they could not produce themselves.

Although currently these communities are primarily located in rural areas surrounding small and medium cities and are comprised of peasants or working people, they are very dependent on the cities in order to achieve the best conditions and quality of life. Their existence was unknown to the majority of the population until a few years ago - they were socially invisible. Even with the right to land being legally ensured by the *National Constitution of 1988* and by *Convention 169* of the International Labour Organization (ILO), of which Brazil is a member, current national public policies have not been sufficient to avert the extreme vulnerability and insecurity of tenure which these communities face daily.

The Federal Government of Brazil, specifically the Ministry of Science and Technology; the State Government of Maranhão and the Municipal Government of Alcântara have been responsible for the co-ordination and implementation of the evictions. The affected communities have suffered forced resettlements and threats of forced evictions/displacements since 1991, as a consequence of judicial condemnation proceedings and a Federal Government-led effort to install the Space Launch Centre in Alcântara.

More recently the situation deteriorated with the signing of two Technological Protection Agreements, in 2000 and 2003, between the Brazilian and US Governments and the Brazilian and Ukrainian Governments. The Agreements transferred control of the Launch Centre to the United States and the Ukraine and guaranteed their technological protection, besides allowing the commercial exploitation of the Centre, in clear contradiction of the initial purposes of the project.

The main events thus far

- 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 Center 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 first 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 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);
- 2000: The signing of the Technological Safeguarding Agreement between Brazil and the USA, allowing the possibility of American rocket launches from the CLA (not yet ratified by the National Congress);
- 2003: The Foreign Relations and Defence 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 1 000 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 displacement in Alcântara;
- 2004: The Federal Government created the GEI (the Inter-ministerial Executive Group) which is comprised of the Presidential Civic Affairs Office; Ministries of Science and Technology; Defence; Agrarian Development; Cities; Health; Education; Tourism; Planning; Culture; Environment; Agriculture; Energy and Mines; External Relations; Labour and Employment; Social Development and Hunger Combat; the Secretariat of Political Coordination; the Special Secretariat for Policies of Promotion of Racial Equality; the Special Secretariat for water use improvement and fisheries; the Special Secretariat for Human Rights; the Brazilian Space Agency; and the Air force Command Structure. 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.
- 2005: The Inter-ministerial Executive Group held a seminar in Alcantara 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 international and national human rights laws. The

participant NGOs and communities do not accept any type of relocation, as they have the right to remain in the areas traditionally occupied and they do not want the expansion of the CLA. The Federal Government also stated that the CLA will be managed by the civil sector of the government and not by the military any longer.

The Quilombo communities affected by the implementation of Phases I and II of the CLA (1 350 people) were forcefully evicted and resettled in 'agrovillas' near the CLA, under the following conditions:

- The communities were not consulted and there were no discussions on the resettlement project;
- 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 just one lot 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 nor access to credit for agricultural development;
- The Agrovillas do not have beach access, which restricts the fishing activities of the community, which was a means of their survival. To have beach access, the fishermen have to walk more than 10 kilometres and carry identification cards to pass through the gates of the CLA.

Consequences for the affected communities

- The direct social consequence of these forced resettlements has been the destruction of their social and cultural organization that has historically guaranteed their survival;
- The communities remaining in the area of the CLA are threatened with forced displacement although there have not been any resettlement projects presented or discussed.
- The communities that will have to accommodate the displaced population due to the expansion of the CLA, are threatened with social, economic and cultural imbalance.

The level of organisation of the affected community and support groups

The National Co-ordination of Quilombo Communities (CONAQ) is comprised of representatives from every State and represents the majority of the communities. Quilombo community groups have worked actively to resist the evictions, with legal assistance and some community organisational work by ACONERUQ (Association of Rural Negro Quilombo Communities of Maranhão), SMDH (Maranhão Society of Human Rights), Pólis Institute, COHRE and the National Rapporteur on the Right of Adequate Housing and Urban Land.

The level of external involvement in the struggles of the community against the planned forced relocations/evictions is relatively low. Some support work has been done by ACONERUQ, Centre of Global Justice, Pólis Institute and COHRE.

No resettlement projects have been presented or discussed with the communities threatened with eviction which still reside in the area affected by the CLA. The original proposal was to resettle them in areas currently occupied by other Quilombo communities.

Actions taken by the Quilombo communities and supporting agencies to resist the eviction and to develop creative, alternative solutions

In 2001, a number of the affected communities supported by the SMDH, the NGO Global Centre of Justice, the ACONERUQ, the Federation of Agricultural Workers of Maranhão and Global Exchange presented a petition to the Inter-American Commission on Human Rights. In this petition, they alleged violations of human rights committed by the federal government of Brazil and by the government of Maranhão against the Quilombo communities which were forcibly evicted. COHRE presented an *amicus curiae* brief before the Inter-American Commission in support of the main petition.

In 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% responded ‘NO’ to the following question: “Should the Brazilian government deliver a part of its territory, the Base in Alcântara, to the US military?”

In April 2003, in order to assist the communities in their struggle to change their social reality, COHRE carried out a joint mission with the National Rapporteur on the Right to Adequate Housing and Urban Land in the municipality of Alcântara, State of Maranhão. The mission had as a primary objective to verify facts and propose feasible solutions to the human rights violations of the Quilombo communities which were incurred with the implementation of the Space Launch Centre by the Federal Government.

Besides organising a public hearing on the matter, attended by 300 representatives of the affected communities and both the Federal and State governments and several social organizations, COHRE also co-produced the report “*A Situação dos Direitos Humanos das Comunidades Negras e Tradicionais de Alcântara*” (“The Situation on Human Rights in Traditional Negro Communities in Alcântara”), in partnership with Platform DHESC, Pólis Institute and OXFAM Brazil. This publication records the activities of the mission in addition to reports on Quilombo residents and recommendations to the Federal, State and Municipal Governments regarding land titling, execution of social public policies and the immediate suspension of forced evictions and displacements. The report was publicly launched during the 3rd National Encounter of Quilombo Communities which was held in Recife in December 2003.

Strategies for future action

COHRE is leading a national campaign which seeks to provide titles of ownership to all communities of Quilombos in Brazil. This campaign has been implemented in partnership with the National Co-ordination of Quilombo Communities (CONAQ). The campaign partners are committed to promoting issues affecting people of African descent and intend to generate broad-based support for this issue. COHRE is also providing legal assistance to these communities

in order to contribute to the positive change of their social reality. Legal training and capacity building activities are conducted to strengthen the ability of Quilombo communities to lobby in the national government for the achievement of their demands regarding land titling.

However, specifically with regards to the communities of Alcântara, strategies for future actions still need to be developed. It is also necessary to discuss strategies in order to avert the expansion of the Launch Centre proposed by the Government and to discuss the steps to be undertaken to develop an alternative plan for resettlement. This process should be driven by the community structures, assisted by support organisations.

Reported Case 15 - Agbogbloshie / Old Fadama Community, Accra, Ghana

The planned eviction of Agbogbloshie / Old Fadama in Accra, Ghana, is one of four selected as key focus cases for more intensive AGFE activity, including missions to be conducted on the invitation of the relevant governments. Three such AGFE missions have already taken place, and are reported on in the next chapter. The fourth mission, to Accra, is planned for May / June 2005. This case is discussed below.

Introduction

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. The settlement is also sometimes derogatively called 'Sodom and Gomorrah', particularly by its detractors who want the area cleared of people. The Accra Metropolitan Assembly and the Government of Ghana (specifically the Ministry of Tourism and Modernisation of the Capital City) seeks to evict the community of Agbogbloshie / Old Fadama.

Reasons and motivation given by the State for the eviction

In May 2002, the community was served with an eviction notice. Community residents responded with an appeal to the High Court for an injunction to restrain the Accra Metropolitan Assembly (AMA) from following through on the eviction. The court case that followed centred on the issue of illegal occupation of the land.

An additional reason for the eviction expressed by the Government is the settlement's physical location. The Korle Lagoon and the banks of the Odaw River are (although heavily polluted at present) an environmentally sensitive area. The Government and the AMA have developed a programme, the Korle Lagoon Environmental Restoration Project (KLERP), which is designed to restore this vital marine and river system to a cleaner and more natural ecological state. Agbogbloshie is believed to constitute the primary source of pollution for the Korle Lagoon.

Furthermore, it appears that under the terms of the loan funding for KLERP, the continued

presence of Agboglobshie has significant, negative cost implications for the Government in the form of lost interest on the loan as a result of delayed implementation of the project.

In addition, both the Government and the AMA argue that the settlement of Agboglobshie presents a serious health risk for the residents.

Background and history of the community

The general perception of Agboglobshie, by those governmental officials with whom COHRE representatives have held discussions, is that the area is populated by Ghanaians from the north of the country who were displaced by the fighting in the early 1990s. There is a suggestion that, given that the conflict is over, the community could be convinced and assisted to 'go back'.

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 among Accra's poor in general. COHRE found that there are in fact at least four different economic and social driving forces behind the establishment and growth of Agboglobshie. These are:

- Spill-over of population associated with the size and growth of the adjacent Agboglobshie market;
- 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 from the early 1980s;
- 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 areas.

Through the years the community was implicitly recognised through the provision of services such as water and electricity. More recently however, the authorities started to indicate that the Agboglobshie community would have to move, and an order for eviction was issued in 2002. The Government of Ghana vowed to implement the Agboglobshie eviction by September 2004.

Key events

- Early 1990s: Agboglobshie settlement formed.
- Early 1990s to present: Community grew to approximately 30 000 people.
- May 2002: Residents served with an eviction notice by the AMA.
- With the assistance of the Centre for Public Interest Law, supported by the Centre on Housing Rights and Evictions (COHRE), the community residents responded with an appeal to the High Court for an injunction to restrain the AMA from following through on the eviction.
- Letters of protest were also written to the Government of Ghana and the AMA, outlining the international legal obligations that would be violated if the forced eviction of the Agboglobshie community were to occur. The following transgressions

were highlighted:

- all feasible alternatives to the planned eviction had not been considered;
- the 28 May 2002 notice had provided too little advance warning;
- residents of the affected community had not been consulted throughout the process; and
- alternative housing or adequate resettlement sites had not been provided.
- 24 July 2002: The Accra High Court rejected the community's request, and authorised the AMA to evict.
- August 2002 onwards: There was an initial intention to appeal, but this was not followed through by the community representatives. The period within which an appeal had to be lodged, has consequently lapsed.
- 2003: Delays in implementing the evictions were mainly attributed to a lack of political will on the part of the Government of Ghana to implement an unpopular and difficult process.
- People's Dialogue supported by SDI assisted community groups to organise around savings schemes.
- October 2003 – February 2004: After a number of field visits to Agbogbloshie in the first half 2003, COHRE concluded that legal resistance, on its own, would not resolve the critical issues facing the Agbogbloshie community. With the assistance of CEPIL, and in close collaboration with community leaders, COHRE undertook an in-depth study of all relevant issues, including the technical grounds on which the authorities had based their decision to remove the community. The study also assessed the extent to which *in-situ* upgrading was a feasible option in this settlement.
- Towards the end of 2003 there were renewed signs that the evictions would in fact proceed. Reports were received of large sums of money being lost by the Government as a result of delays in the evictions, in terms of the loan agreements connected to the KLERP.
- January 2004: The Ministry of Tourism and Modernisation of the Capital City declared that the people would be cleared out of the area by September 2004.
- 31 August 2004: A roundtable discussion on the situation at Agbogbloshie was organised by COHRE in Accra. It was attended by representatives from stakeholders on land issues in Ghana including NGOs, officials from UN-HABITAT, government departments, community leaders of Agbogbloshie and members of the press.
- September 2004: Facts of the case were highlighted at the AGFE presentation at the World Urban Forum in Barcelona. The Mayor of Accra, who was present at the presentation, responded at the presentation, and subsequently had discussions with COHRE on ways of resolving the deadlock.
- On 17 February 2005 the Government of Ghana welcomed the proposal of an AGFE mission to Accra to investigate the situation: "since it is our belief that we will be able to have a breakthrough in the Old Fadama / Agbogbloshie case through dialogue". (See Annex 6 for a copy of this letter.)

Levels of organisation of the affected community

In general terms, the field visits conducted have revealed that this community is well organised. Striking levels of initiative is evident in the management of issues affecting the whole community. These include, for example, the arrangement of water points, wash houses, the digging of drains and fire-fighting. At the economic level, the general activity is even more striking, and indicative of a complex, diversified economic sector.



Photo: COHRE

**Community members constructing drainage trench
Agbogbloshie, Accra, Ghana**

Initial work around resisting the eviction was conducted by internal community groups, with legal assistance and some community organising work by the Centre for Public Interest Law (CEPIL). CEPIL was assisted by COHRE in certain aspects of this work.

More recently, local groups have (with the support of organisations such as People's Dialogue, Shack Dwellers' International and COHRE) moved beyond mere resistance to the eviction, to trying to open up spaces for the residents to negotiate directly with the Government.

Role and nature of supporting agencies working in alliance with the Agbogbloshie community

The level of external involvement in the struggles of the community against the planned evictions is relatively low. When the eviction was initially announced, a legal challenge was made on behalf of the community by the Centre for Public Interest Law (CEPIL), supported by COHRE. However, in the light of their mandate as a public interest law organisation, CEPIL has, since the failure of the legal process, been unsure of its ongoing involvement in this community. Nevertheless, they have continued to support the ongoing work of COHRE in Agbogbloshie. In addition, People's Dialogue supported by Shack Dwellers' International have been working directly with community groups.

Consultations held and alternative options proposed by the authorities

The right of the community to reside in the area is denied outright by the authorities, and also by traditional authorities who claim to be the original owners of the land. In addition, no clear offers of compensation or any alternatives have been made. However, unconfirmed reports have been received of certain groups within the community being approached with offers of assistance should they agree to relocate.

Actions taken thus far by the community and supporting agencies to resist the eviction and to develop creative, alternative solutions

There has been concerted community action to resist the eviction. In support of this, an independent investigation was commissioned by COHRE in collaboration with community leadership, to investigate the grounds for the eviction and to establish whether *in-situ* upgrading is feasible. This investigation concluded that:

- All the concerns of the Government about the settlement could in fact be resolved satisfactorily and still allow the community of Agbogbloshie to remain where they live.
- With respect to the tenure issue, Agbogbloshie could be used to develop a new policy of informal land management in Accra that would make a major contribution to solving its land crisis. This policy would necessarily involve some form of payment for the land and regularisation of the tenure situation.
- The relationship between the Agbogbloshie settlement and the Korle Lagoon is seen to be compatible. Agbogbloshie could remain without threatening the future viability of the lagoon restoration project. Furthermore, the project's reputation would be enhanced internationally if it could show that it was able to integrate the urban poor into an environmental restoration project.
- It is feasible to upgrade Agbogbloshie *in-situ*.

The information gathered during the commissioned study is sufficiently compelling to stimulate intensive discussion and, hopefully, a reconsideration of the present policy positions of the Government. COHRE has proposed that institutions such as the Ghana office of the UNDP, UN-HABITAT, AGFE, NGOs and community-based organisations should urgently meet to explore the above issues, to formulate constructive proposals in this regard, and to convene discussions with the Government on those proposals.

People's Dialogue has been working closely with community groups to prepare for dialogue with the Government on the way forward. According to Farouk Braimah of People's Dialogue in Accra, a key objective of this work is "to make sure that we avoid the situation of people being evicted without alternatives".²³ The methodology used is to mobilise the energies and

²³ Personal communication, Farouk Braimah, Acting Executive Director, People's Dialogue, Accra, Ghana, 6 November 2004.

resources of the residents through the creation of joint savings schemes. Weekly meetings are held, at which a variety of issues are discussed, including the threatened eviction. Confidence and unity is built up through participation and on the basis of shared beliefs and principles, and jointly held financial resources through which additional funds can be leveraged in the form of loans or grants.

In the process, according to Braimah, a platform for negotiations with the Government is being created. When last contacted, the groups were planning a comprehensive population enumeration exercise, to commence in December 2004, to inform the negotiations process and also to assist with future planning. Whether or not the eventual outcome of this process is relocation or *in-situ* upgrading, could be determined by those negotiations. However, local community workers are aware of a potential split between those who would be prepared to move, provided adequate alternatives are made available; and another group, mostly younger men and women, who are directly tied to activities and incomes derived from the Agboglobloshie market.

Proposed strategies for future action

Significant groundwork has been completed in the case of Agboglobloshie / Old Fadama, which can be used as a base for dialogue and development of viable solutions. There are groups within the community organising themselves to negotiate with the Government; valuable research has been completed; and preliminary discussions have been held between some of the role players. However, a great deal of valuable time has been allowed to elapse without any concerted effort in clarifying the main issues to be resolved, or any attempt to get the relevant parties together to try to resolve them.

At the WUF meeting in Barcelona, where AGFE made presentations and facilitated discussions on the situation in Agboglobloshie / Old Fadama, it became apparent that AGFE could make a significant contribution to the resolution of this case. Through UN-HABITAT staff in Accra, contact was subsequently made with the Department of Local Government and Rural Development, who agreed to participate in an AGFE mission to Accra.

The objectives of this mission would be to:

- Obtain an update on the situation in Agboglobloshie / Old Fadama;
- Further develop contact with all of the key role players;
- Gain clarity on current Government thinking with regard to the future of the settlement;
- Facilitate dialogue between the role players;
- 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; and regarding good practices and viable alternatives developed in other countries;
- Develop a local plan of action for resolving the problem;
- Establish mechanisms for implementing and monitoring the plan of action.

The Government of Ghana agreed to the mission, indicating that “[t]he Ministry sees this as a step in the right direction since it is our belief that we will be able to have a breakthrough in the

Old Fadama / Agbogbloshie case through dialogue. The Ministry will therefore welcome your visit to Ghana to facilitate the dialogue with all stakeholders”. (Letter attached, Annex 6)

While the initial plan was for the mission to be undertaken prior to the April meeting of the UN-HABITAT Governing Council, mutually suitable dates could not be set and therefore the mission had to be rescheduled and will now take place in May-June 2005.

3 AGFE MISSION REPORTS

1. Mission to the Dominican Republic (8 – 13 March 2005)¹

Introduction

The AGFE Mission visited the Dominican Republic between 8 and 13 March 2005 on the 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. (Copy of invitation added as Annex 7.) The AGFE Mission to the Dominican Republic carried out its work in an exceptionally complex situation, yet persisted in its attempts to open up new ways and new commitments between the diverse stakeholders involved, in order to find effective solutions to stop the forced evictions in the country.

Context

The Dominican Republic extends over two thirds of the island of Santo Domingo with an area in extent of 44 422 km², a population of 8 562 541 inhabitants, a coastline of 1 575 kilometres, and a 388 kilometre border with Haiti. It has 32 provinces, a Federal District and 120 municipalities.

The majority of the population (63%) reside in cities, with the remainder of the population living in the National District and Santo Domingo Province. There is an annual population growth rate of 2%. Although 20% of the population controls 50% of the income, at least 32% of the remaining population live below the poverty line.

The country commits fewer resources to education than the country average in Latin-America and has an illiteracy rate of 17%. Thirty five percent of the population have inadequate access to drinking water; 22% have no access to sanitation; and the infant mortality rate is higher than the regional average.

Seventy five percent of housing is self constructed, whilst 50% of the population have no deeds for the land on which they live. The lack of deeds and insecurity of tenure are the main causes of forced evictions.

Geographical location of evictions

Forced evictions are a common practice all over the Dominican Republic, but are even more prevalent in the Federal District and in Santo Domingo Province. The provinces of San

¹ This is a translated extract from the report of the AGFE mission team that visited the Dominican Republic from 8 – 13 March 2005. The team was composed of Yves Cabannes, Carlos Escalante and Pedro Franco, who collectively prepared the present report.

Francisco de Macorís, La Vega, Samaná, Puerto Plata, La Altagracia, San Pedro de Macorís, Azua, Barahona also suffer forced evictions.

In the Federal District, more than 200 000 inhabitants from La Zurza, Capotillo, Simón Bolívar, 24 de Abril, Gualey, Los Guandules y La Ciénega neighbourhoods are currently under the threat of forced eviction. More than 30 000 people would be displaced to enable the opening of the Avenida del Río Occidental (Rio Occidental Avenue) according to the RESURE Plan.

Santo Domingo province is the most affected by the lack of title deeds, a situation that affects more than 75% of the population. Neighbourhoods such as Los 3 Brazos and others from the eastern margin of the Ozama River face the threat of eviction because of the construction of the Avenida del Rio Este (East River Avenue). A similar situation is faced by the inhabitants of Brisas del Este, Villa Esfuerzo, Isabelita and Los Frailes in Santo Domingo Este Municipality, as well as Valiente, La Caleta, Campo Lindo, Brisas, Santa Lucía in Boca Chica Municipality. Forced evictions also take place in Santo Domingo Norte Municipality and in Santo Domingo Oeste Municipality.

Relationship between ‘Espacio de Coordinación Urbano’ and AGFE

The structure ‘Espacio de Coordinación Urbano Popular por la Defensa del Territorio’ (Espacio de la Tierra) coordinates more than sixty urban civil society organizations. During the past five years, these organizations have resisted forced evictions, in addition to making a concrete proposal to overcome the practice of forced evictions – such as the Bill on Urban Land Tenancy (*‘Anteproyecto de Ley del Suelo Urbano’*).

In 2003, Espacio de Coordinación Urbano Popular por la Defensa del Territorio presented a report on Economic Social and Cultural Rights, and in 2004 delivered a complementary report on Forced Eviction Cases to AGFE. These reports were analysed and discussed during the WUF in September 2004. In February 2005, an updated report on Forced Evictions was also presented.

Composition, motivation and activities of the Mission to the Dominican Republic

Mission Team

The AGFE Mission was composed of Yves Cabannes, AGFE Coordinator; Carlos Escalante from Campaña por la Seguridad de la Tenencia, Perú; and Pedro Franco, from the Dominican Republic who has international experience in the defence of the ESCR and a relationship with the UN-HABITAT Campaigns.

Objectives

The following were defined as the Mission’s Objectives:

- 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.

Activities

Visits were conducted to the following neighbourhoods to assess the situation and experiences of forced evictions in these areas:

- Boca Chica: Santa Lucía, La Caleta, Valiente.
- Santo Domingo Este: Isabelita (Av. España, Calle 12, Paraíso, Los Hoyos de los tres ojos, Parque del Este); Brisas del Este, El Tamarindo y Villa Esfuerzo.
- Santo Domingo Oeste: Guaricado y Sabana Perdida (Barrio La Islita y Proyecto INVI La Virgen)
- Distrito Nacional: La Cienaga, Gualey y Los Guandules.

Other neighbourhoods presented their experiences and testimonies during the Public Session which the AGFE Mission held on Saturday 12 March 2005. A dossier containing testimonies, press clippings, Dominican legal documentation was also delivered to the team by Espacio de Coordinación Urbano Popular and other organizations.



Photo: Antonio Perez

A resident holding her title deed addresses the AGFE Mission team during a consultation in the Dominican Republic

Location, description of problems and current situation in the neighbourhoods visited

Barrio Valiente

Plots No. 213, 210, 210B-4, 210B-6, 214 and 215 among others in District No. 32, situated 23 kilometres along Autopista de las Américas (Americas Highway), in Boca Chica Municipality, Santo Domingo Province.

This neighbourhood has suffered forced evictions since 1999. According to Santos Carvajal Mota, President of the Community Council of Valiente (CODECOV - a central organisation that fights against forced evictions and a member of the Espacio Urbano Popular), more than ten thousand families face the threat of forced evictions, among these are included three thousand families living on Plot 210-B.

Mr. Pedro González, together with other five families, and Mr. Bautista Angeles, whose house was destroyed in two incidents by a private company, also face the threat of forced eviction.

La Caleta

Plots 218B, 218A in the Boca Chica Municipality:

This neighbourhood was originally settled on the current site of the airport, and was displaced in order to allow the construction of the airport and the Autopista de Las Americas (Las Americas' highway). The neighbourhood, as well as other plots in Campo Lindo, has been severely affected by forced evictions, and residents continuously receive citations of eviction. This is despite the fact that the original deeds belonged to the inhabitants, as was pointed out by Sócrates Peguero, the Coordinator of FRENPROCA, and local Coordinator of the Espacio Urbano Popular Committee.

Santa Lucia and Boca Chica neighbourhoods

In these neighbourhoods, situated in the Boca Chica Municipality, south of Las Americas Highway and north of Las Americas International Airport, plots 483-3, 485 and 486 are currently facing the threat of forced evictions. There are 249 families who are in danger of being evicted.

Among the claimants, the Santa Lucia Neighbours' Committee mentioned Mr. Julio Puello, Mr. Ramón Emilio Simó Santos, and Mr. Miguel Clan. It has been announced in Boca Chica, that the inhabitants of plot 305-1 are in danger of being evicted by Mr. Hugo Arias Fabian who claims 1522 tareas of the land (1 tarea = 629 m²). The same Mr. Fabian sold this land in 1996, when he was a member of the Accounting Chamber of the Republic, to Compañía Inmobiliaria Inversiones Dominico-Españolas SA, the same company that he now claims to represent. He sold the land even though it was occupied by more than two thousand families, and these families are today in danger of eviction. The families of Manuel Bernal, Domingo Pérez, Julio César, Daysi Rijo, José de los Santos and Felix Javier, amongst others, are threatened with eviction in this matter.

Brisas Del Este

This neighbourhood is situated in Santo Domingo East Municipality, parcel 185-171, D.C. 6. The neighbourhood was established after the forced evictions of 1986-1992. In accordance with *Decree No. 381-92*, some of these plots were declared of public utility, and today the inhabitants face the threat of a forced eviction.

According to a report presented by the President of UPROBRISAS, Mr. Soler Pérez, more than thirty thousand inhabitants currently face serious threats of being evicted by private claimants who present citations signed by the State Attorney. Among other cases, Pérez cites the following: the Primary School 24 de Abril, built by the community and with 600 students is under threat of eviction; as well as many families from Villa Elisa II including Miguel Ángel, María Bidó, and Teresa Leiva Javier.

Isabelita neighbourhood

Situated adjacent to the Caribbean Sea, this neighbourhood is part of the Santo Domingo Municipality. It was established after the fall of Trujillo's Dictatorship, and grew between 1979 and 1992, after several migrations of inhabitants from other provinces and from neighbourhoods in the central area of the city. In accordance with Decree 90-74, the plots on which the neighbourhood is situated (plots 178, 179, 203) were declared of public utility.

Club Hábitat is the organization which coordinates the struggle against forced evictions and promotes the issuing of deeds. Its coordinator is Argentina Peña.

The neighbourhood has suffered several forced evictions (1986-1992, 1997, 2004). For example the following claimants have evicted residents: Joany Radhamés Ruiz Pou y José Rojas Canaan (against family Checo, 8/8/97); Nioves Peña González (evicted 20 families on street No. 12 on 8/11/97); Miguel Ángel Velásquez Matos (evicted Mr. Fausto Brito and the shop Super Gavi on Spain Avenue).

The following are currently the most serious cases of evictions:

- Twenty six families living at km 26 of Autopista de las Américas (Las Americas' Highway)² are under threat of being evicted. According to the inhabitants, on 9 July 2004 attempts were made to execute the eviction with the help of with a group of armed civilians protected by Police, destroying the houses and stealing property and money.
- Nineteen families that live in Street No. 12, No. 116 reached an agreement with the claimant, Sócrates Olivo, and bought the land. This consequently stopped a forced eviction against them which was ordered by the Supreme Court of Justice.

² As in other parts of Latin America, outlying settlements in the Dominican Republic are named with reference to their distance along the highway from the centre of the city.

Parque Del Este

This neighbourhood is situated south of Las Americas Highway at Plot 178-B. The land was declared of public utility by *Decree 381-92*. More than 20 families were evicted to build the south lane of the Highway. Many others have been notified by the Secretary of Public Works of eviction for the construction of the highway and other public works.

The community proudly claims a situation of zero evictions, and voluntary relocation with full compensation of any families that have needed to move. Club Habitat is the community organization which coordinates the struggle against evictions and assists people in their negotiations with the authorities.

Los Tres Ojos is a neighbourhood situated in the surroundings of Isabelita neighbourhood, close to the Touristic Park. With precarious houses, built in hollows called 'Hoyos de María', it lacks public services and title deeds.

Villa Esfuerzo neighbourhood

This neighbourhood, situated in Santo Domingo East Municipality, on plots 2 and 28 of District 6, has 60 thousand inhabitants. These plots were rented by the Porcella Family to the State Council of Sugar in 1958. During the privatization process of the public companies (1996-2000), the land was returned to the Porcella family, without granting any protection to the inhabitants of the settlement, although the State issued deeds by *Decree 784-02*.

Many companies are currently promoting forced evictions, such as La Esperilla Land, Paraiso Caribeño, Los Corales, and Inmobilia – this company is owned by the Secretary of Tourism.

On 9 March 2005, a violent forced eviction took place in this community, moments after the Mission had a meeting with the State Attorney, the Governor of Santo Domingo Province and the President of the Presidential Commission for Neighbourhood's Development.

Heavy machinery destroyed 600 houses, according to the press (*El Caribe* newspaper) and the representatives of the community Hilario and Amparo Ruiz, even though 105 families had deeds issued by the government. The Mission visited the place and the Governor of Santo Domingo Province promised the government's intervention to repair the damages caused to the homes of inhabitants that have deeds.

Los Frailes neighbourhood is situated at km 10.5 of Autopista de las Américas (Las Americas Highway), in Santo Domingo Este Municipality, on plots 217-B-A-1, in District No. 6. Some of the inhabitants of the neighbourhood who were at the Public Session held on 12 March, denounced the threats of eviction and the summonses received by the inhabitants.

San Bartolo neighbourhood is situated between km 12 and 13 of Las Americas Highway adjacent to the Caribbean Sea in Santo Domingo Este Municipality. In the Public Session of the Mission, it was announced that 8 families are currently facing the threat of a forced eviction.

La Cienaga, Gualey, Los Gandules

These neighbourhoods situated in the Federal District next to the Ozama river. More than 30 thousand families live in this and other neighbourhoods threatened with eviction by the RESURE Plan, that intends to displace these families and relocate them to other neighbourhoods. In discussions with the Mission representatives, Ciudad Alternativa and COPADEBA explained a proposal called 'Plan Cigua' that attempts to obtain relocation agreements with the inhabitants. It is estimated that a similar number of families could be displaced from the east margin of the Ozama River for the construction of the Avenida del Río (River Avenue) according to the RESURE Plan.

Barrio La Islita, Sabana Perdida Sector. Project INVI – “La Virgen”

On a visit with COPADEBA to sectors La Islita and Proyecto La Virgen, Mission representatives witnessed alternative community work. This zone is isolated in rainy weather due to flooding. To address this situation, Father Nelson Acevedo, the parish priest of the zone, facilitated the voluntary relocation of 80 to 90 families to the State Housing Program 'La Virgen'.

As commonly happens (as related to the Mission by the settlers), the programme originally established to relocate families living in flood plains ended up benefitting families linked to the government party. Currently only 30 families have been relocated; 14 additional families have not been relocated because available housing has been invaded, according to settlers, and they will have to wait for another project.

The area has 440 housing units of 50 to 55 square metres in construction size. Residents have electric energy service, however the cost of the energy bill is higher than what was initially agreed upon. There are sanitation services, but the area is infested with mosquitoes, and the water supplied by truck tanks and at the housing units is not properly treated ('no cuentan con acabados'). According to settlers, only 200 to 250 housing units are occupied and other settlers have not been authorized to move in. Settlers have to pay an initial fee of 20 000 Dominican pesos (about US\$ 400 at the current exchange rate), and must pay a monthly rent that fluctuates between 730 to 2000 pesos. However, settlers indicated that families relocated from La Islita are not paying the rent because they have not yet received an official contract. They only have a permit to occupy the housing units.

Meetings with official institutions

Mission members held meetings with representatives of the following state institutions, namely:

- 'Espacio de Coordinación Urbano Popular'
- Municipal governments of Boca Chica and la Caleta
- President of the Chamber of Deputies
- Governor of Santo Domingo Province
- President of the 'Comisión Barrial'
- State Attorney
- Parliamentary blocks of the National Congress

- Central Government: Coordinator of European Funds, National Housing Institute INVI, National Commission of State Reform CONARE, General Directorate of National Resources.

Mission members also held the following multi-sectoral meetings:

- National Federation of Municipalities FENAMA, Municipality of Santo Domingo Este, Municipality of San Pedro de Macorís, “Espacio de Coordinación Urbano Popular”, Central Government Institutions: Provincial Governor, State Attorney, General Directorate of National Resources;
- Central Government Institutions: INVI, CONARE, ONFED, National Resources;
- Public Hearing with social organizations.



Photo: Yves Cabannes

The AGFE team met with the Mayors of Boca Chica and Caleta and a group of women on International Women’s Day

Media participation

The Mission’s activities, in particular the Parliamentary session, were widely covered by national television channels, radio stations and newspapers. In addition, the Mission was invited to three prime time television presentations of 30 minutes each on the following television channels: State Channel RTVD, Channel 15 Telemicro, and Channel 45.

Results / outputs

Results reached during the AGFE Mission are organized according to the Mission’s first four objectives. Follow-up activities are detailed in item 5 and correspond to the fifth objective of “agreeing on a timetable to monitor and observe advances in controlling evictions” (‘desalojos’).

Regarding Objective 1: Appraisal of the status of Economic, Social and Cultural rights, particularly in regard to Housing Rights

- The Dominican Republic has traditionally lacked a state policy for safeguarding the housing rights of the economically poorer social sectors. On the contrary, its housing policy has been oriented to fostering urban development in cities that favour those interests that are closer to the power elite, and evicting the poorer families toward peripheral areas. This policy has been moderated to some extent in recent years, a fact that is included in the Report to the Committee of DESC. Evictions were reduced and even stopped. However, it is of concern that these practices have now restarted, as demonstrated by the eviction of 600 families from Villa Esfuerzo.
- These recent evictions in Villa Esfuerzo mark the resumption of the practice (against which there has been a moratorium for the past 6 months) of violently removing families from land which they have occupied for several years. In these evictions, the State did not take into account that more than a hundred settlers had title deeds ('títulos') which were granted by the State Sugar Council CEA; that settlers had built their houses; and that State agencies had granted them water and sanitary services as well as roads. This case illustrates how one State entity implemented the destruction of institutions and services which other State agencies had helped to develop.
- In the same way, the Mission has been able to corroborate the existence of state organisations and procedures which concentrate the power of decision over evictions. These State organisations, in their assessment of the 'carácter ejecutorio' of the land property deeds, then authorize the evictions with the participation of third parties which do not represent state agencies, but rather are agents of the private eviction plaintiff. This situation becomes even more alarming in that there have been official actions that undermine the legitimacy of land ownership. In this sense the Mission has gathered the assertions of provincial and municipal authorities that, for example, more than one deed has been presented for the same plot of land, or that such deeds lack precise geographical references that may facilitate determination of their exact location.
- Furthermore the fact that more than 70% of the population lack title deeds emphasises the point that the problems of safeguarding land ownership and of evictions cannot be seen exclusively from a legal perspective. Stakeholders need therefore to consider the social dimensions of these problems. It must be borne in mind that providing land for the whole population (including those less economically privileged) is a pressing pending task for both state authorities and society as a whole. Such provision should correspond to the magnitude and socio-economic characteristics of the different social groups demanding housing.
- On the other hand, members of the Mission have also witnessed certain positive steps in the activities of diverse agents, both in the government and within civil society. Among these are:
 - Actions of the Governor of the Santo Domingo Province, Señor Renato Garcia, in conflict mediation over land; the establishment of a legal counselling unit to assist settlers; and the search for solutions that take into account the legitimate interests of

- all concerned parties – the legitimate deed holders as well as those that have built housing and urbanised previously inhospitable land. Those lands have gained value and contributed to the appreciation of neighbouring areas.
- Legislative initiatives of state agencies that declare the public value of attending to diverse lands and actions by representatives of civil society such as the ‘Espacio de Coordinación Urbano Popular por la Defensa del Territorio’. This has facilitated a Bill, the *Law Regarding Urban Land Occupation* (*‘Ley sobre Tenencia de Suelo Urbano’*).
 - Several municipalities such as Boca Chica, La Caleta y Santo Domingo Este have demonstrated their commitment to find solutions to the problem of the legal insecurity of land occupancy and forced evictions. These solutions would be based on a social and not exclusively on a legal characterization of the problem. In addition, the National Federation of Municipalities have committed its availability to work in the Territorial Organization (*‘Ordenamiento Territorial’*).
 - A very active civil society, organized in the ‘Espacio de Coordinación Urbana Popular Por la Defensa del Territorio’, is composed of various social organizations with the support of non-profit institutions. This Espacio offers counselling to settlements in their business (*‘gestiones’*) with authorities and private parties in the defense of housing rights and against massive evictions; and has also developed an alternative housing proposal which has been presented as a Bill on urban land occupation. Such activities identify the Espacio de Coordinación Popular as a valid interlocutor, capable of contributing to proposals regarding access to land and housing in this country.

It is important to highlight the willingness to enter into dialogue and agreements demonstrated by various role players, which has made possible the joining of multiple forces to improve the existing normative instruments. The President of the Chamber of Deputies merits a special mention for his openness in developing norms aimed at overcoming the insecurity of land occupancy and the threat of evictions of poorer families beyond traditional party lines. Similarly during the presentation of conclusions of the AGFE Mission and the meeting with central government agencies linked to the housing sector, diverse national, provincial and municipal agents manifested their openness to processes of dialogue and agreement to find solutions that would be beneficial to all parties concerned.

Regarding Objective 2: To offer experience and knowledge to Central Government agencies, municipalities, Congress, the Judiciary, social movements and NGOs regarding the application of international laws and treaties on human rights insofar as they apply to housing rights and protection against eviction

Significant proposals have been made for the improvement of the Bill ‘Espacio de Coordinación de la Tierra’ with regard to the following areas: ‘Titulación’ (Deeds); ‘Procedimiento y valorización para las reubicaciones’ (Procedures and establishment of value for resettlement); ‘Indemnización para mejoras’ (‘Indemnization’ for improvements); ‘Procesos de planificación de los barrios’ (Planning processes in neighbourhoods); ‘Fondos y Recursos para la regularización y el mejoramiento de la vivienda’ (Funds and resources for housing regularization and

improvement); ‘De las instancias, del concepto de vivienda digna’ (Concept of proper housing), etc. In a similar manner the Mission team offered suggestions to different state institutions, municipalities, and the Chamber of Deputies.

Regarding Objective 3: To exchange international experiences on proper practices to prevent evictions

Based on the presentation of experiences in land regulation in Thailand, México, Brazil and Peru, the Government of the Province of Santo Domingo has shown a willingness to turn the case of Villa Esfuerzo into a symbolic case (‘emblemático’) that would put eviction practices in a different light; recognizing the rights of property owners and investors, and at the same time recognising the rights those of settlers who with their work have added value to the land. The Government also supports housing reconstruction based on a loan programme from a fund for popular housing.

Regarding Objective 4: To propose local alternatives that may lead to the elimination of forced evictions

For this objective, the Mission achieved the following results based on bilateral coordinations and multi-actor meetings:

- Establishment of a multi-party Parliamentary Commission to review legal proposals submitted to the Congress by social organizations. Such a commission would be entrusted to formulate a normative framework and normative standards which integrate and actualizes such proposals and any others deemed necessary to eliminate the practice of forced evictions and bring land tenure security to economically disadvantaged settlers.
- Establishment of a national tripartite ‘Round Table’ (mesa nacional de concertación tripartita) which, based on congressional activities, will include municipal representatives through the national municipalities federation, and the ‘Espacio de Coordinación Urbano Popular por la Defensa del Territorio’ which would represent civil society. This Mesa de Concertación would also participate in the analysis and formulation of the abovementioned normative proposals.
- Institutionalisation of support offices for settlers faced with eviction in different areas through the Provincial Government, Boca Chica Municipality and community organizations related to the ‘Espacio de Coordinación Urbano Popular por la Defensa del Territorio’.
- Agreement of mayors (‘síndicos’) to petition the National Government and the Congress to stop forced evictions until the law to safeguard land occupation is developed (‘formulada’).

Other Results

The following very important issues have been made part of the national agenda: deeds (‘titulación’); evictions; forced evictions; public usefulness declarations (‘declaración de utilidad pública’), land exchanges (‘permuta de tierra’). These topics have been discussed in several public institutions such as the National Congress, the Governor of the Santo Domingo Province, Mayors (‘Síndicos’) from diverse municipalities. Similarly, initiatives and progress in dialogue and agreement to eliminate the practice of eviction and safeguard land occupancy

have been widespread through the mass media, such as television, radio and newspapers.

Follow up activities

Chamber of Deputies

The Mission met twice with in the Chamber of Deputies. On 8 March 2005 it met the President of the Chamber, Señor Alfredo Pacheco, and then on 10 March 2005 held a meeting, coordinated by the President, with the various political blocks represented in the Chamber of Deputies. Deputies agreed to initiate the process to submit a Bill titled '*Proyecto Consensuado de ley de Titulación*' and to attain its approval within ten months, with the following obligations:

- To name the Parliamentary Commission (by 31 March 2005).
- Inform AGFE, the Executive, and the Espacio Urbano Popular y FENAMUS
- Submit a letter addressed to the President of the Republic, with a copy to the State Attorney (regarding a moratorium on evictions until there is a vote on the law).

Espacio de Coordinación Urbano Popular

In two meetings with the Espacio de Coordinación Urbano Popular, this organization confirmed its willingness to participate in the round table and established the following timetable:

- Socialize the results of the Mission (before 31 March 2005)
- Convene a workshop to update the Bill (8 and 9 April 2005).
- Public information ("difusión") and awareness ("sensibilización") of the Bill (April-June).

FENAMU

The Municipal Federation agreed to participate in the Mesa de Diálogo for the approval of the Bill, with the National Congress and the Espacio de Coordinación Urbano Popular and the acquiescence of the Central Government. It agreed to:

- Promote the approval of a Municipal Resolution ('Resolución Municipal') to stop forced evictions.

Provincial Governor / Espacio

The Mission met several times with the Governor of the Santo Domingo Province, Señor Renato García, first on 9 March 2005, and he agreed to the following:

- Activate the multiparty office ('Oficina mixta') on evictions (12 April 2005).
- Coordinate between lawyers from both institutions.
- Move for the immediate solution favouring the families that were violently evicted in the barrio Villa Esfuerzo.

Congress, Espacio y Fenamu

Due to the Mission's activities the following agreements were reached:

- Establishment of the Mesa Nacional de Concertación (by 30 April 2005).
- Documentation ('levantamiento') of eviction threats.

AGFE

The Mission received ample documentation and testimony about evictions and had the opportunity to directly assess the situation in visits to barrios and in massive meetings, such as Valiente, Isabelita, Brisas del Este, Los Tres Ojos and Parque del Este; and at the Public Audience with some 500 persons on Saturday 12 March 2005. Thousands of families participated in the Mission visit to Villa Esfuerzo, the barrio subject to eviction, on Sunday 13 March 2005.



Photo: Archives, Ciudad Alternativa

During public consultations the AGFE mission heard testimony of forced evictions at places such as *Brisas del Este* in 2004

In addition, all stakeholders demanded follow-up, monitoring and the collaboration of AGFE during the process of elaboration and promulgation of the '*Ley de Titulación*'.

Lessons learned

Many lessons can be learned from the Mission's activities in the Dominican Republic. The following are highlighted:

- The existence of forced eviction practices in this country, which in some way have been justified by national laws, in particular *Ley 1542*, which shall hopefully be repealed by a recently approved '*Ley de Registro Inmobiliario*'. *Ley 1542* established the authority of the State Attorney before the Land Tribunal, which represents the State and has multiple functions. As Sr. Nelson Montás himself expressed to this Mission: "I represent persons that have title deeds" and "evictions always have to be violent".
- The Mission discovered that there was a willingness among different political actors (blocks from all political parties represented in the National Congress), municipalities and the Central Government, as well as the Espacio Urbano Popular, to reach agreements that may facilitate solutions and alternatives to forced eviction.

- With the Mission's participation, consensus was reached with the different actors in order to:
 - Make evictions a multidimensional topic: legal, social, political and institutional.
 - Present solutions to problems associated with title deeds ('titulación').
 - Seek the implementation of preventive policies - funds, bonds ('bonos'), land exchanges ('permutas de tierras'), city statutes ('estatuto de la ciudad'), land bank ('banco de la tierra').
 - Re-establish the role of the State as mediator in land conflicts (between communities and the private sector, or between private entities).³

³ The full mission report on file with AGFE includes the following addenda, which are unfortunately too large to reproduce here: 1. Espacio de Coordinación Report to AGFE; 2. National Eviction Map; 3. Santo Domingo Eviction Map; 4. List of persons located, position, mailing addresses, phone numbers; 5. List of visited barrios, persons present and map; 6. Documentation of examined cases and documentation memo; 7. Photographic review and videos; 8. Legal Documents: a) Constitución of the Dominican Republic; b) Land Law 1542 ("sobre tierra") 1947 (modified by the "ley de registro inmobiliario" 2005, not promulgated); c) Extract from the "Ley de Registro Inmobiliario" (Recently approved and not Promulgated) that substitutes "Ley 1542 sobre Tierras" (establishes the authority of the State Attorney); d) "Proyecto de Ley Presentado y aprobado por el Congreso Nacional en el 2001"(Not promulgated); e) Anteproyecto de Ley ("bill") presented by the Espacio de Coordinación Urbano Popular; f) DECRETO 93-01 (Plan Nacional de Titulación de Tierras Del Estado Dominicano); g) DECRETO 784-02 (Orders deeds favoring persons occupying Dominican State-owned land); h) DECRETO 976-03 (Creates a Commission for the application of Decreto 784-02); i) DECRETO 90-74 (Declares the public utility ("Utilidad Pública") of numerous land plots in barrios Isabelita, Los 3 Ojos y Parque del Este. These populations suffer evictions); j) DECRETO 381-92 (Favors communities in barrios Parque del Este, Brisas del Este, San Bartola y El Brisal, whose lands have been declared of public utility); 9. Peruvian references; 10. Mission members' CVs.

2. Mission to Curitiba, Brazil (24-25 February 2005)⁴

Background information and justification for AGFE field mission to Curitiba, Brazil

In the meeting of the UN-HABITAT Advisory Group on Forced Evictions (AGFE), which took place during the Urban Social Forum in Barcelona (September 2004), several cities where forced evictions had been implemented or were being planned were identified, according to the petitions presented to the group. The petitions included cases in Curitiba (Brazil), Santo Domingo (Dominican Republic), Accra (Ghana), Rome (Italy) and others.

AGFE approved the need to carry out missions to such cities to promote social dialogue and to seek feasible alternatives to these forced evictions. According to the UN-Habitat Governing Council Resolution of 2003, these missions should aim at producing consensus among the stakeholders involved in the matter, with no imposition of any sort of solution to the involved members, except in cases in which agreements could be produced with recommendations and proposed solutions.

AGFE had received a number of reports of illegal forced evictions in Curitiba. These evictions were implemented by the Municipal Government of Curitiba in 2003 and 2004 in the communities of 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; which resulted in 2 500 people being evicted. Even prior to the establishment of AGFE, current members of AGFE had been involved in initiatives to have evictions stopped or, in cases where they had already been implemented, to seek redress. On 17 February 2005, the Ministry of the Cities formalized an invitation to UN-Habitat, Memorandum No. 787, inviting AGFE to carry out a mission to Curitiba, Brazil on 24 and 25 February 2005. (Copy of invitation attached as Annex 8.) On the basis of the reports received and the invitation to conduct a mission to Curitiba, the Convenor of AGFE approved a mission to Curitiba, to be undertaken on 24 and 25 February 2005.

The mission team was composed of the following:

- Leticia Marques Osório, AGFE member, Americas Programme Co-ordinator, COHRE (Centre on Housing Rights and Evictions);
- Paulo Teixeira, AGFE member, city councillor in the Municipality of São Paulo;
- Inês Magalhães, representative of Minister Olívio Dutra, Ministry of the Cities;
- Patrícia Menezes Cardoso, representative of the National Rappporteur on the Right to Adequate Housing and Urban Land, from Polis Institute;
- Leandro Gorsdorf, co-ordinator of NGO Terra de Direitos;
- Movimento Nacional de Luta pela Moradia (Brazilian Movement for Housing Struggle).

⁴ This is a translated extract from the report of the AGFE mission team that visited Curitiba, Brazil, from 24-25 February 2005. This report was written by Leticia Osorio, Mission Coordinator. The names of the members of the team are given below.



Photo: Adriano Bardo

Eviction in progress: Curitiba, Brazil, 2003

The situation in Curitiba

In 2004, the NGO ‘Terra de Direitos, Movimento Nacional de Luta pela Moradia’ and representatives from the affected communities presented a report on the following forced eviction cases implemented by the City Hall of Curitiba from 2001-2004:

Case 1 - Sambaqui

On 1 October 2003, a group of 72 people were violently evicted during the early morning from a region of land known as ‘Sambaqui’ by the Municipal Guard of Curitiba. The Guards destroyed huts built to shelter people and lit a bonfire into which they threw utensils, mattresses and personal objects of the evictees, even a small cat belonging to an old lady. The Municipal Guards, who carried weapons throughout the illegal execution of the eviction, assaulted more than five people. The actions of the Municipal Guards of Curitiba were unauthorised as the officials were not in possession of any judicial mandate authorizing the eviction and none of the Guards carried any type of identification. The evicted families were provisionally sheltered in a Labour Union building in the centre of the city.

The eviction occurred despite the agreement signed in 2003 between the City Hall and the State Government to urbanize the area and build housing units in the allotment owned by COHAB / Curitiba. These housing units were intended to benefit 48 families occupying an unused Banestado building, in addition to 500 families who had to be resettled from the edges of River Iguaçu. The residents motivated for the continuation of the urban housing programme and also for the issuing of land titles to the affected families. This motivation was based on the legal concession of the right of usage and the special concession of usage for housing purposes or the purchase of lots in accordance with the socio-economic status of the families. The families also requested that the area of Sambaqui be declared a Special Zone of Social Interest.

Case 2 – Vila Leonice

A settlement of 62 families was violently evicted in the middle of May 2003 from land on the border between Curitiba and Almirante Tamandaré, in the region known as Vila Leonice in the neighborhood of Cachoeira. The initial eviction was carried out by the Military Police Force, who allowed the families 15 minutes to leave their huts, then burnt these down with all personal belongings still inside. The residents lost the very few possessions they had, including beds, mattresses, blankets, clothes and food. With nowhere to go, most of the families spent the night on the sidewalk of David Bodziack Street. After three days, the Municipal Guard violently expelled the families off the street and confiscated their remaining possessions. A number of the families currently live with another hundred people in a large hut collectively rented by the National Movement on the Struggle for Housing (MNLN). Other groups returned to houses belonging to relatives or moved elsewhere.

Case 3 - Vila São Braz

On 14 May 2004, the Municipal Guard of Curitiba forcibly evicted 144 families from Vila São Braz in the west of Curitiba. More than 500 men surrounded the area at 05h00, and at 06h00 entered each house and gave the occupants two hours in which to gather their possessions and leave. At 08h00, the houses were demolished and people's belongings were hauled away in trucks. Many families were taken to the São João Batista Hostel where they were allowed to stay for three days. Some of the families spent the first night sleeping on the street.

No resettlement plan was presented to the families and several people moved to an area called Campo Magro, located in the metropolitan region of Curitiba. A Judge from the 2^a Vara da Fazenda Pública authorized the Municipal Guard to carry out the operation as the public force responsible for fulfilling the eviction order.

Case 4 - Vila Ilha do Mel

In September 2001, 520 families were evicted from a private property 'Vila Ilha do Mel', and transferred to an urban area in the city of Contenda, in the metropolitan region of the capital. Vila Ilha do Mel was one of the settlements in the area called Bolsão Vila Audi, a large group of settlements located on the border of Curitiba with the Municipality of São José dos Pinhais. On 11 September 2001, approximately 700 officers of the Municipal Guard surrounded Vila Ilha do Mel, violently expelled the inhabitants and demolished their huts. The eviction was carried out by the City Hall with no resettlement plan to accommodate the families.

At the same time, 520 people who resided in the area were transferred to another location in the city of Contenda. Contenda is a small rural city, with very few resources to meet the needs of its local population or provide basic services such health facilities or education. The relocation of 85 families represented a huge problem for the municipality as the resettlement resulted in the inability of the Municipal Government to provide basic services to the new families. It also resulted in instability in the provision of services to the native population of the city of

Contenda.

Due to the resulting inequality in the provision of services, the resettled families become the target of discrimination by local inhabitants, as the new families were seen as the reason for the poor provision of basic services to the native residents of the town. In addition, the resettled families were unable to secure local work or access public transport to enable them to continue with their previous employment, as the capital city was now 50 kilometres away from their homes. In several petitions from residents of the area, it was stated that during the resettlement of the evicted families from Vila Ilha do Mel to Contenda three years previously, public servants from COHAB/Curitiba were involved in assisting these families in their relocation. In addition, allegations were made that agreements were entered into for the purchase of these allotments between COHAB and the new residents.

The following cases were also reported during the AGFE mission to Curitiba, in a meeting with representatives from communities who alleged violations of their rights to adequate housing through the practice of forced evictions and resettlements implemented by the City Hall.

Case 5 - Bolsão Sabará

Bolsão Sabará is composed of eight slums in which 14 000 families reside in a private area. The Development Company of Curitiba signed agreements for the payment of occupation fees for the use of this land with several families from 1987 to 1994. Due to lack of payments, the Company filed for an eviction process against several families. A public civil process was filed against the municipality by Ms. Ana Brandão (the public prosecutor) with the objective of suspending the charge of occupation fees by the municipality, once the area was not owned by the municipality.

Case 6 – Vila Pluma/Jd. Esperança

Vila Pluma/Jd. Esperança is a private area of land which was occupied in the 1970s. In 1996, the owner of the area proposed an eviction process at the 3a Vara Da Fazenda Pública but it was not executed. Of the 170 families residing on the land, 108 hold agreements of usage signed with COHAB/Curitiba. These agreements were the result of an agreement between the owner of the area and COHAB. The owner received 90% of the total amount and COHAB held 10% of the occupation fee as well as the charge of IPTU (municipal urban fee). Despite this agreement, the area is still not under the public domain and the owner has not withdrawn the eviction process, which is still in court and therefore threatens the security of the residents. The residents have filed a petition against the municipality before the Public Ministry.

Case 7 – Campo Magro

In Campo Magro, an area located at the border with Curitiba, 28 families of workers suffer under constant threats from brokers who, in addition to illegally selling allotments with no infrastructure, also threaten families who seek legal assistance. The broker had an eviction order issued against the families who have demanded the intervention of the City Hall to mediate the conflict and halt the eviction.

Case 8 – Caiuá/Pedro Machado/Vitória

Approximately 190 families have resided in the area of Caiuá/Pedro Machado/Vitória for two years under the constant threat of being evicted. They have also lobbied for the intervention of the City Hall to mediate the conflict and halt the eviction.

Mission Objectives

- Verifying situations of violation of the right of adequate housing and monitoring the present status of housing rights with a particular focus on the matter of security of tenure of low-income communities;
- Offering experience and expertise from the Advisory Group on Forced Evictions to governments, social movements and non governmental organisations regarding the application of the international law on human rights related to the promotion of housing rights and protection against forced evictions;
- Offering the opportunity to exchange international experiences of good practices implemented to prevent and halt forced evictions in other countries;
- Proposing a local plan of action to prevent the occurrence of planned evictions and propose solutions to the affected communities;
- Establishing a calendar to monitor the proposed plan of action and constitute a local commission to follow the case.

Activities during the mission

The following activities were completed during the mission:

- Meeting with representatives of the affected communities who had already reported their cases to AGFE and also with representatives of new communities interested in presenting their statements – 24 February 2005;
- Press Conference to inform the media about the mission and its objectives – 24 February 2005;
- Public Hearing on 25 February 2005 with the participation of several social actors involved in the cases which reported in this document: AGFE members, Municipal, State and Federal governments, representatives from the affected communities, popular movements in the struggle for housing, non-governmental organisations, universities, professionals, students (around 250 attendants), House of Representatives from the State of Paraná.



Photo: Leandro Gorsdorf

AGFE Public Hearing, Curitiba, 25 February 2005

Communities, organisations and governmental bodies represented at the public hearing

Communities

- Jd. Esperança, Vila Pluma;
- Caiuá (Pedro Machado e Vitória);
- Associação de Moradores das Ilhas – Rio Iguaçu;
- Associação de Moradores de Sambaqui;
- Frente Popular de Luta pela Reforma Urbana;
- Assessoria da Bancada do PT Na ALPR;
- MNLM;
- Ocupação ABV – Campo Magro;
- Vila Sabará;
- Associação de Moradores das Vilas Colombo I e II Jd. Independência;
- Contenda/Ilha do Mel.

NGOs

- Terra de Direitos;
- COHRE;
- Relatoria Nacional do Direito à Moradia Adequada/Instituto POLIS.

Government Bodies

- Ministério das Cidades;
- COHAPAR – Companhia de Habitação do Paraná;
- Instituto de Pesquisa e Planejamento Urbano de Curitiba – IPPUC, representando o Exmo. Sr. Prefeito Municipal Beto Richa;
- Secretaria Municipal de Urbanismo;

- Secretaria Municipal de Defesa Social;
- COHAB/Curitiba;
- Secretaria Extraordinária de Assuntos Metropolitanos;
- Companhia de Desenvolvimento de Curitiba;
- Deputados Estaduais;
- Vereadores.

Others

- Universidade Federal do Paraná

Eviction Highlighted at the Public Hearing: Parque Industrial – Goiânia

The attorney representing the families who were violently evicted on 15 February 2005 in Goiânia, State of Goiás, attended the public hearing in Curitiba. The attorney represented roofless families who since May 2004 had occupied the area of Parque Oeste Industrial, (Industrial West Park) in Goiânia, State of Goiás (GO).

Fifteen thousand workers with no alternative accommodation had occupied the area, these families were violently evicted in an action carried out by the State Government after a Judicial decision ordering the eviction. The action resulted in the deaths of two people, dozens of injured and 800 people arrested. The forced eviction was illegally carried out and represented a violation of the right to adequate housing, in terms of international legislation in protection of human rights. It was only after two people had died, that the Government of the State of Goiás and the City Hall of Goiânia indicated the possibility of resettling the evicted families in the area. A tragedy had to take place before the plight of these families in Occupation ‘Sonho Real’ (‘Real Dream’) could reach the headlines of the national press. It was only after such publicity that the executive power announced action to guarantee housing rights to these families, a constitutional right to which every Brazilian is entitled.

All those present at the public hearing committed their support and solidarity to the families from Goiânia and the attorney committed himself to sending details of the case to AGFE and to request a mission in Goiânia.

Results of the Mission

The statements from communities and from the MNLM (National Movement on the Struggle for Housing) in relation to the evictions that took place from 2001-2004 reflect the need for the Municipality of Curitiba to implement the land ownership regularization tolls provided for by the City Statute and the Master Plan in order to guarantee the right to the city for the low-income population.

The communities and MNLM identified the following issues as illustrated by the reported forced evictions, namely the lack of municipal policy on the following:

- Social interest housing which considers the aspects of land ownership regularisation of public and private areas;
- The production of allotments and housing units;
- The adequate resettlement of populations which live in areas of risk;
- Access to basic sanitation and public transport;
- The promotion of participation;
- The implementation of action to encourage income generation and the creation of employment for this sector of the population.

From the perspective of the City Hall, it was recommended that AGFE carry out a more accurate analysis of the local legislation and the municipal housing policy, as well as undertake interviews and meetings with technicians from public bodies. IPPUC informed the mission that UN-HABITAT, through Programme Best Practices, recognised positive experiences in Curitiba in the areas of integrated urban planning, including housing.⁵

It was possible to establish a wide ranging and positive dialogue among several social actors representing governmental and non-governmental stakeholders who were involved in the reported eviction cases. Despite the City Hall and the State Government's refusal to sign the proposed 'Terms of Agreement between AGFE / UN-HABITAT and the Municipality of Curitiba / Brazil – For a City Free of Evictions' (copy attached as Annex 9). 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 promote solutions to the cases presented at the public hearing by the affected communities.

The working group will also aim to contribute to the following:

- Suggestions to improve policies and actions to promote, protect and defend the human right to adequate housing and the fulfilment of the right to the city;
- 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.

The working group (to be immediately constituted), will be composed of representatives from the following bodies and organisations:

- Advisory Group on Forced Evictions (AGFE)/UN HABITAT
- Municipality of Curitiba
- Curitiba Institute of Urban Research and Planning (IPPUC)
- Municipal Secretary of Urbanization
- Curitiba Popular Habitation Company (COHAB)
- Municipal Secretary of Defence
- Ministry of Cities

⁵ For further information see:

http://www.bestpractices.org/database/bp_display_best_practice.php?best_practice_id=844;

http://www.bestpractices.org/database/bp_display_best_practice.php?best_practice_id=2080;

http://www.bestpractices.org/database/bp_display_best_practice.php?best_practice_id=1874.

- Special Secretary of Metropolitan Affairs
- Curitiba Development Company (CDC)
- Paraná Habitation Company (COHAPAR)
- National Rappporteur on the Human Right to Adequate Housing
- Centre on Housing Rights and Evictions (COHRE)
- Paraná Observatory on Public Policies
- Terra de Direitos
- National Movement on the Struggle for Housing
- Centre for Popular Movements
- Municipal Chamber Urbanization Commission
- Paraná Federal University
- State Public Ministry
- Representatives from the communities that attended the public hearing.

The first report on the work group's activities will be presented after two months.

Matters identified and lessons learned during the Mission

In their evaluation, the mission was assessed as being extremely positive by the organisations and movements that presented petitions to AGFE and by the members of the Advisory Group. This was in part due to the fact that the mission coincided with the beginning of the new term of the Municipal Government, which included a conciliatory speech about the search for solutions to the housing problems that the low-income populations in Curitiba have faced for years.

Participation in the mission was quite representative of municipal, state and federal governments, the affected communities, NGOs, municipal and State Houses of Representatives and public ministry. This facilitated open dialogue on matters and also the establishment of a working group, composed of social actors and relevant institutions, tasked to develop proposals for the resolution of the reported cases.

The proposed “Terms of Agreement between AGFE / UN HABITAT and the Municipality of Curitiba / Brazil – For a City Free of Evictions” should have been presented prior to the public hearing in order to provide sufficient time for the sectors/governmental bodies/communities to reflect upon its terms, formulate amendments where needed and prepare to sign the document.

The mission could have been conducted over three days instead of two, in order to complement the public hearing with site visits to the communities affected with forced evictions who were present at the public hearing.

The mobilisation of civil society (mainly by MNLM and Terra de Direitos) on matters of the right to adequate housing and the right to the city in the Municipality of Curitiba was fundamental to the success of the mission and to the organisation of the public hearing.

Follow-up Activities

The Municipality of Curitiba has undertaken, within 60 days of the date of the public hearing,

to present the information related to the petition and a report on the policies and actions of the city of Curitiba in the areas of social interest housing, tools of urban policies, social inclusion and income generation.

The workgroup that was established will be constituted according to the objectives of Item 4, and the group will present a report on the discussions and activities that have been carried out to AGFE, in sixty days from the date of the public hearing on 25 February 2005.

The City Hall of Curitiba will send a report to AGFE on the evictions reported by the communities present at the mission and at the public hearing.

Recommendations

The AGFE recommends that the group to be constituted be equally representative of all social actors and involved sectors in the issue of housing policies and evictions. The objectives of this group will be aimed at proposing alternatives to the reported cases and the prevention of any future evictions.

To this end it is recommended that the group discuss the following issues:

- Research on the legal, economic and social situation of the low-income settlements presently facing land ownership irregularities;
- Mediation of the evictions that are about to be implemented by legal processes and the role of the Municipal Guard;
- Dialogue among the municipal, state and federal bodies, executive, legislative and judiciary, civil society and vulnerable communities, aiming at the proposal of policies and actions to promote, protect and defend the human right to adequate housing and the fulfilment of the right to the city;
- Legal, urban and social solutions to land ownership regularization and to the urbanization of public areas occupied by low-income populations based on the City Statute and the Master Plan, seeking permanent settlement of families in housing areas which do not present any risks to the health and to lives of these families;
- Development of programmes to generate income and to enable job opportunities, to provide health and education, and to implement urban infrastructure aimed at improving the conditions of life of the resettled or evicted families;
- Activities of capacity building and information dissemination to municipal, state and federal bodies, executive, legislative and judiciary, civil society and vulnerable communities on human rights, especially the right to the city and the right to adequate housing;
- Regulating the tools provided for the Master Plan in order to implement the special concession of usage for housing purposes; concession of the right of usage; the right of pre-emption; surface rights; special zones of social interest; evaluation and characterization of empty urban areas; and democratic management (especially of the constitution of the Collegiate Body mentioned in article 48 of the Master Plan, to be elected in the next Municipality of Curitiba City Conference);

- Legal and administrative measures aimed at halting the activities of irregular and clandestine brokers, and in the search of solutions to the land ownership regularization and the protection of low-income purchasers;
- Process of the City Conference that will be implemented by the Ministry of the Cities in 2005.

The AGFE also recommends that the proposed document ‘Terms of Agreement between AGFE / UN HABITAT and the Municipality of Curitiba / Brazil – For a City Free of Evictions’ should be discussed in the above-mentioned workgroup, with the expectation of having the Terms of Agreement signed in the near future by the relevant parties.



Photo: Yves Cabannes

After resisting a 2003 eviction on 1 October 2003 at Sambaqui, Curitiba, some residents were severely beaten and had to be admitted to hospital. Situations like this should never be allowed to happen again.

3. Mission to Rome, Italy (15 – 19 February 2005)⁶

Introduction

The private lease sector accounts for the majority of eviction cases in Italy. Of the 2 915 362 families in private lease arrangements, eviction has affected 1 503 846 families between the years 1983 and 2002, equivalent to 51.60% of the families in lease. A total of 365 956 families (12.55% of the total), have experienced the ordeal of an eviction enforced by the police. (See table below.)

These eviction statistics are based on data supplied by the Italian Minister of Internal Affairs and only reflect data on legal procedures up to 2002. There is no data for the years 2003 and 2004. However, estimates are that during this period more than 170 000 new evictions have been initiated, in addition to the numerous evictions carried out illegally or out of the courts' jurisdiction. For example, although the Minister of Internal Affairs has stated that there are 600 pending evictions in Florence, the number has been assessed as actually being closer to 6 000⁷.

According to a study carried out by SUNIA on a sample of over 11 000 lease relationships, the average rent in Italy is 1 025 Euros per month. A comparison of the value of the rents with income levels, highlights that in general the burden is extremely high for middle to low income classes (up to 22 500 Euros per year). For example, families with a yearly income of 7 500 Euros pay 81% of this for a mini apartment and up to 185% for a 4 room apartment. In contrast to these extremes, a family that has available 22 500 Euros per year spends on average from 27% to rent a mini apartment to 62% for a 4 room apartment.

There are two other types of eviction groups which are not recorded in the official statistics:

- Evictions from homes sold in auctions due to mortgage defaults, debts and bankruptcy. This type of eviction is increasing in Italy due to economic pressures and unemployment. They affect approximately 200 000 families nationally⁸. Of these, about 130 000 succeed in repurchasing their homes, while the remaining 70 000 lose their homes, become tenants of the banks or are evicted.
- Evictions of the homeless, immigrants, nomads or the poor from informally occupied real estate. There are situations in which the evictions of foreigners have resulted in the extreme consequence of forced deportation to their countries of origin (for example, the eviction of the Via Adda in Milan⁹). The risk of illegal occupation evictions concerns tens of thousands of families: in Milan an estimated 2 650 people illegally occupy public

⁶ This is a translated extract of the report of the AGFE mission team that visited Rome from 15-19 February 2005. The original report was drafted by Cesare Ottolini, with sections by Jacqueline Leavitt. The other team members were Bernard Birsinger and Olivier Valentin.

⁷ See <http://www.unioneinquilini.it>

⁸ Calculations: CONAFI-Assocond on Istat data "Statistiche giudiziarie civili", 1997/2000

⁹ See <http://www.viaaddanonsicancella.org/>

housing (4.45% of the total public shelters); in Rome 9 040 (13,79%); and in Naples 7 000 (32,71%). In addition to this, due to their desperate need for shelter, people informally occupy abandoned real estate designated for other uses such as factories.

Italy: Evictions procedures in housing real estate (1983-2002)¹⁰

Type of procedure	1983-2002	Annual mean	2002
Evictions carried out	1 503 846	75 192	38 591
Evictions carried out via court officer	365 956	18 298	19 310
Applications to evict	1 504 384	75 219	86 288

Background to the situation in Rome

Rome, the capital city of Italy, has a population of more than 2 600 000 persons, of a provincial population in excess of 3 800 000 people. Between 1991 and 2001, the population of the city diminished by around 350 000 inhabitants, primarily due to the implementation of eviction procedures and a dramatic increase in the price of real estate.

According to data supplied by the Ministry of Interior between 1983 and the 2003, 212 473 evictions were requested in Rome during this period, of which 66 112 were executed with the assistance of the police. Given the assessment that 1 400 000 families live in Rome, 15% have therefore suffered from this experience, while 5% of families have been evicted by public order. Thus approximately 500 000 people have had to defend their security of housing tenure before a tribunal, and about 150 000 have suffered eviction.

¹⁰ These are the latest official data (March 2004) <http://pers.mininterno.it/dcds/>

Rome: Actions for eviction from residential real estate property: 1983 - 2004¹¹

Actions issued	1983-2003	2003	2004	Total
Evictions carried out	208 386	4 087	Not available	212 473
Evictions carried out via court officer	61 353	2 648	2 111 (data from Prefecture)	66 112
Applications to evict	393 972	11 171	Not available	405 143

In order to address the growing housing needs of lower income to poor people in Rome, the Rome Municipal Administration has provided approximately 26 900 dwellings, of which 3 000 are on agreement with private owners. Since this is insufficient in terms of the housing needs, the Municipal Administration has estimated that 26 000 more dwellings are necessary, most of which should be publicly owned.

Relevant data as provided by the Rome Municipal Administration:

- Families on waiting list for low income housing: 26,500;
- Families on waiting list for rent assistance from the Municipal administration: 17,000 (27% elderly people and disabled, 16% migrants);
- around 10,000 migrants, political refugees seekers, homeless or badly housed (squatters, occupants, residing under bridges, etc.) people;
- Housing belonging to the Municipal administration illegally occupied: 2,600.

The AGFE field mission to Rome

Motivation

The AGFE decision to undertake a field mission to Rome was based on analysis of the following documents and an invitation from the Municipal Administration of the City of Rome and the Unione Inquilini (Tenants Union) to visit the city and meet stakeholders to discuss the high volume of urban evictions in the capital city and related tenure rights issues. (Copy of invitation attached as Annex 10).

- Dossier on Eviction Emergency in Italy (involving over 200 000 families) presented by the IAI to AGFE (August 2004);
- The dossier on the violations of housing rights presented by the Unione Inquilini, IAI and COHRE (October 2004) at the 33rd Session of the UN Committee on Economic,

¹¹ These are the latest official data (March 2004) <http://pers.mininterno.it/dcds/>

Social and Cultural Rights;

- The recommendations to the Italian government issued by the same Committee (November 2004) ;
- The informal meeting of the AGFE members during the World Social Forum 2005 (Porto Alegre, 26/1/05); and
- An invitation by the Municipal Administration of the City of Rome and the Unione Inquilini to visit the city and attend a series of meetings (1 February 2005).

Composition of Mission team

Name	Representing	Function
Cesare Ottolini	AGFE (IAI)	Co-ordinator of mission
Bernard Birsinger	Mayor (Bobigny, France)	Exchanges of experiences with particular focus on free eviction zones, Housing public services
Olivier Valentin	Expert on housing policies (Bobigny, France)	Exchanges of experiences with particular focus on free eviction zones, housing public services
Jacqueline Leavitt	Huairou Commission (USA)	Exchanges of experiences with particular focus on security of tenure for women

Objectives of the AGFE mission

- To assess the situation in relation to violations of housing rights, with particular reference to security of tenure.
- To foster the international exchange of good practices for security of tenure.
- To promote the draft of local, national and European Plans of Action for security of tenure.
- To establish an agenda for the monitoring of the Plan of Action.
- To prepare the ground for a mission on the security of tenure at a national level in Italy (2005).

Activities developed by the mission

Three types of activities were undertaken during the mission, namely:

- Meetings with organisations and institutions;
- Visits to communities;
- Press conferences, including one to present the mission at the outset and another to publicise the results.

Meetings with institutions and organizations

Members of the mission held meetings with the following stakeholders:

- The Municipal Administration of the City of Rome;
- The Prefecture of Rome;
- The Districts (*municipi*) of Rome;
- The associations supporting the evicted and the homeless (for example S. Egidio, Caritas, Emmaus);
- The civil community (trade and tenants' unions, inhabitants' associations threatened with eviction);
- The Housing offices of Italian Municipalities in areas where housing emergencies occur (co-ordinated by the ANCI).

Summary of meeting with key Institutions

The main meeting was with the Municipal Administration of Rome. In discussions, the Municipal representative considered that the situation in Rome had worsened in 2004, primarily due to the following reasons:

- *Law number 209/04* which has deferred until 31 March 2005 the dates of the enforcement of evictions for only 13% of the evictions. The law has also removed around 105 million Euro from the National Fund meant to assist in rents, including approximately 5 000 cheques in Rome specifically.
- The manner in which housing of suppliers' agencies are mapped and the privatisation of property of other agencies (such as insurance institutions and banks).
- The effects of decentralisation of authority over housing to the regions without the necessary state financial support.
- The increase in the price of rentals and sales of real estate property which has been influenced by low banking rates and residential insecurity.
- The flow of migration to Rome as a capital city (influenced by globalisation), without the State or the European Union assuming any responsibility for attending to the impact of this influx of people.

As a result of this meeting, Municipal administrators committed themselves to an important joint declaration with the AGFE Mission¹² and requested members of the AGFE to support the proposal to create a European Fund for Housing Assistance for migrants.

¹² A copy of the declaration is given in Chapter 4.

Visits to communities

Roma camp at Vicolo Savini

The focus of the mission covered diverse forms of squatting and living conditions. The most obvious example of unsafe and unsound housing was that of the Roma camp at Vicolo Savini. The principle that housing should be safe; equipped with sanitary facilities; and provide a sense of security does not apply to this camp which residents compared to a concentration camp. Another problem experienced by the residents was the lack of documentation - especially critical for the youth who on turning 13, have no recourse to further schooling or finding jobs due to their lack of documents.

The camp was divided into three sections. In addition to two temporary toilets inside the entrance, the two collective bathroom structures were not working (it was reported that at least one had not been working for a year). The unpaved paths into the camp were strewn with garbage and standing water.

The amazing fortitude of the people living in the camp was reflected in the care of their clothes and personal hygiene although the effort to maintain this would have been a tremendous challenge, and one in which the women particularly bear a heavy share. There are no areas available for small children to play other than outside the caravans. The chilly winters mean that people build wood-burning stoves inside their caravans which has resulted in numerous fires over the years. People interviewed reported that over 30 deaths and many more injuries had occurred as a result of these fires.



Photo: © Foto Eidon/Claudio Melissari - Roma

Conditions in the Roma camp at Vicolo Savini, Rome, as observed by the AGFE delegation on 18 February 2005

Many of the windows in the caravans were plastered with paper as a poor replacement for glass windows. Two collective water troughs were seen to be constantly running in the rear part of the camp where the poorest people live. The ongoing noise in the camp interrupts sleep

and increases stress levels. Mission members were also told about some of the residents have body sores which are probably traceable to the poor sanitary facilities and conditions under which people live. Garbage is collected in shopping carts which are brought to the dumpsters immediately outside the camps.

Squats: via Collatina, 385

A number of problems exist in the squats where more than 500 political refugees live. Unfortunately the mission was unable to enter any of the individual apartments in the buildings, and it was therefore difficult to draw conclusions about the adequacy of the space available. However it was clear that due to the nature of squatting, women's work is an uphill battle. Squats are, at best an inadequate, temporary solution. Certain members of the Eritrean community with whom the mission met even said that they might be better off living on the streets. Squatting carries with it increased dangers in terms of personal security and health. Buildings are often damp (especially in winter) and frequently do not have adequate heating or lighting. The lack of lighting in the neighbourhood is given as a major reason for women reporting that they feel unsafe. In the buildings visited during the mission, entrances and hallways were not well lit - although this may have been intentional in order to save money, as residents are inevitably very poor. Another problem is the palpable stress which residents exhibited in cases where rents have been frequently increased; and in situations where people have lost ownership because of bank and insurance irregularities. Elderly women on fixed pensions find such increases particularly unsettling, having thought that they would be able to sustain themselves on a husband's pension.

The role of women

Taking into consideration the cultural norms of the residents, in some instances during mission interviews with affected communities, few or no women spoke. It is hard to draw specific conclusions from this as separate meetings were not specifically arranged with women. However, there were a number of signs of initiative and leadership amongst the women in the communities. The Eritrean women, for example, were able to access medical services during pregnancy. In the case of the Roma camp, one woman in particular was involved in the design of buildings that were taken over and rehabilitated. Additionally, it should be noted that women in the voluntary sector were vocal and articulate about the issues being faced.

Outcomes of the Rome Mission

Signature of a common final statement: Municipality of Rome and AGFE mission

Participants:

- AGFE delegation
- Nicola Galloro, delegate of the Mayor
- Claudio Minnelli, responsible for municipal housing policies
- Associations and social movements support the right to housing

Around 50 people attended this meeting, during which the results of the mission were consolidated and further activities identified. All participants agreed on the importance of the

mission to raise the awareness of the City on the problem of evictions. It was also agreed that evictions should be considered as a problem capable of being solved through a localised action plan, co-ordinated at national and European levels, based on respect for the provisions of Article 11 of the *International Covenant on Economic, Social and Cultural Rights*.

The following issues were highlighted and proposals made during the meeting's discussions.

Claudio Minnelli emphasised the role of the Municipal Administration and confirmed its commitment to make "Rome free from evictions" with a "Zero Evictions" action plan which would allow for the following:

- With immediate effect: properties to be freely obtained from owners - between 10% and 20% of those constructed in exchange for development permits (between 8,000 and 10,000).
- With immediate effect: public properties to be self-rehabilitated through public funding (between 100 and 200).
- By the end of 2005: properties to be obtained from providing agencies (between 400 and 1 000).
- By the end of 2007: properties to be obtained from a change in designation of land use: approximately 8 000 out of which 1 000 with social rents; around 3 000 with an agreed minimum rent; around 4 000 with monthly pay-outs of about 300 Euro.
- By the end of 2008: properties from an extraordinary public residential building plan by the Municipal Administration (around 6 000).

Massimo Pasquini, the secretary of *Unione Inquilini*, noted that the mission was the first occasion where associations and movements, otherwise not in contact with each other, were able to start communicating. He stated that this would have a ripple affect in the future. Hence, he proposed, in agreement with the associations present, the drafting of a common and independent position to guarantee respect towards housing rights through the establishment of a 'Coordination Committee for a Rome free from evictions' to monitor the commitments and to initiate campaigns.

In his reflection on the community visits and the meeting, Bernard Birsinger, the Mayor of Bobigny in France, expressed a concern that divisions and inequalities were growing in society, and that while previously limited to the poor, the problem of evictions were now also impacting on the middle class as a result of shifts in the property markets and access to capital. He urged public authorities to intervene with an action plan for zero evictions at local, national and European levels. He encouraged civil society and union structures to lobby for new legal instruments aimed at ensuring that there would be no more evictions without adequate relocation. In particular, as this was an across-frontiers matter, he confirmed the availability of his local council for an exchange of experiences and twinning with other local councils and municipalities.

Cesare Ottolini, in thanking the Rome Municipal Administration for the opportunity to meet and share strategies for dealing with the issue of eviction, confirmed that the housing crisis seen in Rome was not very different from that found in other large Italian and European cities. He reminded those present of the proposal for a common initiative between the social stakeholders

and institutions to obtain a social European directive which would ban evictions without adequate relocation, while at the same time, block the Bolkenstein directive on the liberalisation of public services of general interest.

At the conclusion of the meeting, in confirmation that all the participants were committed to reaching the objective, the representatives of the Rome Municipal Administration and the participants to the AGFE mission agreed that conditions were conducive to working for a Rome free from evictions. As a demonstration of this, a decision was made to sign a joint Final Declaration to this effect.

Key results of the AGFE mission to Rome

The AGFE mission in Rome

- Attended meetings with an estimated 4 000 people and 50 associations, institutions and movements;
- Took part in 20 interviews on radio and television;
- Resulted in the publication of numerous articles in the local, national and international press (see Annex 11 for an example of press coverage of the mission);
- Resulted in extensive coverage on the internet.

Results of the mission

- Raised awareness of the housing crisis in Rome.
- Facilitated the first meeting of social parties and institutions directing their attention to the need to use the right to adequate housing as the basis for new housing policies.
- An unofficial but clear commitment by the Prefecture to observe a 12 month moratorium on evictions and evacuations.
- The commitment of the Prefecture to organise a training course during 2005 on Article 11 of ICESCR for magistrates, workers in the sector and associations with the possible help of the UN-Habitat experts.
- The commitment of the Prefecture and the Rome Municipality to regularise the occupation of real estate or to find alternative accommodation as agreed with the inhabitants, starting with the shelter accommodation for refugees of via Collatina.
- The commitment of the Prefecture and the Rome Municipality to improve the coordination of the exchange of information on the housing crisis.
- The availability of the III, X and XI Municipalities to issue legal ordinances to requisition vacant properties or properties whose occupants had been asked to evacuate the properties.
- The signing of a joint declaration between the AGFE delegation and the Rome Municipality to achieve a zero eviction plan at a local level, as co-ordinated at national and European levels, which would be periodically monitored.
- The commitment of the associations acting in the defence of evictees and the homeless, and social movements to establish a 'Coordination Committee for a Rome free from evictions'.
- A motion of support by political parties has been presented to the Italian Parliament.



Photo: © Foto Eidon/Claudio Melissari – Roma

Housing rights activists, some wearing UN colours, welcome the AGFE mission during their visit to Rome - 16 Feb 2005

Issues and lessons learned

Positive aspects

- The preparation of the mission by the International Alliance of Inhabitants and the Italian Tenants Union (Unione Inquilini) optimised the timing and relationships with the Rome Municipality and the networks of citizens' associations.
- The mission attracted media attention which amplified the effect of each individual visit and event.
- The presence of mission members from France and the United States widened horizons and enabled the identification of interesting policy opportunities.

Some difficulties

- A lack of time to meet all the persons who had requested meetings
- The unavailability of the Italian Central Government, such as the Ministry of Justice, Ministry of Interior Affairs, Ministry of Infrastructure and Ministry of Welfare to meet with the delegation members.

Follow up activities

Compilation of Mission Reports¹³

The participants of the AGFE mission are committed to drafting documents to extend the internal and external debate to AGFE as follows:

- Cesare Ottolini, a report on the AGFE mission in Rome;
- Bernard Birsinger, a report on the proposal for international twinning/exchange of experiences between local authorities and associations on best practices in favour of security of housing tenure;
- Olivier Valentin, a report on the role of the associations and networks of inhabitants in the fight against evictions, and to favour exchanges on international experiences; and
- Jacqueline Leavitt, a report in support of the role played by women in initiatives against evictions in rich countries, and to favour exchanges on international experiences.

Follow up on gender aspects of forced evictions in Italy

The AGFE mission to Italy demonstrated the gender aspects of inadequate housing conditions and forced eviction, and the particular burden falling on women. However there was insufficient time or opportunity during the mission to do justice to these crucial issues.

Upon returning to the United States, Jacqueline Leavitt did some research and identified a list of Women's Organizations in Italy that could be collaborated with in order to interact more thoroughly with the issue. A number of these organisations are in Rome, including the Italian Women's Center, Migrant Women's Network in Italy, and the Italian Association for Women in Development (AIDOS).

The Italian Women's Center is identified as "contributing to the development of civic mindedness of individuals and to community development" and includes stimulating "local communities to increase their own development, and promotes cultural and social services in general". AIDOS is a non-governmental non-profit organisation that was started in 1981 for the express purpose of carrying out the goals of the UN Decade for Women. Its emphasis is on NGOs in developing countries in areas of reproductive health, micro and small enterprises, and capacity building of women's organizations and institutions. Other groups may with an interest in housing and community development or particular aspects thereof may also exist.

In addition, there are reports available which address women's issues in Italy, for example

¹³ As indicated, the present report is a translated extract of the full mission report, which is on file with AGFE. The full report includes the following addenda, which are unfortunately too large to reproduce here: 1. Common final statement between Municipality of Rome – AGFE mission; 2. Motion of the III Municipality; 3. Motion of the X Municipality; 4. Motion of the XI Municipality; 5. Motion presented to the Italian Parliament; 6. Request for a AGFE "Fact Finding Mission" in Milan (Italy); 7. Press release; 8. Photographs of the mission and of the situations observed; 9. File with proposals and claims made by associations; 10. File with political proposals for housing CGIL-CISL-UIL-SUNIA-SICET-UNIAT; 11. Observations and proposals on the housing crisis by ANCI-AGCI-Federlazio-Lega delle Cooperative; 12. List of persons met and contact details.

Antonio Tosi has written on women as part of the new homeless poor. There are also other reports available through the United Nations.

The Huairou Commission has helped facilitate horizontal exchanges where women inform other women of strategies regarding community development. Examples exist of best practices where women leaders are in the forefront. These include examples of rebuilding and development after natural and manmade disasters, local governance, and campaigning for secure tenure. One project has been the Grassroots International Women's Academy (GWIA) in which women are both students and teachers in an international exchange of models and ideas for community development.

While a network of stakeholders was clearly evident in the Rome mission and women were part of it, focus on housing as a human right does not in and of itself explicitly make visible women's voices. Without further consultation with women, it is plausible to explain their needs but this is only a first step in identifying the issues and acting on a strategy. Housing as a human right is a powerful organizing tool; it is essential that women's contribution to this call is identified. Women bring a particular understanding of community and the (re)-integration into the collective nature of social life.

Exchange Programme

The AGFE mission offered the possibility to promote exchange programmes with other Italian local councils and international networks to develop good practices. The Municipality of Bobigny in France proposed an exchange on 'territories free from evictions' and on setting up a national housing public service. The member from the Huairou Commission proposed exchanges on security of housing tenure, with particular emphasis on women and children. Special attention should be given to North-North exchanges, given their specificities of experiences, dynamics and challenges.

Recommendations

The mission delegates presented the following recommendations for consideration to the Convenor and to UN-Habitat:

Global level

- To organise a session of AGFE to discuss the reports from the missions done (Rome, Dominican Republic and Curitiba) in order to understand better the potentials and difficulties in these types of initiatives.
- To inform all the levels of UN-Habitat on the results achieved.
- To provide members in a mission with the necessary tools to be able to provide continuity (monitoring, implementation, enlargement).
- To provide the members of the AGFE with a status that can allow them to intervene properly, to be able to verify and propose reconciliation meetings between parties, even outside the official parameters of the mission, in situations of grave threats to security of housing tenure.

Italian and European levels

- To support the independent monitoring and implementation of the commitments assumed by the Rome Municipality in the final Joint Declaration.
- To promote exchanges between associations and movements at an international level.
- To consider the possibility of organising a mission at national level in Italy during 2005 (for example to Milan, Florence, Naples).
- To consider the possibility of organising a mission at a European level in 2005 (for example to France, Germany, Spain, Poland).
- To support the organisation of training courses on the right to housing to be organised by the Rome Prefecture during 2005.



Photo: © Foto Eidon/Vincenzo Tersigni – Roma

**Signature of the joint statement between the
Municipality of Rome and the AGFE Mission
19 February 2005**

4. The case of Sri Lanka: Eviction threats during the reconstruction phase following the 2004 Indian Ocean Tsunami

The tremendous loss of life and property as a result of the 2004 Indian Ocean Tsunami has been widely addressed, but only now are the human rights and eviction threats emerging from the reconstruction process becoming more widely known. While such threats are affecting all Tsunami-affected countries, albeit to widely varying degrees, this case study, written by Scott Leckie, briefly outlines some of the key areas of concern in Sri Lanka.

This section on evictions in Sri Lanka in the wake of the Tsunami is the result of a regional meeting held from 11 to 13 March 2005 in Sri Lanka. The objective of the meeting was to enable Tsunami survivors to explain their needs and priorities in the recovery process and to voice their concerns and dialogue with representatives of governments, especially in relation to the announced relocation decisions and related norms of reconstruction. The meeting was organized by the Asian Coalition for Housing Rights (ACHR) in collaboration with several NGOs and community organizations, including Women Bank and Women Development Bank micro credit networks in Sri Lanka; Sevanatha Urban Resource Center; Slum Dwellers International (SDI); and the Centre on Housing Rights and Evictions (COHRE). These organizations include several members of AGFE, three of whom were present at the meeting: Somsook Boonyabancha of ACHR (also director of CODI), Jockin Arputham (SDI) and Scott Leckie (COHRE). Farouk Tebbal, coordinator of the Global Campaign for Secure Tenure of UN-HABITAT, who has been actively involved with AGFE from its inception, also attended the meeting. The presence of AGFE members at the meeting emphasised a deep concern about potential eviction threats during post-Tsunami reconstruction. While the meeting was not an AGFE conciliatory mission, it takes up similar concerns and is, accordingly, reported on in this chapter.



Photo: COHRE

Farouk Tebbal addresses the post-Tsunami reconstruction meeting held in Sri Lanka on 11-13 March 2005

The 100/200 metre exclusion zone

In what appears to be the latest announcement by the Government concerning the proposed 100/200 metre buffer zone, the Presidential Secretariat's *Notice on Reconstruction for Housing, Businesses & Fishing Industry Affected by the Tsunami* on 3 February asserts that **no new construction** will be permitted within 100 metres of the mean sea level. It continues making the bold promise that the Government will identify lands closest to each affected village and build a house for every affected house owner who lived within the said 100 metres.¹⁴ The Government will provide these houses free of charge. Privately owned land within the 100 metre zone will remain the property of the original owners, and the Government states that it will not 'in any way claim ownership to such property'.

Detailed planning maps at the Urban Development Authority (UDA) clearly demarcate both the 100m and 200m zones along roughly 1 000 km of Sri Lanka's coastline. As the principle Governmental body responsible for enforcing the buffer zone, and the only State agency that can give approval for construction within the Coastal Zone, the UDA intends to place markers at 30m intervals along the affected coastal area indicating the boundary of the buffer zone.¹⁵ The area between these markers and the shoreline will, therefore, constitute an exclusionary zone where people displaced by the Tsunami **will not be allowed** to rebuild their damaged or destroyed homes, or to return to reside upon the land on which they lived at the time of the disaster, notwithstanding whatever legal rights they may have to do so. All told, tens of thousands of people (if not more) will be forced to relocate if the new policy is seriously enforced.

Some Government officials indicate that temporary housing rebuilt by the displaced within the 100/200m zone will be tolerated in the short-term and until such time that new housing is constructed for those made homeless. Some officials have also indicated that existing structures

¹⁴ More than a month earlier, the UDA issued Public Notice 31 December 2004 which asserted that "Ministry of Urban Development & Water Supply has decided to guide development activities in the areas affected due to the recent Tsunami along the Coastal Zone of the country in compliance with the Urban Development Authority Planning and Building Requirements formulated as per the UDA Law No. 41 of 1978. This Zone falls within the limits of 1 km from Mean High Water Line of the sea landwards already declared as an Urban Development Area by the Gazette (Extraordinary) No. 223/16 dated 17th December 1982. Accordingly, any Government Agency or any person is required to obtain prior approval of the UDA for any development activity undertaken within the said Special Control Zone. Note that the powers delegated to Local Authorities by UDA in approving development activities within those areas have been temporarily suspended until further notice".

¹⁵ The UDA, therefore, will have powers to act from Colombo to determine all major housing, land and property decisions affecting the *entire* 100/200 metre zone along more than 1000km of coastline. In *Rehabilitation and Reconstruction of Tsunami Affected Areas* (Urban Development Authority, Ministry of Urban Development and Water Supply), the major tasks are identified as the enforcement of planning and building regulations for the Conservation Zone (including the framing of a regulation for 100m and 200m Conservation Zone); Surveying and pegging of the 100m and 200m Zone and the enforcement of these by the local authority and the Ministry of Public Security, Law and Order. Over and above the powers of the Coastal Conservation Department, the UDA has powers that are not related to the 1981 Coastal Conservation Act. Rather, UDA's authority lies with the gazetted notice No 223/16 of 1982 in which the entire coast was declared an Urban Development Area. This area includes the 300 metre area under the Coastal Conservation Act, but is actually much wider (up to one kilometre inland). To complicate matters, both the UDA and the Coastal Conservation Department technically have the right to issue permits.

within the 100/200m zone will be allowed to remain and be inhabited, although other officials have indicated that the entire affected area will be a non-residential zone. Officials seem to be unanimous in their support for allowing hotels and other businesses to remain within the buffer zone, although some new building restrictions will apply.

Clearly, this decision to create a buffer zone, which is still not yet law, will have a marked impact upon the possibilities of return by those displaced by the Tsunami. Indeed, the World Bank (et al) recognised as much within its extensive post-Tsunami *Needs Assessment* report where it asserted in reference to the 100/200m rule that: “Left pending, this issue poses the single most critical threat to the entire recovery and reconstruction process”.¹⁶

In seeking to justify the controversial 100/200m rule, the Government has reiterated the need to protect the public from future Tsunamis or major storms and its requisite duties to uphold existing law. One Government official indicated that “the 100 metre rule is for the benefit of the poor themselves”. When asked about why parts of the coast will have 100m no-build zones, while others will have a 200m zone, one UDA official mentioned that the East is more prone to cyclones and thus a 200m zone was necessary there. He also noted that the Southern and Eastern Zones are geographically, physically and environmentally different from one another, and that at any rate, there are already different building codes in each area due to these differing characteristics.

Voluntary Return or Relocation?

Of all the questions concerning the 100/200m zone, it is the issue of ‘voluntary return or relocation’ that is perhaps the most worrying. The imposition of the 100/200m rule removes the principle of voluntary return from the reconstruction equation. It effectively prevents large numbers of people – including those with recognised legal rights of ownership to housing, land and property and those with related prescription rights – from returning to their homes or places of habitual residence. Those affected by the rule have not been sufficiently consulted in the development of the proposed policy. Notwithstanding the rationale given by the Government to justify the rule, the fact remains that large numbers of those forced from their homes by the Tsunami will be displaced again if the new rule is subject to strict enforcement.

Relocation/Forced Evictions

If the 100/200m rule is implemented as planned, this will raise concerns about possible relocations/forced evictions, which are clearly and strictly regulated under international human rights law and the domestic legal order of Sri Lanka. In terms of the Sri Lankan Constitution, for instance, the 100/200m rule may be inconsistent with the terms of Article 14(1)(h), which recognises both freedom of movement and the right to choose one’s residence. Both of these rights will be functionally impossible for the displaced to exercise, should they wish to voluntarily return to their former homes and/or lands and are prevented from doing so without legally sound justification.

¹⁶ ADB, JBIC and World Bank (January 2005) *Sri Lanka 2005 Post-Tsunami Recovery Program – Preliminary Damage and Needs Assessment*.

Under international law, preventing a person or family from returning to their original home may in some circumstances also violate the right to freedom of movement and the freedom to choose one's residence within the territory of a State.¹⁷ Therefore, before the Government of Sri Lanka imposes measures that prevent residents from returning to the 100/200m zone, there must be justification that such a system is *reasonable* under the circumstances concerned. Additional international human rights laws binding on Sri Lanka, most notably the International Covenant on Economic, Social and Cultural Rights (ICESCR), stipulate that evictions can only be carried out in *exceptional circumstances* and with all necessary judicial and other legal safeguards fully met. In circumstances where the Government prevents the return of residents to the affected areas, it is arguable that what is called a *constructive* eviction has taken place. In order for such an eviction not to be 'forced' under international law, the government would need to provide adequate resettlement and comply with all relevant standards addressing this issue.¹⁸

The right to adequate housing under the ICESCR must also be taken into account when examining the possible human rights implications of the 100/200m rule. Article 11 of the Covenant recognises housing rights and has been interpreted by the monitoring Committee to ground an immediate and corresponding right to secure tenure and concomitant protections against forced eviction.¹⁹ Security of tenure has been interpreted by the Committee to include all forms of tenure, including informal settlements and tenancies.²⁰

¹⁷ Sri Lanka has also ratified the International Covenant on Civil and Political Rights (ICCPR), which protects this right in Article 12. The Human Rights Committee has commented on the right to freely choose one's residence as follows: "Subject to the provisions of article 12, paragraph 3, the right to reside in a place of one's choice within the territory includes protection against all forms of forced internal displacement. It also precludes preventing the entry or stay of persons in a defined part of the territory". (Human Rights Committee, *General Comment No. 27: Freedom of movement, (Article 12)* (1999) at para. 7). Therefore, any restriction on right of person to choose a place to reside is a *prima facie* violation of the ICCPR. A State must turn to paragraph 3 of the article and prove that the restriction is contained in law and is justified, for example to protect public order or public health. (The full text of Article 12(3) reads 'The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.'). This second test of proportionality or reasonableness means that the State would have to take into account the right and the need for housing before imposing restrictions on the right to return to an affected area.

¹⁸ As another standard, *General Comment No. 4 on the right to adequate housing (1991)* concludes: "In this regard, the Committee considers that instances of forced evictions are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."

¹⁸ In this regard, the Committee considers that: "instances of forced evictions are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."

¹⁹ *General Comment No. 4, The right to adequate housing (Art. 11 (1) of the Covenant)* (1991); United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 7 on the Right to Housing* (1997).

²⁰ In countries where the right to housing has been addressed by the judiciary, this interpretation has been confirmed in case law. The South African Constitutional Court has stated: "The indignity suffered as a result of evictions from homes, forced removals and the relocation to land often wholly inadequate for housing needs has to be replaced with a system in which the state must strive to provide access to adequate housing for all and, where that exists, refrain from permitting people to be removed unless it can be justified". (*Jafitha v Schoeman and others; Van Rooyen v Stoltz and others Case CCT 74/03, judgment delivered 8 October*

Arbitrariness

Another concern about the proposed buffer zone relates to what appears to be the arbitrary nature of the proposals concerned, and the inconsistent and potentially differential treatment that may occur during implementation. While some environmental and related justifications have been given as to why in some areas the zone extends 100m from the sea, while in others it covers a 200m area, the difference between these two zones creates the impression of differential treatment. If reasons backed by scientific evidence were shown to be of consistent application, without exception, along the entire coastline where the buffer zones will be created, then there may be reasonable and non-arbitrary grounds for developing such a policy. If, on the other hand, local environmental and physical factors and differences (such as the existence of mangroves or coral reefs) were a key determinant as to the scale of damage exerted by the Tsunami, then a very different picture arises, and one that calls for a much more creative and practical approach, implemented on a case by case basis, and taking into account all local factors. To simply assert that a 100m or 200m buffer zone is an adequate response in terms of disaster prevention/reduction, thus, may be creating more problems than it purports to wish to solve.

Possible Discrimination

In terms of the 100/200m proposals, discrimination may potentially arise in several ways. Firstly, it is clear that these rules will *disproportionately* impact upon fisher folk communities, which comprised some 60-80% of Sri Lanka's Tsunami victims, and who now constitute a large majority of the displaced and homeless. Most of the affected fisher folk communities lie within the 100/200m buffer zone and thus the impact of the rule will be considerable. Being dependent upon direct access to the sea for their livelihoods, many fisher folk communities have been particularly vocal in their opposition to the proposals to resettle them in new (as of yet unbuilt) housing estates, many of which are located far from the sea (in some instances up to 14km from the coastline).

On the other hand, there are those fishermen who may wish to change their occupation and domicile following the Tsunami. These differing wishes need to be taken into account by whatever eventual law is adopted concerning residential rights within the 100/200m zone, and every effort should be made to ensure that the doctrine of *voluntariness*, rather than coercion, guides the process. If the 100/200m rule is determined to disproportionately, unreasonably or inequitably impact upon the rights of fisher folk communities, discrimination will have occurred and will need to be rectified.

2004). Therefore, any removal of residents from informal settlements that is occupied – even if disturbed temporarily for other reasons – must be fully justified. Moreover, there is a State obligation to protect residents from other actors interfering with security of tenure as *SERAC v Nigeria* makes clear (African Commission on Human and Peoples' Rights, Decision 155/96). The Commission stated: “[Nigeria’s] obligations to protect obliges it to prevent the violation of any individual’s right to housing by any other individual or non-state actors like landlords, property developers, and land owners, and where such infringements occur, it should act to preclude further deprivations as well as guaranteeing access to legal remedies.”



Photo: COHRE

**Trying to rebuild their lives
Tsunami survivors, Sri Lanka, March 2005**

Secondly, and similar to the case of fisher folk communities, coastal Muslims (many of whom are also fisher folk) suffered by far the largest number of casualties as a result of the Tsunami. One analyst noted that although Muslims constitute some 7-8% of Sri Lanka's population, 53% of the Tsunami deaths were Muslim. Once again, the same principles should be applied to this group as to fisher folk communities more broadly. In other words, does the 100/200m plan disproportionately impact upon the Muslim community?

The third point concerns the emotive issue of why hotels, tourist-oriented establishments and undamaged buildings (many of which are owned by wealthy Sri Lankans or foreigners) will be exempted from the 100/200m rule, while former residents – many of whom are as location-dependent for their livelihoods as tourist businesses – will have to be resettled at new housing compounds located *outside the 100/200m zone*? Such an arrangement clearly has discriminatory elements and will need to be examined closely by Sri Lankan courts to determine whether such clearly skewed rules are consistent with non-discrimination protections. Arguably, if exemptions can be arranged for hotels which are dependent upon their coastal location, then similar exemptions may also be possible for people or communities who are equally dependent on their coastal location to achieve an adequate standard of living and livelihood, most notably fisher folk communities.

The Unnecessary Prolonging of Displacement

A further concern with the 100/200m proposals is the impact such a measure will have on unnecessarily prolonging the period of displacement of those who will be prevented from returning home. Although the Government has issued many public commitments to re-housing the displaced, in particular those who lived within the 100/200m zone at the time of the

Tsunami,²¹ it is clear that even in the best possible scenarios (which would presume that all anticipated funds are available and that all promised housing will actually be built), it will be *years rather than months* before all of the displaced find permanent housing solutions. The proposed 100/200m plan has effectively excluded all former residents of the buffer zone area from rebuilding their homes (and livelihoods) on or near to the land on which they lived on 26 December 2004. The displaced are not able to access housing loans or credits at the moment. In addition, they are not given planning permission to rebuild their homes and are essentially forced to wait until new housing is provided to them.

Officials have said that temporary structures may be tolerated in the short-term within the 100/200 zone as an emergency measure. However, reports of evictions and demolitions of such structures have also emerged in recent weeks. In this regard, an additional human rights principle – the right to respect for the home – is relevant.²² The term ‘home’ has been defined on the basis of occupancy and not proprietary interest. A home is the place a person lives on a settled basis, which implies a degree of stability and continuity.²³ Any interruption of occupancy – even for a long period – will not necessarily affect this right.²⁴ Moreover, the right extends beyond the principal resident but to all occupiers, including partners, children, relatives and lodgers, which may be important if the principal resident died in the disaster or refuses to return.²⁵

Access to New Housing for the Displaced

The 100/200m buffer zone proposals cannot be viewed in isolation from the ambitious and inter-related promises issued by the Government to provide new homes for all of those displaced by the Tsunami or whose houses were otherwise destroyed or damaged.²⁶ The Presidential Secretariat’s *Notice on Reconstruction for Housing, Businesses & Fishing Industry Affected by the Tsunami* on 3 February noted that “All families in the 100m and 200m Coastal Zone whose houses have been completely damaged will be provided with safe houses outside the Conservation Zone by the Government. Those who are willing to construct their own houses outside the 100m and 200m zone on their lands will be paid Rs 250,000 [+/- US\$ 2500-] in financial assistance and, if necessary, concessionary loans by state banks.” With specific regard to fishing communities, which constitute by far the largest group of displaced persons and thus,

²¹ In one instance several days following the disaster, the President asserted that new housing would be provided to all displaced within three months, eg. by 26 March 2005.

²² This right is found in numerous treaties, including Article 17(1) of the ICCPR which reads “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, *home* or correspondence, nor to unlawful attacks on his honour and reputation.” [Emphasis added].

²³ See: *Wiggins v U.K.* (1978) 13 DR 40. A structure constructed informally, but for residential purposes, would therefore fall within the reach of this right. The Court has ruled that informal structures do constitute homes – for example, caravans on land without planning permission - and that any interference with such a home must be proportional and pursue a legitimate aim in accordance with the European Convention on Human Rights.

²⁴ *Gillow v United Kingdom* (1986) Series A No. 109;11 EHRR 335.

²⁵ (1998) 26 EHRR CD 212.

²⁶ This objective would be consistent with Article 27(2)(c) of the 1977 Sri Lanka Constitution which provides: “The State is pledged to establish in Sri Lanka a democratic socialist society, the objectives of which includes: the realisation by all citizens of an adequate standard of living for themselves and their families, including adequate food, clothing and housing, the continuous improvement of living conditions and the full

those in greatest need, the Government has indicated that it will provide housing for “every fisher family who lost houses in the disaster”. The minimum size of a house will be 500sq. ft., and will be provided with all the basic infrastructure facilities such as access roads, water, electricity and sewerage. Four housing types have been recommended: single-storey detached houses on individual land plots; single-storey attached houses with individual gardens; two-storey attached terraced houses with individual gardens; and multi-storey walk-up apartments.

The need for new housing stock as a result of the Tsunami is nothing short of dramatic. In January 2005 the World Bank estimated that over 130 000 houses were damaged or destroyed²⁷, and that financial losses were in the range of US\$ 306-341 million, with financing needs for new housing construction ranging from US\$ 437-487 million.²⁸ Although the Government has made repeated public pronouncements committing itself to the provision of new housing for the homeless and displaced, the process leading from these clearly positive statements of intent to actual housing provision is likely to be far more challenging than may be imagined at present. A number of likely problems and concerns can be anticipated:

Insufficient Community Participation and Consultation

Of all the concerns that have arisen so far in the re-housing process, the prevailing lack of community participation and consultation has been one of the most pressing. The Government’s Task Force on Reconstruction (Tafren), which is responsible for re-housing the displaced, is comprised entirely of prominent members of the business community, with no formal representation from the community, NGO or academic sectors. In addition, it appears that community-driven solutions to housing challenges are rarely seriously considered by the authorities. This is despite the fact that experiences in a range of post-disaster situations throughout the world, clearly show that consultative and participatory approaches to housing reconstruction are invariably the most effective and productive ways of securing access to new housing resources by displaced and homeless communities.²⁹

Within the context of the re-building process in Sri Lanka, the vast majority of housing decisions continue to be made in the capital, with virtually no direct inputs by the affected communities themselves or their representatives. Essentially top-down policy decisions, driven by the Government and the private sector, without regard to those who will actually be residing in those new housing units that are constructed, dominate the reconstruction decision-making processes. This is not to say that communities are the only ones with a role to play in this respect, but rather that a locally-driven, integral approach to re-building, with the direct involvement by affected communities is essential. This approach will not only result in healthier, economically viable

²⁷ See, World Bank (et al), *Needs Assessment* (Jan. 2005).

²⁸ In addition, a further US\$ 117 million will be required for related water and sanitation financing needs.

²⁹ “Experience from Gujarat and Turkey (rural) as well as Colombia and Mexico in post-disaster reconstruction indicates that, to the extent possible, the most feasible and sustainable option is *in-situ* reconstruction managed by affected households assisted by a combination of cash grants and access to loans. Sri Lanka’s own experience with housing reconstruction after large-scale flooding in the Southern Province (where around 17,000 houses are currently being assisted through cash grants) and lessons learned during the preparation of the World Bank supported North East Housing Reconstruction Project (NEHRP) and its related pilot project, support the rationale and feasibility for adopting such an approach.” (*World Bank Needs Assessment*, p 4 – Annex 6 – Housing).

and more sustainable communities, but it will also expedite the rebuilding process, democratise it and assist in giving the displaced a direct stake in their residential future. The only manner by which those currently living in tents, shacks or IDP camps will be able to rapidly access new housing in locations which best suit their needs and wishes and in forms that are appropriate for their lives and livelihoods, is through the process of participation. A programme of Community Housing Teams could be one means by which these community-driven initiatives could be stimulated. Backing the formation of community-based organisations will also facilitate the reconstruction process and constitute an effective way of linking IDPs, district-level officials and others in the building industry.³⁰

The Accuracy of Housing Destruction and Damage Estimates

Another concern relates to the considerable disparity between the various estimates of housing damage and destruction. While such variations are to be expected in the aftermath of such a disaster, the policy implications of these divergences are considerable. The Government is planning to build or facilitate the construction of some 85,000 new housing units. They have based this figure on damage estimates which range from 110,000 to almost 200,000 houses³¹. The Department for National Planning and Ministry of Finance and Planning, for instance, claims that “around 200,000 houses have been fully or partially destroyed, including 130,000 fisherman homes”. The considerable gap between the Government’s projected housing construction plans and damage assessments, may be explained by projections of self-built housing activities filling the gap. It is not clear, however, that the reconstruction policy as it now stands necessarily matches the current housing deficit. Moreover, if the estimates of housing destruction and damage upon which housing rebuilding calculations are incorrect by anything more than a few percentage points, a large number of displaced will end up both homeless and landless, and will not have access to any of the promised new housing. In addition, all housing reconstruction plans presume that all promised housing and aid will actually arrive and that all promised housing will be built. What happens if the funds that do arrive are substantially less than is required to construct this amount of housing stock? What happens if the promised housing does not materialise? These questions need to be posed quickly, and convincing answers need to be found.

While it is not clear precisely how much funding is currently available for the reconstruction of housing from the international community, the Government Treasury has agreed to allocate US\$ 330 Million for the rehabilitation and reconstruction activities to the UDA. Of this commitment, “US\$ 120 million is earmarked for the rehabilitation and reconstruction of housing”. Though a considerable sum, this falls far short of the more than US\$ 400 million required to finance housing for all displaced persons and communities. Clarification is also needed on this issue.

³⁰ According to the World Bank’s Needs Assessment: “If permanent housing is to be constructed in new areas to improve housing standard and safety, the principle of self-relocation should be followed. The affected population should be given financial and technical support to choose locations and housing based on their own preferences”. (p. 4 annex)

³¹ Department of National Planning, Ministry of Finance and Planning (January 2005) *Rebuilding the Tsunami Affected Area*, p. 4.

Housing Allocation Procedures

While the public commitments issued by the Government to ensure housing for all of the displaced are to be commended, the actual allocation procedures of new housing to the displaced require closer examination. As noted, those whose homes were within the 100/200m zone have been promised new homes outside the zone. Many officials have indicated that land nearest to the coast will be reserved for fisher folk communities, *if such lands are available*. The Government has indicated that those who are willing to construct their own houses outside 100m/200m zone, will be provided with lands, financial assistance and concessionary loans by State banks. For those without access to such lands, local officials will prepare priority lists of who will receive new housing. It will be at this level, therefore, that those who are prevented from returning to their former homes within 100/200m buffer zones will be allocated new places of residence.

At a superficial level this procedure for housing allocation may appear appropriate to the needs at hand. However, it clearly does not apply a rights-based approach to this question, nor does it provide the transparency and accountability that would normally be expected from such procedures. The ambiguous nature of the procedure, the highly politicised nature of it and the absence of any legal process enabling persons and communities in housing need to claim such goods in an official, formal and objective manner, need to be addressed. Moreover, the power vested in local officials in an environment of extreme housing scarcity creates situations ripe for unfair, arbitrary treatment of those in need of new housing; and enticing opportunities for fraudulent enrichment.

4 REFLECTION ON SOME INNOVATIVE SOLUTIONS AND THE WAY FORWARD

Introduction

Having reviewed a selection of the forced eviction cases submitted to AGFE for consideration and action, and having reported on those cases where AGFE was able to conduct missions, we wish to conclude this report with reflection on existing and possible innovative solutions for resolving forced evictions and the way forward. The issues and challenges are clearly very complex, and no definitive answers are readily available. This chapter is, therefore, presented by the AGFE Convenor as a first draft for consideration and further discussion within AGFE, UN-HABITAT and the expanding anti-evictions network.

Solutions do exist

Solutions and innovative practices do exist to avert forced evictions and reduce existing threats. Unfortunately, positive approaches are seldom recognised and are consequently insufficiently documented. As one of the AGFE members expressed during the World Urban Forum session on forced evictions: “Who knows about the city of Ilo, in Peru, where evictions do not occur, mainly because of very innovative policies? What do we know about the preventive measures and the policies that have been successful in eliminating forced evictions?”¹

Most of the eviction cases submitted to AGFE, even some of the worst ones, do contain elements of answers. These are not usually recognised, simply because the emergency or the violence of a case, tends to overshadow all else and places the learning aspect on a secondary level.

In this chapter we will refer to a set of reference cases, most (but not all) of which have been discussed in some detail in Chapters 2 and 3. Information on all of these cases was provided by AGFE members and their networks. The four conciliatory missions undertaken by AGFE are reported on in Chapter 3 and bring additional insights on how evictions can be addressed.

Beyond the legal dimension of evictions

Forced eviction is a multidimensional problem, with legal, social, political, institutional and economic dimensions. Innovative solutions, as discussed in this chapter, are usually those that have been able to address all these dimensions in a simultaneously strategic and tactical manner.

In each situation, the combination of these elements is quite unique and that is why the solutions

¹ David Satterthwaite, speaking at the AGFE Networking Event, World Urban Forum, Barcelona, 15 September 2004.

are local and require a case-by-case understanding. In Santo Domingo for instance, at the time of the mission's visit, the economic and political dimensions were quite determinant and had to be addressed as priorities. The situation in Rome was different, in the sense that the social dimension and the legal framework were the priorities.

Who are the key actors bringing about innovative solutions?

The cases indicate that when communities are well organised, especially threatened ones, evictions can be averted. In addition, according to each specific situation, local and central governments and advisory groups (NGOs) are crucial parties in finding the appropriate solution. When these different actors are able to establish dialogue, sit down together and look for options to resolve a particular case, solutions are usually found. Initiatives related to each of the actors will be examined in this analysis of their roles and contributions to the resolution of eviction related matters.

Organised communities

The experience of Santo Domingo clearly indicates that neighbourhoods organised by large grassroots federations such as COPADEBA or CUP have better resisted forced evictions in the past 25 years than isolated and non-organised districts. In Curitiba, the local section of the National Movement for Housing Struggle, in close collaboration with sectors from the Catholic Church, spearheaded proposals to the local government. In China and Italy, Tenants Associations, such as the Tenant's Rights Movement or the *Unione Inquilini*, proposed positive solutions. In New York, since 1996, public housing residents have united to form the 'New York City Public Housing Resident Alliance', a citywide organisation of concerned public housing residents seeking to improve homes and communities. In each case, the organisations involved in the process are different and act differently.

In addition to the cases documented by AGFE, existing literature demonstrates that well-organised communities, strong mobilisation and people-driven processes are critical keys to finding positive ways out of forced evictions.²

Successful processes occur when a threatened community organises itself, relies on its own strength and gradually gets support at national and international levels. The experience of the Tambo Grande community in Peru is quite illustrative of such a process.

The Tambo Grande community lives in a small village in a rich agricultural valley of Northern Peru. It comprises around 3 000 houses. In 2003, the villagers were able to stop an imminent

² See for example the special issue of Environment and Urbanisation on evictions; and the publications of Slum/Shack Dwellers International, the Asian Coalition for Housing Rights, the International Alliance of Inhabitants, COHRE and others. Also see du Plessis, J., "The growing problem of forced evictions and the crucial importance of community-based, locally appropriate alternatives" (forthcoming in Environment and Urbanisation, IIED, 2005).

eviction threat from the Mineral Manhattan Corporation (MMC) that was interested in exploiting silver and gold in the village soil. MMC had obtained a legal concession for mining exploitation from the Government.

However, the local population overwhelmingly rejected the initiative (98,2% voted against mineral exploitation in the area in a local referendum in 2002) and boycotted the information workshop planned by the company. The community organised a vigil and demonstrated peacefully during three days in their village, then in the regional capital city and finally in the capital city of Lima. The villagers organised themselves into a 'Defence Front' to claim their rights and were gradually able to mobilise not only other neighbouring communities but also a very broad set of actors such as congressmen, political party leaders, the church, artists and intellectuals. As a consequence of this mobilisation, a multi-actor Technical Support Group was established and empowered to find appropriate solutions. As a result, an already existing law regulating mining concessions on urban areas (*Law 27 015*) was used to cancel the renewal of the concession to MMC. This concluded the case to the benefit of the community.

Positive role of NGOs and advisory groups

International NGOs, such as the Centre on Housing Rights and Evictions (COHRE), working in alliance with local organisations, have been instrumental in stopping the threat of evictions in certain cases. The cases of the Quilombos (African descendants communities) in Brazil and the indigenous community of 7 000 persons located in the Digya National Park, Ghana, are illustrative examples of the importance, limitations, and the conditions for the success of an advisory group.

“The Government of Ghana threatened the community with eviction in June 2002 as they resided in a newly established forest reserve which did not allow for human habitation, although the community had resided in, and lived in harmony with the forest for some forty years. In early 2003, COHRE provided a legal memorandum and supporting documentation to its locally based partner, the Center for Public Interest Law (CEPIL), regarding the prohibition of forced eviction in terms of international standards. These arguments and documentation were relayed by CEPIL to the Ministry for Land and Forestry in January 2003. The minister announced the halt of the planned evictions within days of receiving COHRE’s information”.³

The key elements for halting the eviction threat was the active involvement of a local partner, CEPIL, and the provision of detailed legal information on the prohibition of forced evictions and on the legal obligations of the Government of Ghana in this regard. The future successful resolution of the case in the community’s favour is likely to depend on the capacity of the villagers to mobilise and get support beyond the National Park boundaries. This is because, two years later, full security of tenure has not yet been granted, which means that there is no guarantee that the threat of eviction may not be renewed at any time in the future.

The experience of Naguru and Nakawa estates in Kampala, Capital City of Uganda, highlights the positive role that an NGO can play in contributing to the resolution of a threatened eviction.

³ Afram Plain District, Ghana, AGFE Reports, 2004.

In 2002, the Kampala City Council threatened with eviction the 1 500 residents of the two neighbourhoods. COHRE submitted a protest letter to the Government of Uganda, the Kampala City Council and Members of Parliament of the Committee that needed to approve the evictions. At the same time, COHRE provided Members of Parliament with the legal arguments that allowed them to substantiate their motivation as to why the eviction should not be approved.⁴ “The protest letter later appeared on a Government website, indicating that the Government used our arguments to support their ultimate decision not to allow the Kampala City Council to undertake the eviction”.⁵ This case demonstrates that when the legal arguments against an eviction provide substantive advocacy material, and when the legal dimension is determinant, the advisers can play a crucial role in the successful resolution of the case.

Innovative practices from Local Governments

Even in countries where local governments have constitutionally guaranteed powers or where decentralisation of power has gone a long way, the capacity of municipalities to halt evictions is limited, at least from strictly legal and constitutional perspectives. Nonetheless, some local governments have generated major breakthroughs.

Eviction-free territories

For example, the French Municipality of Bobigny, with 85 000 inhabitants, is located in the immediate surroundings of Paris. It has a working class population and harbours an important migrant community living in public, rented tenement buildings. Bobigny’s poor and lower-middle class groups suffer, as do others in the rest of the rental sector in France, from a growing number of evictions, primarily due to the accumulation of unpaid rents.⁶ The number of effective evictions dramatically increased in the last decade, just as in Italy, New York and elsewhere.

Two years ago, the Mayor responded to the situation by issuing a municipal decree (*Arrêté Municipal*) declaring his municipality a ‘territory free of evictions’. Despite the fact that the Administrative Court invalidated the Decree, various other Mayors in France decided to sign similar decrees. This movement generated an important public debate on evictions and served to slow down evictions.

On March 15, 2005, the Mayor of Bobigny again signed a decree, this time ordering that:

“§1: The City of Bobigny is declared to be a zone of protection of tenants in economic difficulty.

§2: Every proceeding for eviction of a tenant or family must be preceded by a notice to the State’s authorities and the City’s social authorities, and a meeting of those authorities for the purpose of initiating a genuine effort to avoid the eviction or to find alternative housing for the evictee(s).

⁴ Kampala Case, AGFE Reports, 2004.

⁵ Kampala Case, AGFE Reports, 2004. Testimony of local COHRE contact.

⁶ According to the social movement DAL (‘Droit au Logement’ – ‘Right to Housing’) and AITEC information sent to AGFE, over 10% of the families living in rented housing in France have suffered threats of evictions over the last ten years.

§3: Evictions in the City of Bobigny based on economic considerations or because of the effects of social insecurity not preceded by joint efforts by the authorities of the State and of the City as provided in §2 are prohibited.

§4: Said procedure of notice and joint efforts to develop an alternative to eviction must be implemented in advance in order to prevent evictions or threats of evictions in the city.”

(For the full text of the decree, see Annex 12.)

The rationale for the case is based on a long list of legal considerations, constitutional judgments and international covenants signed by the government. It refers as well to human rights, impairment of human dignity, justice, children’s rights and the preservation of public order. At a national level, this decree has opened up public debate on a policy and a law that contravenes the principles of social justice and human rights. It initiated a precedent setting case, to the benefit of families threatened by evictions. At the same time, the social movement DAL has argued that the elimination of evictions does not depend on decrees, regardless how positive they might be, but rather on the mobilisation of the threatened communities themselves and on the solidarity of other excluded groups. The positive result of the experience is that evictions in Bobigny and in the other cities that have signed such municipal decrees, have significantly decreased and have become the exception, rather than the rule.

Replication of the “eviction free territory” approach

In February 2005, the Mayor of Bobigny joined the UN Habitat AGFE mission to Rome. One of the issues that the mission discussed with involved actors and the Municipality of Rome was the implications of declaring Rome an eviction free territory.

As a result of these meetings, the Municipality and AGFE signed the following statement: “We found agreement over the programmatic proposal included in the deliberation over housing policies in the Rome area, which was adopted by the municipality government; and particularly the decision of the Municipal Council to declare Rome an ‘evictions-free territory’.” (The full text of the statement is given as Annex 13.)

During the mission to the Dominican Republic, the issue of an ‘eviction free territory’ received heightened attention from various mayors in the Santo Domingo Metropolitan Area and the National Federation of Mayors. It is likely that a by-law (*resolución*), similar to that which declared Bobigny an ‘eviction-free territory’, will be voted for by the Municipality of Boca Chica. This by-law will be the first of its kind in Latin America and the Caribbean.

Beyond the legal and the constitutional debates, these decrees reflect the political willingness of some elected mayors to utilise their powerful mandates to address the issue of forced evictions. This is particularly important as in various cases certain municipal civil servants, police officials as well as certain powerful local politicians were alleged to have been involved in the eviction processes. The municipalities identified have clearly articulated their willingness to find all possible ways and measures to eradicate such malpractices in their areas.

Dealing with evictions on a case-by-case basis

The cities engaged in ‘eviction-free territory’ processes took measures to deal with eviction cases on a case-by-case basis. Their pragmatic approach focused on addressing the existing problems. In Rome, various measures were taken with immediate effect, such as the recognition of the value of self-help housing rehabilitation as a way to pay rent. In Curitiba, one of the tasks of the multi-sectoral commission that was set up as a result of the mission is “the mediation of evictions that are about to be carried out by legal processes, avoiding the need for the Municipal Guard to intervene”. These proposals are interesting and useful because they meet the typical requests of threatened communities.

National and Central Government initiatives

The case of Kampala, Uganda, in which the Central Government did not allow the Kampala City Council to undertake the eviction, is one among many cases that points out the key role that Government officials can play in halting evictions (or, conversely, in letting them take place). The very welcome interruption of evictions in Santo Domingo Province, between late 2004 and early 2005, was clearly related to the political will of the Governor of the Province to stop evictions and to constantly negotiate with the Lawyer of the Office of the State who is legally in charge of eviction orders.⁷

The averted eviction of the families living in Villa Bermejo neighbourhood in Buenos Aires, Argentina, goes one step further because it generated a legal precedent at national level.⁸ It immediately became case-law (jurisprudence) that will be used in the future in defence of threatened communities in the country. The case is presented in Chapter 2 of the report.

The government body that administrates the public assets of the country initiated the legal process against the sixty families who had lived for five years on allotments owned by the Federal Government. The residents “bought their houses from a man who disappeared after receiving the money”. They stated as follows: “We paid 1 400 pesos but we have no receipts at all. As time went by, we improved our homes.”⁹

In May 2004, an unprecedented judgment denied the request to forcibly evict the sixty families. The judgment was based on the argument that every citizen held the right to have a house in which to dwell. The legal substance of this judgment was based on Articles 14 and 114a of the *National Constitution* and International Treaties - including the *Covenant on Economic, Social and Cultural Rights* which was ratified by Argentina and incorporated into the *National Constitution* during the reforms in 1994. Moreover, the Criminal Court judge refused to criminalise the occupation as the claimant had requested.

The case has an international value in that it refers to an International Covenant (in this case incorporated into the National Constitution). It is a positive example which could become a

⁷ In the Dominican Republic, the Governors of each of the Provinces are not elected but nominated by the Ministry of Interior.

⁸ Reynals, C., Ceibo, AGFE case files.

⁹ Reynals, C., Ceibo, AGFE case files.

reference case. Unfortunately such cases are poorly registered and documented, and deserve greater attention from stakeholders in their consideration of legal precedents and options to resolve eviction matters.

Preventive policies and facilitating a legal framework

Although this review focuses on forced evictions, it should be made clear that preventive policies are, by far, the best way to approach the problem. Forced evictions usually reflect the lack of adequate policies and proper legal frameworks on land and housing within a particular country.

A typical situation refers to countries that previously had large public housing programmes, but which were subsequently reduced or even terminated. At the same time, the privatization of public rented housing stock occupied by the poor, can entail a drastic increase in rents. The lack of proper social protection for families and individuals facing economic difficulties has significantly increased the number of evictions. Such situations are described in the reports from Italy, France, the USA and China. These countries used to have substantial public rented housing stock and a broad range of instruments to assist low-income families. In such cases, the key element in debate is how to protect and maintain the traditional policies, rather than the creation of new ones.

One of the key policies that contributed to the prevention of evictions, the newly voted Federal Law in Brazil, called “Statute of the City” (*Estatuto da Cidade*) is a positive landmark. It had been proposed and discussed for years by the National Forum for Urban Reform which gathers together community-based organizations, NGOs and professionals (for instance the National Association of Geographers or the National Association of Architects)¹⁰. The Thai National programme, UCDO (Urban Community Development Office) transformed later into CODI (Community Organisations Development Institute) illustrates another innovative approach to the prevention of evictions.¹¹

Participatory Budgeting is a growing municipal practice that has contributed significantly to the prevention of evictions. This is a process through which the population of a city can decide upon part or all of the municipal budget (usually the investment share of the budget).¹² Since 1989, more than 300 cities, mainly from Latin America, and Brazil in particular, have initiated this process, with a number of local variations. Poor communities that participated, for instance in large cities such as Porto Alegre or Belo Horizonte in Brazil, used the opportunity

¹⁰ See among others: Forum Nacional da Reforma Urbana, Instrumentos de democratização e Gestão Urbana, Working Paper No. 93, Brazil, 2001: published by PGU ALC (UN-Habitat), Quito.

¹¹ On innovative policies see: Mitlin, D. and Satterthwaite, D. (ed). *Empowering Squatter Citizen: Local Government, Civil Society and Urban Poverty Reduction*. London and Sterling, VA: Earthscan, 2004. and Mathéy, Kosta (ed.). *Beyond Self-Help Housing*. London and New York: Mansell; München: Profil-Verl, 1991.

¹² Cabannes, Y. “Participatory Budgeting: A Significant Contribution to Participatory Democracy’ In *Environment and Urbanization*. Vol. 16, No. 1, (April, 2004), pp. 27-46. Downloadable from: http://www.iied.org/human/eandu/sample_pubs.html and Cabannes, Y. Answers to 72 Frequently Asked Questions About Participatory Budgeting. Quito, 2004, UMP-LAC, UN-HABITAT, UNDP.

to obtain public resources to regularize the land where they lived, or to buy land to start mutual aid housing projects, usually financed through federal resources. One of the leaders from the National Movement Housing Struggle, who was fiercely beaten in an eviction in Curitiba (see photograph in Chapter 3) stressed that “whereas one of their communities had just been violently evicted in Curitiba, another one, very similar in terms of history and income, had just received the resources to get land as part of the Participatory Budgeting allocations in Porto Alegre”.¹³

The role of the media

The mass media, in particular television and the press, has been a key instrument of the success of various cases referred to in this report. The lack of communication between threatened communities and the claimants, whether of private or public origin, is relatively common. Mass media is often the only one-way information channel that gives public notice about an imminent eviction. For instance, the families living in Villa Bermejo, Argentina heard about the legal procedures against them through the media.

One of the objectives of various communities referred to or visited during the missions was to be heard and reported about in a positive way by the local press and television channels (instead of as criminals or trouble makers). Some of these communities have even successfully developed their own communication strategies. The basic premise of such communication strategies is that if the media (such as television and newspapers) make a community’s plea public, then decision makers and politicians would sympathise with them, with the consequence that their relationships would improve. At the same time, as the Peruvian case of Tambo Grande illustrates, once an affected community’s case is in the news, various social groups might give their positive support to the campaign or visit the affected families. Thus, the media might help in breaking the isolation of a threatened community and maintain and increase community morale.

As illustrated in Chapter 2, the letter received by COHRE from the representative of the Tenants’ Association in Uganda after the protest letter on the Naguru and Nakawa estates was submitted to the authorities, illustrates how media coverage can be part of the strategy of a successful campaign:

“I am happy to inform you that a few days after your article was published in the New Vision Newspaper, the President of Uganda intervened to stop the eviction of tenants from both Estates (...) But nevertheless, everyone that read your protest letter including the tenants, the two area MPs one being Freddie Ruhindi, Government representatives among others, were very happy with your protest letter. In fact, I was going to write to you after receiving the official statement from the President’s Office. We were promised to receive the President’s statement after the holidays, and up to now, we are still waiting. In other words, everything that I am telling you now is simply what we have been able to access through the media. However, I will send you a copy of the President’s statement if we ever receive it. Thank you very much for your intervention, and I will certainly keep you posted on any new developments”.

¹³ Anselmo Schwertner, National Coordinator, MNLM, 17 October 2003, during an interview with Yves Cabannes.

One clear added value of each of the AGFE missions, which has been duly acknowledged by local counterparts, has been the capacity of these missions to raise the interest of the mass media and how this has contributed to opening the necessary dialogue between the involved parties. It was important, for effective media coverage, for the missions to be seen to be independent of all involved parties.

International Solidarity

International campaigns, as part of successful practices

One of the cases refers to an international campaign to stop evictions in Nairobi. The International Alliance of Inhabitants, together with the Kutoka Network of Parishes in the informal settlements launched an international solidarity campaign, called '*Viva Nairobi Viva*', that in few weeks gathered more than 6 000 supporters from all over the world who targeted the e-mails of approximately 100 institutions. They requested the Kenyan Government and the Nairobi Mayor to positively address the issue of evictions (see mission report for further details). According to the IAI and their local counterparts, the campaign contributed to the suspension of the evictions and initiating a more fruitful dialogue. This case illustrates how the international community can support communities involved in resisting evictions. It is important, however, to note that such campaigns should at all times be conducted in close consultation with (and under direction of) local counterparts.

International support to National protest against evictions by Tenants in China.

A national campaign was set up in by the Tenants Movement in China through the Internet to protest against evictions, that at the same time maintained its anonymous character:¹⁴ "Thousands of people have taken their protests to the Internet, posting anonymous letters and complaints on electronic mail and bulletin boards, and circulating gruesome reports of violent evictions. In contrast to China's strict control of dissent on other issues, many of these tenants' protests were uncensored, and the criticism quickly built up steam. One typical writer said: 'Recently, demolition problems have seriously influenced social stability on the mainland, because in the process of demolition, local governments take advantage of their administrative powers to engage in tyrannical business, without regard for the rights of evictees.... Don't demolish the foundation of the republic through demolition and eviction'."

The campaign that has been tolerated by the Government has utilised technology such as the Internet to create an international awareness of the dimension of the eviction problem in China and thus facilitate support for and break the isolation of the tenants' movements in that country. This movement was internationally supported by various human rights organizations.

¹⁴ For more details on the Chinese campaign see: Demolished: forced evictions and the tenant's movement in China, Human Rights Watch, Vol. 16, No.4, pp 22-32.

Debt swapping

One of the strategies of the International Alliance of Inhabitants with respect to the Kenya evictions is to get involved in discussions on the cancellation of debt by European countries in order to ‘swap’ Kenya’s and other developing countries foreign debt into resources that would finance the so-called ‘People’s Fund for the Right to Land and Housing’. In terms of these proposals, inhabitants’ organisations and local authorities would control such funds that would be used to finance urban and housing programmes for the poor and those threatened with evictions. Thus far, significant progress has been made with some governments, for example the Italian Government is considering the cancellation of debt owed to it by Kenya and the earmarking the resources as a contribution to a People’s Controlled Fund, still to be designed.¹⁵

Additional lessons from the AGFE missions

Legitimisation of the role of parties engaged in finding solutions

One of the key added values of the AGFE mission is probably its legitimising impact on the work of parties directly involved in the search for positive solutions to eviction matters. This impact has been due to the nature of the official UN link of AGFE and the senior profile of mission members. Each of the missions was undertaken in response to official requests from Central or Local Governments, and in parallel to these official requests, by representatives of Civil Society organisations. During the missions these institutions gained substantial visibility, and their role as mediators was enhanced.

Importance of multi-actor commissions

The cases reviewed in Chapter 3 indicate that the active participation of various parties is extremely positive and important in generating dialogue. This dialogue is in its turn very helpful to generate consensus and identify the best solutions to stop evictions and create security of tenure. Interestingly, each of the AGFE missions was able to develop multi-party and multi-sectoral initiatives with specific tasks, schedules and compositions. Each of the missions acted independently but all of them developed similar solutions namely:

- They clearly defined the objectives to be achieved;
- They focused on specific issues related to evictions;
- They were able to bring together key actors in the process.

In the Dominican Republic, two different commissions were decided upon at the conclusion of meetings with affected parties. The first one is the Multiparty Parliamentary Commission headed by the President of the Parliament. Its main task is to update the existing law in order to give solutions to those settlements without security of tenure and titles, including the areas under threat of evictions. The new law should be approved within a 10 month period, starting from the

¹⁵ Interview, IAI Co-ordinator, 2005.

date of the mission. The second commission is a Tripartite Round Table that gathers together the Multiparty Parliamentary Commission, the National Association of Local Governments and the 'National Land Co-ordination' (*Espacio de la Tierra*) of grassroots and civil society organisations. Its role is to discuss and debate the proposed law, offer solutions and at the same time address the critical and immediate issues related to ongoing and planned evictions.

The creation of a Working Group, composed of representatives of all interested parties¹⁶, resulted from the public hearing held as part of the AGFE mission to Curitiba, Brazil. One of the main objectives of this Working Group is to propose measures to prevent forced evictions and to promote solutions to the cases presented at the public hearing by affected communities.

In Italy, the associations that are involved in the defence of the homeless and people under threat of evictions decided during the AGFE mission to establish a Co-ordination Committee to Free Rome from Evictions. In parallel, the Rome Municipality committed itself to undertake a set of actions that involve a large number of different local actors.

Exchange of experiences

Exchange of experiences between peoples' organisations has been a constant and important practice of various institutions and organisations linked to AGFE. Exchanges were organised between the South African Federation of Homeless People and the Kenyan communities under threat of evictions. Exchanges were also arranged between Kenya and India to learn from innovations and alternatives developed by Mumbai slum dwellers. A similar process took place with the communities in Accra (see documented cases in Chapter 2).

One of the roles of the AGFE missions is precisely to develop the exchange of experiences at multi-sector levels (grassroots, local governments and professional support groups). The Curitiba Municipality benefited for instance from the land policies implemented by the São Paulo Government. Likewise, in the post-Tsunami workshop, grassroots participants in Sri Lanka could exchange their experiences with the leaders of the Indian Slum Dwellers Federation. The experience brought by the Huairou Commission representative to Italy facilitated the establishment of the first steps for a more systematic exchange among women under threats of evictions. During the mission in Santo Domingo, the Peruvian experience of setting up a 'Fund for Land' and also to assist evicted people, was discussed with various partners, and it is likely that a similar system will be implemented in the Dominican Republic. The experiences of Land Sharing developed successfully in Thailand to solve land conflicts, was a key reference point to developing a solution to the extremely violent evictions that took place during the time of

¹⁶ The Working Group is composed of representatives of all interested parties: the Municipality of Curitiba, the Curitiba Institute of Urban Research and Planning (IPPUC), the Municipal Secretary of Urbanisation, the Curitiba Popular Habitation Company (COHAB), the Municipal Secretary of Defence, The Ministry of Cities, the Special Secretary of Metropolitan Affairs, the Curitiba Development Company (CDC), the Paraná Habitation Company (COHAPAR), the National Rapporteur on the Human Right to Adequate Housing, the Center on Housing Rights and Evictions (COHRE), the Paraná Observatory on Public Policies, the Land of Rights (*Terra de Direitos*), the National Movement on the Struggle for Housing, the Center for Popular Movements, the Municipal Chamber Urbanisation Commission, the Paraná Federal University, State Public Ministry, representatives from the communities that attended the public hearing and AGFE.

the mission to Santa Domingo. As a result of the consideration of international examples, it is likely that the large portion of land from which people were evicted will be divided into two parts, and that portion occupied for many years by a hundred families, will be expropriated by the Government and subdivided among the families. It will be the first experience of its kind in the Caribbean.

The exchange of experience is not a transfer of recipes, but much more about an exchange of ideas and of basic concepts that each of the stakeholders will be able to adapt according to the particular context and needs of the parties. These exchanges have been highly valued by the parties in each case, and enabled very quick results to deliberations on evictions and security of tenure issues.

The way forward

The limitations of what has been done so far

Limited capacity to address an increasing number of requests

During the period under review, as AGFE was gaining visibility for its efforts, the number of requests for information and for conciliatory missions has expanded. Each AGFE mission generated requests from other cities or neighbouring countries, all of which were related to very serious cases, for example Milan during the Rome mission, Goiania city during the Curitiba mission, and various cases from Puerto Rico during the mission to Santo Domingo. The demand for support is huge. However, in spite of the first steps taken, the membership and resources of AGFE is sadly out of scale in proportion to the number and volume of evictions demanding urgent attention.

Insufficient attention to dealing with irregular and clandestine brokers

Insufficient attention has been paid to individual landlords and corrupted politicians who abuse the poor or newcomers to cities by selling them false property titles (see Villa Bermejo Case). Insufficient attention has also been paid to land invasions organised by ‘protected groups’ who, once the land is occupied, sell it illegally for their own benefit. In Santo Domingo, for instance, one plot of land can have up to four claimants, each with transaction papers. How to halt these practices and punish those responsible for them is a delicate point which has to be addressed in the future. In more than one case, *de facto* impunity has been the rule. In that sense, the action plan of the Curitiba Commission is quite relevant when it proposes to focus upon “legal and administrative measures aiming at halting the activities of irregular and clandestine brokers and in the search of solutions to the land ownership regularisation and the protection of low-income purchasers”.

Insufficient attention to the cost of relocation

Another issue that AGFE has insufficiently addressed thus far is the search for innovative ways to face the economic and social costs related to the relocation of families. In some instances, improving the living and sanitary conditions of a neighbourhood, once regularised, will inevitably mean that a number of families will have to be relocated, despite a densification process developed in the course of the regularisation.¹⁷ This relocation implies significant economic costs, which usually comprise the cost of the urbanised site in addition to compensating people for what they had built over time. There are also social costs for the affected communities, such as loss of social, familial, religious and cultural networks; access to education, health and other social services; and the potential increase in transportation costs for work and purchase of food and other commodities. All these issues have to be factored into both the assessment of the necessity for relocation and, where deemed inevitable, the financial and other forms of appropriate compensation to be paid to the families affected by relocation.

Language difficulties

AGFE has been mainly communicating in English and publishing in English (for instance this report). Texts produced in Spanish, Portuguese or French have sometimes been translated into English, but unfortunately translations have never occurred the other way round. This one-way process provokes legitimate frustration and does not allow non-Anglophone interested parties to gain access to the wealth of knowledge and solutions to eviction-related issues that are mainly concentrated in English. This puts in jeopardy the very spirit of networking and exchange that underlies the motivation for the establishment of the Advisory Group.

Lack of security of tenure for urban and peri-urban producers and farmers

Thus far, AGFE has focused its work mainly on housing and land for housing. It could broaden its scope in the future by taking into consideration the lack of security of tenure particularly for informal producers and businesses in the cities. The contribution of informal economic activities to local economic development and to the livelihoods of millions of persons justifies the reasons why AGFE should not limit its work to secure tenure for housing. This is particularly important for urban and peri-urban farmers who produce commodities without security of tenure and who suffer evictions, often without any compensation. This productive group has very limited channels to make their cases heard, however a growing number of requests to address their problem have been presented to the AGFE. The contribution of this group to urban hunger mitigation and to the Millennium Development Goals justify why special attention should be given to them.

¹⁷ This is the case of the Guandules and Cienaga neighbourhoods in Santo Domingo where around 45 000 people live under threat of evictions for years. The Pilot Plan, prepared in a participatory way by the various communities and with the support of various NGOs, estimates that over 4 000 families will have to move out and be relocated to a place still unknown.

Potential agenda for AGFE in the future - a basis for discussion

Requests and needs

The requests and the needs discussed thus far fall under four broad categories:

- Conciliatory and mediation missions similar to the ones conducted thus far;
- Monitoring and follow-up of the missions that were undertaken;
- Provision of information on rights, legal frameworks and policies to all parties locally involved (see Curitiba for instance) and/or innovative practices (see Rome and Santo Domingo);
- Specialised training sessions directed to all parties (for example a training course on conflict mediation).

What could be done?

There is no doubt that AGFE should be maintained and consolidated both as a group and as a unique (and growing) network of committed and specialised individuals and institutions. To do this will require the mobilisation of the necessary resources. The current 'loose and light' support approach to local processes that AGFE has played (in a limited number of cases) is positive and should be maintained. Any action plan should consider the four broad categories mentioned above.

AGFE so far has modestly performed its Advisory Role to the Executive Director. In the future, formal meetings and exchanges should be organised on a regular basis. The opening of this channel of direct and sustained communication will help UN-Habitat to increase its communication with the most experienced network of people and institutions on eviction related issues. At the same time, this communication will greatly empower the processes that AGFE is supporting. Special attention should be given to the language and translation issues in order to build Global Knowledge on evictions in languages accessible to various communities.

Summary of recommendations to the Executive Director

- Continue to give full support to the UN-Habitat AGFE.
- Mobilise seed resources for the following:
 - Functioning of the group including meetings, global monitoring and reporting;
 - Conducting of conciliatory missions, monitoring and follow up, provision of information and specialised training.
- Define adequate channels for regular communication in order to fully meet the AGFE's advisory function.
- Link up the activities of AGFE with the monitoring of the Millennium Development Goals, in particular Goal 7 and the question of security of tenure and evictions. AGFE could be given a role to monitor not only how many evictions have been avoided, but also how this was achieved.

- Produce a Global Evictions Report, to be launched at the World Urban Forum in Vancouver.
- Broaden the perspective of security of tenure beyond housing and land for housing. Evictions are threatening small producers and urban and peri-urban farmers who can contribute to hunger mitigation in many cities.

Concluding remarks: A hope to live in peace and dignity, in the face of global economic forces

The various situations analysed above demonstrate that people and their governments can, under certain conditions, successfully prevent evictions and attain security of tenure. When appropriately supported and resourced, they are able to face up to global forces that are becoming very powerful and dominant.

Such is the case of urban poor communities in the Dominican Republic opposing European private investors interested in tourism development. As is also the case of the Peruvian villagers who could stop an international mining company exploiting gold and silver on their agricultural land.

These cases give great hope to indigenous communities threatened by oil interests in various Amazon Basin countries, to Sri Lankan fishermen threatened by the post Tsunami reconstruction law, to the tenants of the historic centre of Beijing who are removed from their place in the name of investments linked to the Olympics games, and to the hundreds of thousands of children, women and men who live in constant threat of evictions instead of living in peace and dignity.

ANNEX 1: UN-HABITAT GOVERNING COUNCIL RESOLUTION 19/5

UN-HABITAT: Report of the Nineteenth Session of the Governing Council: 19th Session of the Governing Council, 5 - 9 May 2003, Nairobi, Kenya; 8th meeting, 9 May 2003

19/5. Implementing and monitoring the goal of the United Nations Millennium Declaration on improving the lives of slum dwellers

The Governing Council,

Recalling the commitments and recommendations of the Habitat Agenda on the twin goals of adequate shelter for all and sustainable human settlements development in an urbanizing world, and recalling also the Declaration on Cities and Other Human Settlements in the New Millennium and more particularly its paragraph 46,

Recalling further the United Nations Millennium Declaration and more particularly its paragraph 19, in which heads of State and Government committed themselves “by 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers as proposed in the Cities Without Slums initiative”, as reconfirmed in the Plan of Implementation of the World Summit on Sustainable Development,

Recalling paragraph 13 of the United Nations Millennium Declaration, which recognizes that success in meeting the development and poverty eradication objectives of the Declaration depends, inter alia, on good governance within each country,

Noting with appreciation the initial activities undertaken by the United Nations Human Settlements Programme (UN-HABITAT) with relevant United Nations agencies, Member States, the Cities Alliance and the Millennium Project of the United Nations, and emphasizing the importance of a strategic approach for implementing and monitoring the goal of the United Nations Millennium Declaration on improving the lives of slum dwellers,

Noting with concern the lack of sufficient financial resources and affordable land for housing development in many areas,

Taking note of the recommendations of the World Urban Forum at its first session, particularly those related to the dialogues on cities without slums and on the Global Campaign for Secure Tenure,¹⁴

Taking note also of the importance of the report on the thirty-second session of the Statistical Commission, which endorsed the quinquennial cycle for data collection and dissemination and encouraged UN-HABITAT to convene, in consultation with the United Nations Statistics Division, an expert group meeting to evaluate existing methodologies and data-collection and dissemination instruments¹⁵,

Bearing in mind the Declaration on Cities and Other Human Settlements in the New Millennium,

which in its paragraph 66 reconfirms inter alia the role of UN-HABITAT in advocating, promoting, monitoring and assessing progress made in implementing the goals of adequate shelter for all and sustainable human settlements in all countries,

Taking into account paragraph 1 of part VI of General Assembly resolution 55/194 of 20 December 2000, which encourages Member States and Habitat Agenda partners to provide support for the preparation of the Global Report on Human Settlements and the State of the World's Cities report on a biennial basis so as to raise awareness of human settlements and to provide information on urban conditions and trends around the world,

Acknowledging also that significantly improving the lives of slum dwellers requires detailed knowledge, at a disaggregated level, of the extent of such poverty,

Endorsing and supporting the key role of UN-HABITAT in implementing and monitoring the goal on improving the lives of slum dwellers and also the goal on sustainable access to safe drinking water and waste management, as agreed in the United Nations Millennium Declaration,

1. Requests the Executive Director to continue to work to fulfil the goal of improving the lives of slum dwellers and to present a strategy paper thereon to the Committee of Permanent Representatives for its approval;
2. Requests the Executive Director to explore all available options to increase the financial resources which could support the achievement of that goal taking into account the Monterrey Consensus of the International Conference on Financing for Development¹⁶
3. Invites Governments and local authorities, as appropriate, to allocate the necessary financial, human and technical resources to meet the human-settlements-related goals of the United Nations Millennium Declaration and to develop and implement national and local action plans for slum upgrading;
4. Encourages Governments to create conditions conducive to transparent, responsible, accountable, just, effective and efficient governance of cities and other human settlements as an important contribution towards achieving the goal of improving the lives of slum dwellers;
5. Also requests the Executive Director to further develop and strengthen UN-HABITAT collaboration with the Cities Alliance, all relevant stakeholders and other United Nations agencies, and including the Bretton Woods institutions, other international financing institutions and bilateral development agencies, in order to achieve this goal;
6. Further requests the Executive Director to assist Governments, at their request, in developing effective policy guidelines and action plans to this effect, in particular through a sustained implementation of the two global campaigns on secure tenure and urban governance;
7. **Requests the Executive Director, in line with the recommendations of the World Urban Forum at its first session, to establish an advisory group to monitor and identify, and, if so requested, to promote alternatives to unlawful evictions;**

8. Also requests the Executive Director to strengthen the Global Urban Observatory as a learning centre able to respond to the demand-based expansion of local urban observatories, with partnerships from research centres of excellence, to enable the Global Urban Observatory to continue to assist countries and cities in collecting, analysing and using urban indicators;
9. Encourages the Executive Director to continue developing partnerships with national statistical offices, the United Nations Statistical Division and regional United Nations economic commissions to incorporate the slum and the secure tenure indices into national population censuses and other surveys and to encourage the release of data thus collected into the public domain;
10. Invites Member States and Habitat Agenda partners in a position to do so to provide financial and substantive support to UN-HABITAT to enable it to further develop methodologies for data collection and dissemination and to evaluate concepts and sources of city and intra-city statistics;
11. Decides that a continuing focus of the twentieth and future sessions of the Governing Council should be the implementation and monitoring of the goal of the United Nations Millennium Declaration on improving the lives of slum dwellers;
12. Requests the Executive Director to report on progress made in the implementation of the present resolution to its next session.

http://www.unhabitat.org/governingbodies/gcreport_annex1_195.asp

ANNEX 2: Minutes of Inaugural Meeting of AGFE, 5 March 2004



UNITED
NATIONS

HSP



UN-HABITAT

United Nations Human
Settlements Programme

HSP/AGFE/1/2

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Advisory Group on Forced Evictions (AGFE)

Second meeting
New York 18 April 2004

Minutes of Inaugural Meeting Held on 5 March 2004

1. Opening of the meeting

- F. Tebbal welcomed the participants to the inaugural meeting of AGFE. The Executive Director, Mrs. Anna Tibaijuka, made a brief statement expressing her gratitude to the group for accepting the challenge and responsibility put before them in addressing forced evictions. She underscored the cry of the urban poor who were in dire need of security and dignity. The Executive Director assured the group of her support and looked forward to receiving their advice especially in addressing situations where forced evictions are threatened or are in progress in a manner that protects populations at risk and ensures the harmonious development of our cities.

Adoption of the Agenda.

2. Introductory presentations of UN-HABITAT activities related to the objectives of the Advisory Group

- F. Tebbal, gave a brief power-point presentation on the background of AGFE. AGFE would present a working document at the Second session of the World Urban Forum in Barcelona, Spain from September 13-17 2004. F. Tebbal tabled TOR drafted by the secretariat. However he pointed out that the AGFE members had to beef it up. He drew up an organizational structure made up of a convener, regional co-ordinates, and a secretariat. There was also need to define their roles.

- Selman Erguden, the Coordinator, made a brief presentation on the Housing Rights

Programme. The programme works in five areas namely; legislative framework, combating homelessness, research and development, capacity building and technical co-operation. A list of selected United Nations documents on forced evictions and publications produced under the Housing Rights Programme in collaboration with the OHCHR was also presented. F. Tebbal highlighted the linkage between AGFE and normative activities of UN-HABITAT (housing). He emphasized the importance of co-ordination, not overlapping and the need to help each other and not to compete.

- Ms. S. Baffoe-Bonnie, the Coordinator of the Global Campaign for Secure Tenure, made a brief presentation on the Global Campaign for Secure Tenure. She indicated that that the Campaign was an umbrella under which all the activities of Shelter Branch/UN-HABITAT fed into. Focus was on the advocacy activities of the Campaign. There was need to raise the awareness of secure tenure and prevent forced evictions. It was pointed out that AGFE could contribute to advocacy by feeding the Campaign areas of policy reforms like legal issues regarding forced evictions. There was need for the Campaign to be involved in pre-empting evictions with the help of AGFE; advocate for a people driven process, a bottom-up approach (participatory process) in order to achieve a sustainable programme. Security of tenure guarantees legal protection against FE, harassment and contributes to the improvement of living standards of the poor. The meeting was informed that the campaign was in the process of being launched in Thailand, Cambodia, Burkina Faso and Senegal. F. Tebbal agreed that there was lack of understanding on the importance of GCST. There was need for a more visible, attractive grassroots action oriented Campaign.

3. Discussions and approval of Terms of Reference to include the following issues:

- ◆ Role and designation of convener
 - ◆ Role and designation of regional conveners
 - ◆ Role and designation of secretariat institution
 - ◆ Discussion of procedures to access countries/cities in view of engaging conciliation/ fact finding missions
- Introducing this item, F. Tebbal asked the members of AGFE to nominate one of its own to chair the meeting. S. Boonyabanha proposed that the members should first brainstorm the issue of the taskforce. The group was in agreement that there was need to brainstorm/identify the needs of this group. The members agreed that there was a lot of groundwork covered in forced evictions and available in UN reports. These reports needed to be transformed into action. The main question was how this group would be different from all the other groups/ works being carried out on forced evictions. The members concurred that the review of the drafted TOR's should be reserved for after the members had deliberated on what the issues were. The questions raised by members were how the people, community, civil society, and governments would be proactive in this enormous issue of forced evictions. All in agreement that there was need to be more action-oriented. The law was not the main issue in forced evictions. The solution was in how to tactfully negotiate for solutions. On the issue of regional conveners, it was noted that having conveners around capacities such as legislation, monitoring, and evaluation was vital. The question on how forceful UN-HABITAT could be

in preventing forced evictions was raised and what was the best way in facing any limitation on UN-HABITAT.

- M. Gaye highlighted the issue of difference in cultures. Cultural differences would affect the way of handling forced evictions. He illustrated this by reporting on the recent evictions that took place in Senegal among the middle class. This forced eviction was linked to the government. M. Gaye asked if the group was a task force, advisory group, or a reporting group to the UN-HABITAT. He proposed that a change in the name “advisory” would probably change the image of the body in a positive way and that this clarification was necessary in order to know the role of the AGFE and its impact. It was agreed that F. Tebbal A. Zubillaga the legal advisor of UN-HABITAT be consulted and if available come to the meeting to clarify the guidelines governing an advisory body to UN-HABITAT.
- C. Ottolini highlighted the need for each member to realize the need for a bottom-up approach in order to achieve realization. There was need to understand and re-launch zero-eviction like in the city of Mumbai. Networking both externally and internally from NGO’s, civil bodies, CBO’s was fundamental. However the question was how large was AGFE to become and how were other grass-root bodies to be incorporated into AGFE?
- J du Plessis pointed out that forced eviction was getting out of control globally. The forces that were causing forced evictions were at all levels and different dimensions. He elaborated by citing the recent evictions in Nairobi, which may have occurred due to donor requirements upon the Kenyan government. The city of Seoul in Korea had to be beautified during the Olympic Games; this resulted in massive forced evictions. The way COHRE viewed forced evictions was different to other organization’s view. He therefore proposed that AGFE should examine FE at all levels and dimensions. He proposed the need for the group to come up with case studies, guidelines, tool-kit, and develop best practices. Referring to Resolution 19/5 article 7, he questioned the wording...requested... by whom. He also referred to the draft TOR pinpointing that it did not say PREVENTED.

Chris Williams appreciated the challenge facing the group and pointed out that the group would be responsible for monitoring and identifying cases of forced evictions around the world and on the other hand, respond to this. This required concerted efforts from all members due to the magnitude of forced evictions.

S. Shankardass agreed with J. du Plessis’ proposal of developing best practices, but on the other hand pointed out that the way the group could learn and be different was by also documenting the worst practises.

J. Weru noted that there was need to adopt both the practical approach and legislation (lobbying/rights) approach. She illustrated this point by presenting the Kibera slum evictions, through the use of an aerial map of Kibera in Nairobi. One of the reasons for eviction in Kibera was that people were living on the railway line. The Kenya Railway Corporation had indicated to Pamoja Trust that this was causing the tracks to be worn out, thus causing their trains to be highly vulnerable to derailment. In this -regard Pamoja Trust agreed that this eviction was justified. However, the residents of Kibera needed an alternative. This case study illustrates the solution was not in legislation, but in seeking for alternative land for the

slum dwellers. All were in agreement that in this scenario, diplomacy/legislation was just one of the approaches to be applied, but there was also need for intense lobbying/negotiation in order to pre-empt forced evictions.

G. Rodriguez noted that there was need for monitoring the voices of the slum dwellers. He proposed that in the TOR “legal assistance” should read “technical assistance” this would include community organizations and also include technical reports. He emphasized the importance of knowing where FE was actually taking place. He proposed that AGFE should then translate these finding into action and not just dwell on being an advisory body.

M. Gaye agreed with S. Boonyabancha’s contribution that there was a lot of reports and written material on FE. However, there was still the issue of making life easier for those facing evictions. This could be done he proposed by mapping out those areas susceptible to evictions and having case studies in these areas. The other area that was necessary in his opinion was having an AGFE framework covering those susceptible areas, which would identify the core root of forced evictions. By speaking as an AGFE member he asked if he would be granted immunity of the UN to speak out against these atrocities currently going on in Senegal.

J. Bolnick noted there was need to identify skills both internally and externally as a way of working together. He stated that each member had immense backup from their organization and each individual organizations network. This would form part of the enormous input by which each member would fall back on by consulting members who had faced similar problems. On the issue of mapping the susceptible areas of forced evictions as proposed by Malick he was in agreement but emphasized that this needed to be scaled up.

S. Boonyabancha pointed out that firefighting forced evictions was not the solution. Forced evictions needs to be viewed at a broader scale. The way forward was to build a strong people driven process. This would in turn affect the political level for example in Cambodia the people’s action affected the way the Government went about evictions. In her experience a strong people driven process was a very effective technical way in challenging forced evictions.

S. Erguden concurred with members that there was a lot of information, resolutions that gave guidelines to forced evictions and relocations. In his opinion each forced eviction case had its own uniqueness and peculiarities characteristics. He sighted the forced evictions in Istanbul Turkey, which the Turkish government undertook as a way of selling the high value land to a private developer, he questioned if economic reasons were valid enough to have an eviction.

J. du Plessis pointed out that governments did not know the ground level situation and therefore had wrong policies in practice. The demographic reality was that by clearing the railway line in the case of Kibera 100m either way would only result in new people moving in. The donor imperative of creating world-class cities (cleaning the cities to in order to attract investment) for example in Nairobi, Johannesburg, Accra, Algeria was not the way forward. This he proposed could be used by the AGFE as an example of best/worst practices.

A. Zubillaga acknowledged the red tape in the UN, but emphasized that AGFE was an

example that the UN system was opening up by working with partners. The UN he explained is accountable to governments, but it can also bring voices of the community into the institutional framework. He pointed out that the AGFE was to act as an advisor to the ED on the cause of action to take on forced evictions. However, it was up to the ED to decide on how to go about this advice. On the other hand, he said that the group was not limited in their network range. This was a way of going around the bureaucracy of the UN. In addressing the possibility of the ED requesting AGFE to take action, A. Zubillaga informed the members that this was possible. He also stressed the fact that AGFE could not go into a country and do a fact-finding mission but it could work with partners in its network. The UN doesn't act/ intervene unless requested by a government to do so, however UN-HABITAT has a mandate to stop evictions and can do this on the recommendations of what is going on in the country. The members acknowledged the limitations facing the ED in terms of issuing press statements to express an opinion on a specific case of forced evictions. The challenge before AGFE was identifying different approaches on how the ED could tackle this hurdle.

The brainstorming session was concluded with:

- A. Zubillaga recommending that the group should study other advisory groups within the UN system and take pointers from them
- Use existing mechanism on the ground to catapult AGFE into a powerful effective organ.
- Energy and networking should be in areas where they can make a change.
- Identify experts with different capacities (legal, diplomacy, conflict resolution etc)
- The way to deal with eviction needs to be more diverse and dynamic by changing the structure that causes eviction
- Members proposed J. Bolnick as chair
- The members agreed that they should first formulate the work plan, which will in turn inform the organizational structure of AGFE. They also drew up issues that would be put in the work plan.

ACTION TO BE TAKEN

- AGFE should identify 2-3 case studies that will be used to illustrate to the ED actual eviction cases. Each member would consult at constituency level and identify areas of intervention on the ground. AGFE would then identify 2-3 case studies that they would form part of their work plan. The case study needs to have a good proposal and the people on the ground have to be the key actors and should be the ones driving the process.
- The following interim structure was proposed and agreed upon:

Regional Co-ordinators:

Asia	-	S. Boonyabanha
L. America	-	G. Rodriguez/L. Osorio
North	-	C. Ottolini
Africa	-	M. Gaye, J. Weru, C. Pather,

- Jean du Plessis and J. Bolnick agreed to be responsible for drafting procedures/TOR and develop a tool kit. They would also assist the Regional Coordinators in drawing action plan.
- S. Boonyabanha agreed to act as interim convener. She would be the focal point for all members and would receive all the proposals for case studies.
- The Secretariat would be represented by F. Tebbal, S. Baffoe-Bonnie, F. Beernaerts. They were charged with the responsibility of sending the outcome of this meeting, as well as sending out the notification of the next meeting. This would only be for the interim period.

AOB

1. WUF

F. Tebbal informed the members that he had booked the group to hold a closed door meeting on Monday, 13 September 2004 from 2.30pm – 5.30pm. On Wednesday, 15 September 2004 in the Group had been scheduled for an open –ended forum/dialogue in the afternoon with a sitting capacity of 150. The members recommended these arrangements and underscored the importance of using this forum as a platform to market the group and raise awareness to everyone in order to have open solution.

2. Next Meeting

It was agreed that the group members who were attending the Commission on Sustainable Development in New York from April 19-13 May 2004, could use this opportunity to have an open informal AGFE meeting to finalize a work plan prior to the meeting in September 2004. . The appropriate time was to be identified.

3. Dominican Republic Launch on Forced Evictions

C. Ottolini asked if F. Tebbal would attend the launch of the campaign on forced evictions in Dominican Republic as representative of AGFE. After lengthy discussion the group proposed that G. Rodriguez could attend the meeting, under the capacity of his organization and not as AGFE. G. Rodriguez was to put a written request to UN-HABITAT/Shelter Branch indicating his interest in participating in the meeting and request for sponsorship to attend the meeting

4. Public notification of first meeting

It was agreed that S. Baffoe-Bonnie and S. Shankardass would have a press release placed on the UN-HABITAT website outlining the outcome of the meeting

The group noted with appreciation the effort put into the organization of this inaugural meeting and hoped that they would all continue with the same enthusiasm. F. Tebbal closed the meeting with a vote of thanks at 5.00pm

Present:

- 1) Jean du Plessis, Centre on Housing Rights and Evictions (COHRE), jean@cohre.org
- 2) Joel Bolnick, Peoples Dialogue, South Africa: joelb@courc.org.za
- 3) Somsook Boonyabancha: Community Organizations Development Institute Thailand: achrsec@email.ksc.net, somsook@loxinfo.co.th
- 4) Fretheim Atle: Deputy Permanent Representative of Norway to UN-HABITAT: Fretheim Atle <atle.fretheim@mfa.no>
- 5) Malick Gaye, ENDA Tiers Monde, Senegal: rup@enda.sn
- 6) Leticia Osorio, Centre on Housing Rights and Evictions, Latin America, Latin America: cohreamericas@cohre.org , rsf5905@via-rs.net
- 7) Cesare Ottolini, Coordinator of the International Alliance of the Inhabitants: cesare.ottolini@libero.it , info@habitants.org
- 8) Coughlan Pather, Secretary of housing, Durban, South Africa: patherc@durban.gov.za
- 9) Guillermo Rodríguez, Executive Commission of the Continental front of community organizations, Latin America: memofcoc@hotmail.com
- 10) Jane Weru, Pamoja Trust, Kenya: Landrite@wananchi.com
- 11) Chris Williams, Office of the Executive Director, UN-HABITAT
- 12) Sharad Shankardass, Press, Media & Spokesperson, UN-HABITAT
- 13) Antonio Zubillaga, Legal Advisor, UN-HABITAT
- 14) Farouk Tebbal, Shelter Branch, UN-HABITAT
- 15) Sandra Baffoe-Bonnie, Campaign on Secure Tenure, UN-HABITAT
- 16) Selman Erguden, Housing Rights Programme, UN-HABITAT
- 17) Inge Jensen, Housing Policy Section, UN-HABITAT
- 18) Urik Westman, Shelter Branch, UN-HABITAT
- 19) Fredric Beernaerts, Campaign on Secure Tenure, UN-HABITAT
- 20) Ann Mugeni, Shelter Branch, UN-HABITAT

ANNEX 3: MINUTES OF AGFE MEETING, 18 APRIL 2004



**UNITED
NATIONS**

HSP

HSP/AGFE/2/2



United Nations Human

Distr.: General
18 April 2004

UN-HABITAT

Settlements Programme English

Original:

Advisory Group on Forced Evictions (AGFE)

Second meeting
New York 18 April 2004

Draft Minutes of Meeting Held on 18 April 2004 New York

Present

Jean du Plessis
Malick Gaye
Cesare Ottolini
Inger Lindgren
Farouk Tebbal
Jockin Arputham
Coughlan Pather
Paulo Teixeira

Yves Cabannes
Guillermo Rodriguez
Leticia Osorio
Per Nygaard
Sandra Baffoe-Bonnie
Joel Bolnick
David Satherwaite
Samsook Boonyabanacha

Morning Session

Opening of the Meeting

- Due to the fact that some members were attending a parallel event in the morning, the meeting spent the morning going over some general background material to bring some members up to speed with the first meeting in Nairobi. Farouk opened the meeting by presenting a brief background on UN-HABITAT, the Secure Tenure Campaign, and the reasons for setting up the Advisory Group. A round of introductions was made and some members made brief presentations on their backgrounds and the activities they are undertaking.
- Per Nygaard briefed the meeting on his work with UN-HABITAT since 1988 and

the collaboration between UN-HABITAT and the government of Norway. He informed the meeting of his government's financial support to UN-HABITAT and the possibility of soft earmarking to include the Global Campaign for Secure Tenure.

- A general discussion ensued around the issue of unlawful evictions and forced evictions as it pertains to evictions pursuant to national law. It was pointed out that the mandate limits AGFE to dealing with 'unlawful evictions' and that the group can be innovative in its interpretation by measuring evictions against international legal instruments which will make it possible to include most forced evictions. It was agreed that there was a need for the group to gain substantive understanding both of international legal instruments and national laws on the issue and that the group should produce a paper to cover the issue giving clear indications of the difference between illegal, forced and lawful evictions.
- It was further agreed that the group should not only aim for the suspension of evictions, since this does preclude the possibility of evictions in the future. It is this possibility of future eviction that translates into lack of tenure security. The group was urged to consider setting up a panel to think of alternatives to eviction, representing more permanent solutions, after recommendations have been made to the ED

Afternoon Session

1. *Adoption of minutes of 5 March 2004 Meeting*

- The members who were attending a parallel event joined the meeting for the afternoon session. Prior to the adoption of the minutes, Joel Bolnick was nominated to chair the session. The agenda was approved, and with no comments and changes proposed, the minutes were also adopted.

2. *Finalisation of TORs and designation of Convener*

Finalisation of TORs

- Joel Bolnick chaired this section of the meeting.
- Jean du Plessis went over the changes made to the first draft.
- Item 8, two possible alternatives were included based on proposals from some members. It was agreed that the original objective be maintained.
- Item 9, was edited to accommodate the legal advice received during the first meeting on the mandate and what activities AGFE could undertake.
- P Teixeira recommend changes to item 9 to include language that includes "support and encourage countries and institutions to provide land tenure programmes". He further suggested possible wording to be included as follows "spread out best practices in land tenure all over the world". He also suggested that attention should be given under item 3 to the fact that many people lack the means to seek redress in the courts.
- It was agreed that a note will be added to the section on background and justification on MDGs and the points raised by P. Teixeira.
- It was also agreed that under item 9 a distinction would be made between advice

and assistance given by the AGFE to UN-HABITAT, and tasks which the AGFE undertakes in its own right (such as collection of information, reporting on its activities, etc.)

- It was decided that once the edits and changes are made the TORs will be finalised and circulated.
- J. du Plessis was tasked with including the proposed suggestions..

Nomination of Convener

- S. Boonyabancha was nominated by J. Arputham,
- Y. Cabannes was nominated by S. Boonyabancha
- Jane Weru was nominated by J. Bolnick

The group selected Yves Cabannes as the Convener to be supported by S. Boonyabancha, Jane Weru and Jean du Plessis..

3. *Presentation and finalisation of case studies and work plan.*

- J. du Plessis chaired this section of the meeting.
- As agreed in the first meeting written proposals were to be submitted by the interim regional coordinators representing all the regions, suggesting which specific cases could be focussed on by the group in order to develop its approach and methodology. Only one written proposal had been submitted.
- To continue the process, oral presentations were made on specific cases from the regions with the view to selecting 2-3 cases to form part of the work plan, and discussing different methodologies of intervention. The cases presented included, Accra in Ghana, Sao Paulo in Brazil, Paris, Dakar in Senegal, and the Dominican Republic.
- The group also flagged potential evictions in Nigeria, Nairobi, Egypt, Johannesburg, Cambodia and Brazil (potential evictions exist due to the construction of new dams).
- It was agreed that the AGFE could play a role in integrating contending methodologies together in dealing with the problem of forced evictions. One set of methodologies was described as pragmatic, using negotiations and dialogue aimed at generating alternatives, while another was described as oppositional using protest, confrontation, mobilisation and litigation aimed at preventing evictions from taking place.
- It was proposed that the group should develop and propose concrete actions, in specific cases, that would illustrate how evictions can be both prevented and replaced with constructive, alternative strategies based on the direct involvement of all parties, with the affected communities, the poor in particular, playing a key role.
- It was agreed that the group should initially avoid the very complicated cases. Those could be tackled later, when it was clear on its role and methodology.
- It was proposed that a three pronged approach should be adopted in categorising the approach to the cases.
 - Identify the immediate cases,
 - Utilise the experience and knowledge base of the networks represented on the AGFE to promote successful intervention in immediate cases
 - Promote successful approaches and methodologies in order to replicate their use elsewhere.
- There was debate on whether it would be better for the group to select one particular

case on which to focus, to be used as a 'centre for learning' with broader application; or to look at a broader spectrum of cases and to draw lessons from those. It was acknowledged that each of these approaches have both risks and benefits.

- It was agreed that the AGFE should not be 'just another advisory group'. The networks and connections represented on the group should be seen as a platform, from which a number of innovative joint activities could be launched. This would be done via proposed actions to UN-HABITAT, but also through growing cooperation on actual cases, between the participants on the group.
- It was resolved that the group would 'start with what we have'. The group has invaluable knowledge and experience in resolving evictions in ways that benefit the poor. It also has invaluable information on the many cases where evictions are due to take place, unless something urgent is done.
- **Innovative Solutions:** It was agreed that Joel Bolnick and David Satterthwaite and Joel Bolnick would liaise with group members and compile information on 'best experience' cases from around the world, illustrating the use of innovative solutions.
- **Existing Threats:** It was also agreed that Samsook Boonyabantha and Jean would liaise with group members and compile information on immediate threats of eviction.
- It was further agreed that the information gathered will be recorded using the format already developed. Jean du Plessis undertook to circulate this in English, Portuguese, Spanish and French within ten days. The purpose of the format is to make sure that certain essential information is not left out, and also to promote comparison between the different cases. It was agreed that the format was a guideline, and that it could be amended or expanded, depending on the nature of the case in question.

4. *Preparation for World Urban Forum in Barcelona*

- Farouk Tebbal briefly informed the group that two events have been scheduled for the group for the WUF. One will be a closed meeting for the members and the second will be an open event where the group's first report will be presented in addition to presentations by speakers and a general debate.
- The group discussed at length what the debate should be about and what the group should aim to achieve during the second event. In general terms, it was agreed that the objective would be to alert participants to the critical situation globally with regard to forced evictions, to inform them of the innovative alternatives that have been negotiated in certain situations, and to promote the work of the AGFE and UN-HABITAT in promoting awareness of the problem and a vision of how it should be addressed.
- It was agreed that specific ideas will be proposed and submitted to the Secretariat and the Convener and that the ideas should take into account elements which will attract participants and lead to an interesting debate.
- It was further agreed that the group will produce a brochure and a one pager on what the parallel event will be about and who the speakers will be.

5. *Provision Agenda and other arrangements for next meeting*

- The next meeting will be held in Barcelona during WUF in September 2004.
- It was agreed that agenda items will include progress on what the group has been working and an Action plan for the next two years. In addition, additional items will

be determined and submitted to the Secretariat.

ACTION TO BE UNDERTAKEN

- A note on MDGs to be added to the TOR section on background and justification (*Jean*)
- TORs will be finalised and circulated once the edits and changes are made. (*Jean*)
- Compile list of the immediate cases on evictions and circulate it for comments (*Somsook and Jean- by end of May 2004*)
- Put together cases that demonstrate innovative solutions (*David and Joel by the end of May 2004*)
- Convener to consult with Secretariat and members in drawing up plans for WUF (*Ives*)

AOB

The group noted with appreciation the effort put into the organisation of the meeting and the chair closed the meeting at 8.00pm

ANNEX 4: AGFE TERMS OF REFERENCE



**UNITED
NATIONS**

HSP



UN-HABITAT

**United Nations
Human Settlements
Programme**

HSP/AGFE/1/1

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TERMS OF REFERENCE OF THE ADVISORY GROUP ON FORCED EVICTIONS

Background and justification

1. Since the launch of the Secretary-General's reform in 1997, mainstreaming of human rights within the United Nations system has become one of the major priorities of the Organization, and has increasingly become a fundamental entry point to all economic and social development efforts at all levels. In the Habitat Agenda, the outcome of the Second United Nations Conference on Human Settlements, Governments reaffirmed their commitment towards the progressive realization of the right to adequate housing.¹
2. The Millennium Development Goals, and particularly target 11, explicitly outlines the need for improvement in the living conditions of at least 100 million slum dwellers within a 20 year period, which is directly related to the realization of the right to adequate housing globally. One fundamental component in the realization of the right to adequate housing is promoting residential stability and security of tenure and in this relation the prevention of forced and unlawful evictions. Access to security of tenure is one the indicators for Governments to report progress on implementing target 11 to the General Assembly.

¹ The Habitat Agenda and the Istanbul Declaration on Human Settlements, both adopted by the second United Nations Conference on Human Settlements (Habitat II) at Istanbul, Turkey on 14 June 1996.

3. Besides homelessness, forced evictions have been classified as gross violations of human rights.² In many countries, forced evictions can be carried out with comparative ease against squatters, low-income renters, indigenous peoples and other vulnerable groups with inadequate or no legal security of tenure. Unfortunately, few governments monitor the practice of forced evictions. Furthermore, limited attention is paid to evictions carried out without due process of law, and to the fact that many people lack the means to defend themselves in the courts. Development-based displacements are the most common form of forced evictions carried out by public authorities in developed as well as in developing countries. In urban areas these are usually the result of intense urban development, when powerful local and international forces combine to produce rapid urban change leading to widespread displacement – normally of very poor neighbourhoods. These are global, historical forces that human rights activism is not able to stop.
4. Networks of organisations of the urban poor have recognised that these development plans, often billed as technical projects, are in fact highly political decisions that can be renegotiated, provided that affected communities are able to engage state institutions and demonstrate alternatives that make sense for them as well as other stakeholders. In this new scenario, affected persons are not merely passive subjects whose right must be defended in courts of law; nor is their participation restricted to affected persons³ who should have access to relevant information, and who merely should be involved/participate in consultations throughout the process. Rather they should be central to the planning that will affect their lives.
5. There are already efforts at the global and national levels, spearheaded by Federations of the Urban Poor to critically engage State Governments, multi-laterals and bi-laterals, in order to find win-win situations that provide sound, pro-poor developmental alternatives to evictions.⁴ This commitment to the *hard* option to negotiate solutions has already yielded decisive results in strong as well as weak, pro-poor as well as “anti-poor” administrations.
6. There are also efforts at the global and national levels, spearheaded by non-governmental organisations⁵, to monitor forced evictions with a view to preventing such incidents. The first session of the World Urban Forum held in Nairobi in May 2002 had extensive discussions on forced evictions and on the need to establish “*a group to promote mechanisms for linking systems of eviction monitoring to networks of institutions/*

² See the UN Committee on Economic, Social and Cultural Rights General Comments no. 4 and no. 7; Commission on Human Rights resolutions 1993/77 and 2004/28; and UN Fact Sheet No 25: Forced evictions and human rights. See also the regular *Global Survey* reports on forced Evictions, produced by the Centre on Housing Rights and Evictions (COHRE). These reports can be downloaded from www.cohre.org.

³ Including women, children, older persons, persons with disabilities, indigenous peoples, and other vulnerable and disadvantaged groups.

⁴ Such as Shack Dwellers International Affiliates NSDF, Muungano and uMfelandaWonye. See www.sdin.net, www.sparcindia.org and www.dialogue.org.za.

⁵ Such as the Centre on Housing Rights and Evictions (COHRE). See for example <http://www.cohre.org/lbframe.htm>.

⁶ Report of the first session of the World Urban Forum, Annex I.1. <http://www.unhabitat.org/uf/ai6.html>.

individuals with experience in promoting negotiated alternatives.”⁶

7. The need to establish such a group – which would function as a Advisory organ to the Executive Director of UN-HABITAT and as a key component of the Global Campaign for Secure Tenure – emerged as an urgent priority and a step to be facilitated by UN-HABITAT. At the 2001 Consultative Group Kolkata Meeting of the Cities Alliance, an initial discussion was held on the issue of forced evictions and resettlement. The establishment of this Advisory Group was further elaborated at a meeting held in London with the participation of representatives from Slum Dwellers International, Cities Alliance, UN-HABITAT, tenure experts and a number of relevant NGOs, and endorsed by UN-HABITAT’s Governing Council on May 2003.

Objectives and activities

8. The primary objective of the Advisory Group is to prevent forced evictions. To address this objective the Advisory Group will promote alternatives to forced evictions, such as *in-situ* upgrading, negotiated resettlement, and other alternative options. When relocation is unavoidable, the Advisory Group will again identify alternative actions/solutions that will reduce the negative effects of such incidents.
9. In order to achieve its objective, the Advisory Group will advise and assist UN-HABITAT to undertake activities such as, *inter alia*:
 - a. Enabling processes of learning in regard to alternatives to evictions by exposing affected communities, government officials and professionals to cases in which deals have been brokered to prevent evictions through people/public/private partnerships leading to sustainable, pro-poor development;
 - b. Making submissions and presentations in connection with planned evictions, in order to promote alternative approaches;
 - c. Facilitating dialogue between the stakeholders of current or planned cases of evictions with a view of searching negotiated alternatives;
 - d. Encouraging governments and institutions to develop proactive programmes, such as land tenure reform, to help in reducing the occurrence of large scale forced evictions.
 - e. Monitoring acts of forced evictions and facilitating information and experience exchange between the stakeholders of such incidents including press and media, professional associations;
 - f. Providing advisory services to stakeholders;
 - g. Alerting the international community and all other stakeholders, including relevant United Nations treaty bodies, on potential and current forced evictions and the effects of such incidents;
 - h. Facilitating provision of legal and other assistance to stakeholders, particularly to victims of forced evictions;

- i. Providing assistance to research, training and capacity building activities on alternatives to forced evictions; and
- j. Promoting advocacy activities and other initiatives combating forced evictions.

10. The Advisory Group will, also:

- a. Document selected cases of successful alternatives as well as cases of forced evictions, as appropriate;
- b. Preparing periodic reports on the activities of the Advisory Group;
- c. Execute any other tasks related to the mandate of this group, as requested by the UN-HABITAT Executive Director.

Mandate of the Advisory Group

11. The Advisory Group derives its mandate from a variety of sources, including Government's commitments in the Habitat Agenda (Para 40(n)) and the World Urban Forum as **an Advisory organ to the Executive Director of UN-HABITAT** – as the World Urban Forum urged “*the United Nations System to utilise this group and/or other mechanisms to take a position on how it will monitor and respond to unlawful evictions.*”⁷ More recently the 19th Governing Council of UN-HABITAT has adopted a resolution in which it “Requests the Executive Director, in line with the recommendations of the World Urban Forum at its first session, to establish an advisory group to monitor and identify, and, if so requested, to promote alternatives to unlawful evictions”⁸.
12. With a view to facilitate discussion of biannual reports at the World Urban Forum, it is recommended that biannual reports are submitted to the Executive Director of UN-HABITAT by the Convenor of the Advisory Group, not less than three months prior to each session of the World Urban Forum. Additional *ad hoc* reports may be submitted at any time, as appropriate.
13. The Executive Director of UN-HABITAT will decide on the course of action and follow-up on these reports by UN-HABITAT.

Composition and establishment of the Advisory Group

14. The Advisory Group on forced evictions will comprise of persons appointed by the Executive Director. The Advisory Group will be assisted by a **network of persons** (hereinafter referred to as the “network”) representatives from organisations in the fields of human settlements, law, tenure policy and human rights including civil society who can be of access to the Advisory Group. The operations of the Advisory Group will be

⁷ Report of the first session of the World Urban Forum, Annex I.1. <http://www.unhabitat.org/uf/ai6.html>.

⁸ UN-HABITAT Governing Council Resolution 19/5, article 7.

facilitated by a *Secretariat*.

15. **The Advisory Group** will consist of about 20 individuals appointed by the Executive Director of UN-HABITAT, with a view of ensuring regional, institutional and gender balance. The activities of the Advisory Group are detailed in paragraph 9 above.
16. **The Network:** in order to carry out swiftly and efficiently its activities, the Advisory group will be supported by a number of experienced representatives from organisations in the fields of human settlements, law, tenure policy and human rights including civil society. This network of resource persons will be identified and called upon by the Advisory Group to undertake, on an *ad hoc* basis, activities on behalf of and upon request from the Advisory Group such as:
- Engaging in fact finding missions when cases of forced eviction are reported,
 - Engaging in preliminary discussions with relevant stakeholders, when requested, to promote alternatives to unlawful evictions,
 - Monitoring globally and preparing periodic reports on forced eviction,
 - Conducting research, training and capacity building activities in relation to the mandate of the Advisory Group,
 - Attend, when relevant, meetings of the Advisory Group.

The Network may include participants from:

- a. Global/Regional organisations of slum dwellers, Global NGOs;
- b. Local authorities (their global associations);
- c. Research institutions, academic society, experts, etc;

The Advisory Group, in consultation with the Executive Director of UN-HABITAT, will designate members of the Network.

17. **The Secretariat:** it will facilitate operations of the Advisory Group. The secretariat will organize the activities of the Advisory Group and ensure a day to day follow up of its actions, commitments and reporting. This will include:
- preparing a calendar/schedule of the activities of the Advisory Group,
 - organising the meetings of the Advisory Group and/or the activities of the pool (including preparing background documentation, organising the logistics, travel arrangements proposing meeting venues, etc.)
 - preparing and publishing periodic or *ad hoc* reports, etc.

This function will be undertaken by the Secretariat of the UN-HABITAT Global Campaign for Secure Tenure⁹ in Nairobi. It could be assisted in this function by an external institution that is relevant to the objectives and mandate of the Advisory Group.

⁹ Assisted by Secretariat of the United Nations Housing Rights Programme.

18. The members of the Advisory Group will elect among themselves a **Convenor**, who will co-ordinate the activities of the Advisory Group and who will be responsible for reporting to the Executive Director of UN-HABITAT. All members of the Advisory Group including the Convenor will serve for a term of *two years*.
19. 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.

Operational arrangements

20. The Advisory Group will set the priorities and plan of action of this initiative, based on information received by stakeholders involved in specific cases of forced evictions, as well as from other stakeholders related to forced evictions, including members of the Network and UN-HABITAT
21. The Advisory Group will preferably make its decisions based on consensus. If consensus cannot be reached on specific issues, decisions will require the consent of the majority of Advisory Group members. Any such lack of consensus in decision making should be indicated in the reporting to the Executive Director of UN-HABITAT.
22. The members of the Advisory Group (and Secretariat members) will communicate primarily through e-mail, telephone and other electronic means.
23. Biennial and occasional meetings of the Advisory Group will be organized, subject to availability of funds. Biennial meetings shall preferably be held in conjunction with sessions of the Governing Council of UN-HABITAT or the World Urban Forum.
24. The Advisory Group may decide to establish *ad hoc* committees for specific tasks and initiatives, and may request the involvement of relevant institutions and individuals having expertise and experience for such purposes. Separate *ad hoc* committees may, for instance, be established to find practical solutions and negotiate alternatives to specific planned forced evictions.
25. As one of its first tasks, the Advisory Group will identify and establish a wider network of resources upon which it will be able to call for assistance and expert input.
26. The Advisory Group may also organize, through the Secretariat, contracts for organizations or individuals for professional services, again subject to availability of funds.

Funding

27. Participation in the Advisory Group and its operations is voluntary. However the cost of travel and per diem of the members of the Advisory group, when they are requested to do so, will be reimbursed according to the UN rules.

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- 28.** A core funding for this initiative is to be established by UN-HABITAT. Potential sources of such funding are the Cities Alliance, UN-HABITAT, OHCHR, donor governments and organisations. The UN-HABITAT Executive Director will initiate fundraising activities for this purpose.

- 29.** Decisions on use of allocated funds shall be made by the Advisory Group, in consultation with UN-HABITAT and subject to United Nations rules and regulations, and will be disbursed through the Secretariat of the Advisory Group.

ANNEX 5: AGFE EVICTIONS DATA COLLECTION FORMAT

A: Threat of Eviction

1. Name and location of community threatened with eviction
2. Reasons given for the eviction (official and other)
3. Estimated number of families affected
4. Background and history to the case
5. The main events that have taken place so far (with dates)
6. Level of organisation of the affected community (including names of organisations, their approach, strengths and weaknesses)
7. Names of supporting agencies working in alliance with the affected community
8. Names of authorities implementing the eviction
9. Consultations held and alternative housing and/or compensation offered by the authorities to the affected community (if any)
10. Actions taken so far by the community and/or supporting agencies to resist the eviction and / or to develop creative, alternative solutions
11. Strategies for future action discussed / developed / proposed to deal with the threatened eviction
12. Important events anticipated (e.g. dates set for eviction, planned actions, court cases, development of alternatives, etc.)
13. Reasons why this is a good focus case for the Advisory Group. Ideas on what the Advisory Group could do to contribute to the successful resolution of the case.

B: Success Stories: Eviction Averted

1. Name and location of community that was threatened with eviction
2. Reasons given for initial threat of eviction (official and other)
3. Estimated number of families affected
4. Names of the authorities and / or agencies engaged in enabling the alternative
5. Background and history to the case
6. The main events of the case (with dates)
7. Level of organisation of the affected community (including names of organisations, their approach, strengths and weaknesses)
8. Name of community organisation/s involved in brokering the solution
9. Names of supporting agencies working in alliance with the affected community
10. Name of authorities engaged in enabling the alternative.
11. Reasons why this is a good focus case for the Advisory Group. Potential for the case to be used as a centre for learning and advocacy through exposure and exchange.

ANNEX 6: LETTER OF INVITATION TO AGFE FROM GOVERNMENT OF GHANA

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

r Ref
ur Ref
lephone. M 66 47 65
CD 66 36 68
D 68 20 08

t Nos. 66 79 11/ 66 01 15/681003



REPUBLIC OF GHANA

MINISTRY OF LOCAL GOVERNMENT
AND RURAL DEVELOPMENT
P.O. Box M 50
ACCRA

E-Mail: localgovernment@internetghana.com

February 17, 2005

Mr Jean du Plessis
Coordinator: Global Forced Evictions Programme
Centre on Housing Rights and Evictions (COHRE)
PostNet Suite 247, Private Bag X9118
Pietermaritzburg 3200, South Africa
Tel + 27.33.3423437; mob + 27.82.5575563
Email: jean@cohre.org

Dear Mr. Jean du Plessis,

VISIT OF UN-HABITAT ADVISORY GROUP ON FORCED EVICTIONS (AGFE) TO GHANA.

The Ministry of Local Government and Rural Development has been informed by the Habitat Programme Manager in Ghana of the intention of a representative of the UN-HABITAT Advisory Group on Forced Evictions (AGFE) to visit the country for a deeper investigation into the situation of the informal settlement of Agbobloshie.

We have also been told that this will enable you prepare an action plan for the UN-HABITAT governing council meeting in April 2005.

The Ministry sees this as a step in the right direction since it is our belief that we will be able to have a breakthrough in the Old Fadama/Agbobloshie case through dialogue. The Ministry will therefore welcome your visit to Ghana to facilitate the dialogue with all stakeholders.

Please let us know the exact date of your visit to enable us prepare for this meeting.

I count on your cooperation.


DANIEL A. NYANKAMAWU
AG. CHIEF DIRECTOR
FOR: MINISTER

cc: Farouk Tebbal
Chief, Shelter Branch
Global Division
UN-HABITAT
POB 30030, Nairobi/Kenya
Farouk.tebbal@unhabitat.org

Yves Cabannes
AGFE Convener
ycabannes@gsd.harvard.edu

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Shelter Branch
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Nairobi 00100 Kenya
Sandra.Baffoe-Bonnie@unhabitat.org

Alioune BADIANE
Director
Regional Office for Africa
& the Arab states,
UN-Habitat, Nairobi, Kenya
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ANNEX 7: LETTER OF INVITATION TO AGFE FROM MUNICIPALITY OF BOCA CHICA



AYUNTAMIENTO MUNICIPAL DE BOCA CHICA
PROVINCIA SANTO DOMINGO
DESPACHO DEL SINDICO

15 de Febrero del 2005

Yves Cabannes
Coordinator UNCHS-Habitat Advisory Group on Force Eviction
(AGFE)
ycabanes@asd.harvard.edu

Farouk Tebbal
Chief Shelter Branch UNCHS-Habitat
farouk.tebbal@unhabitat.org

Objeto: Invitación a la mesa de Diálogo y Concertación en el ámbito de la misión UNAGFE en la República Dominicana (marzo de 2005)

En nombre del Municipio de Boca Chica, Provincia Santo Domingo, República Dominicana, Ayuntamiento el cual me honro en presidir como Alcalde Municipal, aprovecho la ocasión para saludarle solicitando haga usted extensivo este saludo a la importante Oficina de Hábitat de la ONU que ustedes representan dignamente.

La gestión que encabezo en este municipio ha mostrado interés en la solución definitiva a la problemática de la seguridad de la tenencia que padece una considerable parte de nuestra población, la cual ha edificado sus viviendas en terrenos que son reclamados por particulares, los cuales, en ocasiones obtienen el apoyo de la fuerza pública para desalojar a los pobladores, creando situaciones de conflictos permanentes que perturban la tranquilidad de nuestros ciudadanos.



ANNEX 8: LETTER OF INVITATION TO AGFE FROM THE MINISTRY OF THE CITIES, GOVERNMENT OF BRAZIL



80000.002381/2005-13

MINISTÉRIO DAS CIDADES

Gabinete do Ministro

Esplanada dos Ministérios Bloco "A", 2º andar, sala 227

Brasília - DF - CEP 70050-901

Tel.: (061) 315-1625 - Fax: (61) 226-2719 - cidades@cidades.gov.br

Ofício n.º 000787/2005/GABIN/MCIDADES

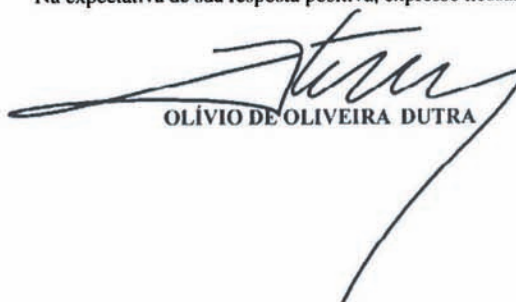
Brasília, 17 de fevereiro de 2005.

Ao Senhor
Farouk Tebbal
Chief Shelter Branch
Global Division
UN-HABITAT

Assunto: Reunião do Advisory Group on Forced Evictions – AGFE

Prezado Senhor,

1. Durante o II Fórum Urbano Mundial, em Barcelona, Espanha, quando ocupei o cargo de Vice Presidente do evento, o Advisory Group on Forced Evictions – AGFE identificou algumas cidades nas quais os despejos forçados de moradores estão em evidência, entre estas, Curitiba, no Brasil.
2. Naquela oportunidade, foi proposta a realização de um encontro do AGFE na capital Paranaense, com o objetivo de debater alternativas e sugerir soluções para os casos de despejos forçados de moradores. Assim sendo, entendemos que é oportuna a realização da próxima reunião do AGFE no Brasil.
3. Convidamos vossa senhoria para promover a realização desse encontro em nosso País. Na data proposta pelos membros do AGFE no Brasil, dias 24 e 25 de Fevereiro de 2005, não será possível a minha participação, devido a compromissos já assumidos previamente. Mas o Ministério das Cidades tem o maior interesse em participar do evento e nele estará representado pela equipe que trabalha esta questão.
4. Esperamos colher desta reunião do AGFE subsídios para uma política que evite despejos forçados de moradores em qualquer parte do mundo.
5. Na expectativa de sua resposta positiva, expresso nossas mais cordiais saudações.


OLÍVIO DE OLIVEIRA DUTRA

ANNEX 9: [PROPOSED] TERMS OF AGREEMENT BETWEEN THE ADVISORY GROUP ON FORCED EVICTIONS/UN HABITAT AND THE CITY OF CURITIBA, BRAZIL FOR AN EVICTION FREE CITY¹

Through the current instrument, the Advisory Group on Forced Evictions (AGFE)/UN HABITAT, the Municipality of Curitiba, the Curitiba Institute of Urban Research and Planning (IPPUC), the Municipal Secretary of Urbanization, the Curitiba Popular Habitation Company (COHAB), the Municipal Secretary of Defence, The Ministry of Cities, the Special Secretary of Metropolitan Affairs, the Curitiba Development Company (CIC), the Paraná Habitation Company (COHAPAR), the National Report on the Human Right to Adequate Housing, the Center on Housing Rights and Evictions (COHRE), the Paraná Observatory on Public Policies, the Land of Rights, the National Fight for Housing Movement, the Center for Popular Movements, the Municipal Chamber Urbanization Commission and the Paraná Federal Universtiy have all agreed to the present terms.

Considering the mandate of the UN-HABITAT Advisory Group on Forced Evictins, the objective of which is to facilitate the establishment of communication among the diverse groups involved in planned or occurred evictions in order to reach an alternative agreement, with the aim of fulfilling the 11th Millennium Development Goal that is to improve the living conditions of 100 million residents of precarious settlements within 20 years;

Considering that, besides the lack of housing, the practice of forced eviction has been classified as serious violation of human rights by international human rights treaties;

Considering that the civil society and social movement reports sent to the AGFE on both planned and already implemented forced evictions in Curitiba from 2001 to 2004 (*Vila do Mel/Contenda, Vila Leonice, Vila São Braz, Sambaqui, Bolsão Sabará, Jardim Esperança/Vila Pluma, Caiuá/Pedro Machado/Vitória, Campo Magro*), have resulted in the decision to undertake a conciliation mission to Municipality with the goal of implementing alternatives to pending evictions and housing programs of social interest;

Considering that the Brazilian Constitution, the City Statute and the Federal Laws on Urban Development guarantee the right to the city and adequate housing through the promotion of economic, social, cultural and environmental public policies and the fulfilment of the social function of property;

Considering that the Master Plan of the Municipality of Curitiba calls for the establishment of special norms for urbanization, the usage and occupation of the land and buildings for settlements of social interest, land ownership regularization and the urbanization of areas

¹ As indicated in this report, this draft agreement was not in fact signed by the City Hall or the State Government during the AGFE mission to Curitiba. Further work is however being done by a special working group composed of variety of stakeholders to propose measures to prevent forced evictions and to promote solutions.

occupied by low-income populations through the institution of Special Zones of Social Interest;

Considering that the Parties are trying to formalize a base upon which they can exploit opportunities for cooperation and collaboration on implementing policies and actions for the promotion, protection and defence of adequate housing rights for the low-income populations of Curitiba and for the prevention and remediation of forced evictions through participative processes in civil society.

They have accepted to sign the Terms of Agreement as follows:

I – OBJECTIVE

The goal of this agreement is to formalize the constitution of a Workgroup with the objective of proposing concrete measures for turning Curitiba into a *City Free of Evictions*, composed of representatives from bodies and organisations that have agreed to the present terms, in equal proportion between the civil society and the government, and through the realization of the following activities:

1. Evaluate the juridical, economic and social condition of the precarious low-income settlements in irregular land ownership situations;
2. Propose solutions through mediation for those evictions which are about to occur by order of law and without the use of the Municipal Guard;
3. Promote communication among municipal, state and federal organisations, the civil society and vulnerable communities in order to propose policies and actions to promote the protection and defence of the human right to adequate housing and the realization of the right to the city;
4. Recommend legal, urban and social solutions for land ownership regularization and urbanization of public areas occupied by low-income populations, based on the City Statute and the Master Plan, seeking their permanence in residential areas while at the same time not creating risks to life or health;
5. Propose the development of programs for the generation of employment and income, attention to health and education, implantation of urban infrastructure to improve the quality of life of those who have been relocated and/or evicted;
6. Promote activities aimed at capacity building and informing the municipal, state and federal organisations, the civil society and vulnerable communities on the themes of human rights, especially the right to the city and the right to adequate housing;
7. Propose a means for the regulation of the tolls called for in the Master Plan for the implementation of special concession of usage for housing purposes, concession of the right of usage, urban 'usocapium', the right of pre-emption, surface rights, special zones of social interest, evaluation and characterization of empty urban areas, democratic growth; especially the constitution of the Collegiate Body mentioned in article 48 of the Master Plan, to be elected in the next Municipality of Curitiba City Conference, respecting the proportion of integrants in agreement with the National City Council;
8. Indicate legal and administrative measures aiming at halting the activities of

irregular and clandestine brokers and in the search of solutions to the land ownership regularization and the protection of low-income purchasers;

9. Contribute to the process of the City Conference that will be implemented by the Ministry of the Cities in 2005.

The Parties will indicate in fifteen days their representatives to participate in the workgroup mentioned at Item I. The group shall meet at least once a month and present two reports a year on the activities related to the present agreement, being those reports distributed among the local, national and international competent bodies.

The AGFE, the Ministry of the Cities and the Special Rapporteur on the Right to Adequate Housing, will be observers of the process of the workgroup, while the other Parties will be members of the workgroup.

II – AREAS OF COOPERATION

The Parties shall, in private, develop opportunities for cooperation in the following activity areas:

- Technical cooperation;
- Exchange of good practices and international solidarity;
- Policies and tools on housing of social interest, prevention and remediation of forced evictions;
- Democratic and participatory management;
- Promotion and implementation of the Right to the City.

The Parties shall seek to exchange information and consultation with the aim of identifying additional areas of effective cooperation between the Parties that sign this Agreement.

III – PERIOD AND EXPIRATION

This Agreement shall be in force from the date of its signature, for for a period of 24 months, with the possibility of being extended by mutual agreement between the Parties.

Curitiba, 25 February 2005.

ANNEX 10: LETTER OF INVITATION TO AGFE FROM THE COMMUNE DI ROMA

01/02/2005 10:01 0667684696

PAG 01/01



COMUNE DI ROMA
UFFICIO ESCRAIDIPARTIMENTALE
POLITICHE ABITATIVE
Il Consigliere Delegato del Sindaco

Alla cortese attenzione

Yves Cabannes
Convocar UN - HABITAT Advisory Group on Forced Eviction
Cambridge University, USA
ycabannes@upied.harvard.edu

Farooq Tahirji
Chief Shelter/Research UNCHS - Habitat
Nairobi Kenya
Farooq.tahirji@unhabitat.org

Oggetto: invito

L'ufficio del delegato del Sindaco di Roma all'emergenza abitativa, è fortemente preoccupato per l'aggravarsi del disagio abitativo nella città, rappresentato drammaticamente da un numero esorbitante di sfratti in corso, di famiglie già sfrattate in attesa dell'assegnazione di un alloggio popolare, tutto ciò a fronte della scarsità di offerta locativa a prezzi accessibili e della debolezza dell'offerta edilizia pubblica.

La recente legge 209/04, prorogando l'esecuzione dello sfratto al 13% delle famiglie oggetto del provvedimento, ha violato l'art.11 del Patto Internazionale sui Diritti economici, sociali e culturali e giustamente la 33ª sessione del relativo Comitato ONU ha esortato l'Italia a prendere misure finalizzate efficaci per garantire il passaggio da casa a casa agli sfrattati e tutelare il diritto alla casa delle fasce sociali deboli, con particolare riguardo ad anziani, disabili ed immigrati.

Questa amministrazione per avendo assegnato negli ultimi due anni un numero cospicuo di alloggi popolari, manteneva situazioni di degrado che si trascinavano da tempo, non è in grado, con i mezzi di cui dispone attualmente, di fronteggiare e superare un fenomeno emergenziale di così vasta portata.

La Giunta Comunale ha votato recentemente una Delibera Programmatica sulle politiche abitative che riteniamo sufficientemente ambiziosa, ma che, evidentemente, ha bisogno, per essere attuata, di un ampio sostegno da parte delle istituzioni governative.

Per questo proponiamo ai rappresentanti del UN AGFE un incontro nella nostra città, ospiti dell'Amministrazione Comunale, al fine di verificare, insieme alle parti interessate e sociali, impegnate sulla questione, alcuni punti di interesse fondamentale: la necessità del rispetto della normativa internazionale, il contrasto tra la normativa nazionale e quella internazionale nelle assicurazioni degli sfratti, un confronto con le esperienze innovative per la sicurezza abitativa realizzate anche in altri paesi.

L'incontro potrebbe svolgersi verso la metà del mese di febbraio 2005, proponiamo in particolare la data del 16 febbraio 2005.

Il Comune di Roma sarà disponibile a facilitare la missione dal punto di vista logistico, amministrativo e materiale.

Certi della Vostra attenzione, in attesa di riscontro, porgiamo distinti saluti.

Nicola Galloro
Delegato del Sindaco all'Emergenza Abitativa

Per contatti e informazioni: giocogal@comune.roma.it

Indirizzo della Segreteria del Delegato del Sindaco all'Emergenza Abitativa: Viale Cirilli del Lavoro 4/a tel.06710 5713/5714...cod.3336808996/3382944253

ANNEX 11: EXAMPLE OF PRESS COVERAGE OF AGFE MISSION TO ROME

Venerdì 4
Febbraio 2005

FIRENZE 17
il Corriere

Iniziativa dell'Unione Inquilini che a novembre ha presentato un proprio rapporto a Ginevra

Delegazione Onu per l'emergenza casa

Anche Firenze tra le città ad alta tensione abitativa

Stefania Valbonesi

FIRENZE - Una commissione dell'Onu, che si occupa di diritti sociali, fra cui quello alla casa, verrà in Italia, a Roma, per effettuare un controllo sulla situazione abitativa italiana. A capo della commissione ci sarà Yves Cabannes, docente di Pianificazione partecipativa e direttore del centro di programmazione urbanistica dell'Università di Harvard, nonché membro del comitato europeo per i diritti sociali, e anche Bernard Birsinger, sindaco di Bobigny, la città francese dichiarata libera dagli sfratti. La commissione si terrà nella capitale dal 15 al 18 febbraio, e avrà occasione di incontrare le delegazioni delle quattro città, Firenze, Napoli, Milano e naturalmente Roma, simboli di una situazione abitativa che ha ormai oltrepassato l'emergenza. "E' la prima volta che una commissione dell'Onu opera un sopralluogo di questo genere in un paese appartenente al G8 - commenta Vincenzo Simoni, segretario nazionale dell'Unione Inquilini - e ci dichiariamo molto soddisfatti dell'attenzione ricevuta sul palcoscenico europeo". L'iniziativa di sottoporre un rapporto all'Onu, nel corso della sessione di lavoro del Comitato delle Nazioni Unite per i diritti economici, sociali e culturali tenutosi a Ginevra dall'8 al 26 novembre 2004, fu presa proprio dall'Unione Inquilini in seguito a un rapporto simile, di origine governativa, che conteneva un messaggio rassicurante rispetto alla situazione abitativa in Italia. "Abbiamo voluto stendere, in base ai dati in nostro possesso - continua Simoni - un vero e proprio contro-rapporto, che illustrasse la realtà



Sfratti sotto i riflettori Sul'emergenza casa c'è un'iniziativa internazionale

quotidiana a cui si rapportano fasce sempre più larghe di popolazione. Evidentemente, il comitato europeo ha ritenuto credibili i dati riportati, e il sopralluogo della commissione ne è la prova lampante". Inoltre, le schede riportate nel rapporto peccano, come fa notare Simoni, per difetto rispetto ai numeri reali. "I dati del Ministero dell'in-

terno - continua - sono fermi al 2002, e riguardano solamente le procedure legali. Mancano gli anni 2003 e 2004, oltre agli innumerevoli sfratti eseguiti illegalmente o extra-giudizialmente. Per fare un esempio su Firenze: il Ministero ha accertato 600 sfratti pendenti sulla città, mentre ne risultano in realtà circa 6000".

Nuovo presidio

Sfratti, domani protesta davanti alla Prefettura

FIRENZE - Il Movimento di lotta per la casa, dopo l'occupazione di Palazzo Vecchio avvenuta sabato scorso, non ha ancora ottenuto ciò che era l'obiettivo più importante dell'iniziativa: un colloquio col sindaco. "Partiamo da questo punto - spiega Lorenzo Bargellini, portavoce del Movimento - se è in questo modo che viene considerata l'emergenza sfratti e sgomberi in questa città, non credo che ci saranno soluzioni pacifiche a breve termine". L'oggetto del contendere rimangono i 4 sgomberi previsti per le prossime settimane, nonché il modo di conduzione degli sfratti da parte del Comune. "Sabato prossimo saremo davanti alla Prefettura - annuncia Bargellini - l'emergenza non si risolve con azioni di tipo militare. Chiediamo risposte costruttive e concrete, poiché sgombrare non basta: non è in questo modo che le persone che rimangono in mezzo a una strada vedono risolto improvvisamente il problema dell'abitazione".

ANNEX 12: DECREE BY THE MAYOR OF BOBIGNY ON THE EVICTION OF TENANTS, 15 March 2005¹



Eviction of Tenants

Considering the Preamble of the 1946 Constitution which provides: "The Nation guarantees to the individual and the family the conditions necessary for their fulfilment... Every human being who is unable to work because ... of economic conditions is entitled to be provided by the community with suitable means of existence".

Considering the principle of preservation of the dignity of the human person established by the Constitutional Council in its judgments delivered on 27 July 1994 and 29 July 1998.

Considering the Constitutional Council's judgment No. 90-274 delivered on 29 May 1990, "Right to housing", holding that "the right of underprivileged persons to housing" is responsive to "a requirement of national interest".

Considering the Constitutional Council's judgment No. 94-359 delivered on 15 January 1995, "Diversity of housing", recognizing "everyone's access to decent housing" as a constitutional objective.

Considering the United Nations Children's Rights Convention of 26 January 1990 ratified by France on 2 July 1990.

Considering guideline Act 98-657 of 29 July 1998 relative to deterrence of exclusions, providing that "deterrence of exclusions is a national imperative based on the respect for all human beings and is a priority of all of the Nation's public policies". "The State, the regional authorities ... participate in the implementation of those principles".

Considering the first section of the Environmental Charter dated 1 March 2005.

Considering the Departmental Plan for Housing of underprivileged persons and the Social Support Charter signed by the Prefect of Seine Saint Denis.

Considering the Borloo plan dated 13 May 2004 of which all of the Departmental Prefects were advised by Circular No. UHC/DH2 2004-10 which prohibits evictions of tenants initiated or planned against persons in difficulty and good faith, whereby the Minister of Employment, Labor and Social Cohesion expressly advised the prefects that he relied on

¹ Translated from the French original.

their "personal commitment, indispensable for the success of that exceptional system".

Considering §§98 and 99 of Social Cohesion Programming Act 2005-32 of 18 January 2005.

Considering §§L.2211-1 ff. of the General Regional Authorities Code.

Considering the fact that evictions of tenants for default in payment of rent or maintenance charges are unworthy of a modern society and a serious impairment of human dignity.

Considering the fact that they are particularly unjust and liable to cause serious difficulty for evicted individuals or families.

Considering the fact that loss of his or its housing deprives the individual or the family of a place of residence, that the lack of an address excludes them from all administrative standing, entailing the loss of their rights since they are unable to fulfil themselves occupationally or family-wise.

Considering the fact that evictions are inhumane, unjust and impermissible and make no allowance for the difficulties with which evictees are faced (discharge, family difficulties, over-indebtedness, etc.), that on the contrary they are useless and liable to increase the evictees' distress and isolation.

Considering the fact that evictions of families including dependent children imperil the children's health, education and safety and are in radical disregard of the International Convention on Children's Rights.

Consequently considering the fact that evictions of tenants who are the victims of social violence are liable to disturb public peace and order.

THE MAYOR

ORDERS

§1: The City of Bobigny is declared to be a zone of protection of tenants in economic difficulty.

§2: Every proceeding for eviction of a tenant or family must be preceded by a notice to the State's authorities and the City's social authorities, and a meeting of those authorities for the purpose of initiating a genuine effort to avoid the eviction or to find alternative housing for the evictee(s).

§3: Evictions in the City of Bobigny based on economic considerations or because of the effects of social insecurity not preceded by joint efforts by the authorities of the State and of the City as provided in §2 are prohibited.

§4: Said procedure of notice and joint efforts to develop an alternative to eviction must be implemented in advance in order to prevent evictions or threats of evictions in the city.

Signed in the City Hall on 15 March 2005

Bernard Birsinger

ANNEX 13: COMMON STATEMENT BETWEEN THE MUNICIPALITY OF ROME AND THE UN-HABITAT AGFE MISSION²

The Municipality of Rome and the UN-HABITAT Advisory Group on Forced Evictions (AGFE) mission team, at the end of the team's visit of 15 – 19 February 2005, agreed that investigation and evaluation of the housing emergency in the city was very important.

The AGFE mission team had met with several associations and institutions, received documentation and proposals, and observed conditions first-hand.

Among the organisations they had met with were Emmaus Rome, Casa dei Diritti Sociali-Focus, Caritas, Comunità S. Egidio, Unione Inquilini, Action, Conafi, tenants' committees as well as people undergoing privatisation processes and/or been evicted, immigrants (for example, the Roma) and refugees. At his request, the mission met with the Prefecture (Interior Minister's local authority), the ANCI's (National Association of Italian Municipalities), Consulta Casa (ANCI's housing committee) and trade unions invited by ANCI.

The mission had found that an alarming number of families were threatened by eviction (immediate or future). These included the elderly and handicapped people; homeless families and those living in hospitality centres; people living together with other families or in a situation of overcrowding; people still living in residences surviving on monthly social financial support because of severe housing shortages; evicted people; and thousands of people living in emergency shelters.

The number of evictions, already high, appears to be growing - especially evictions caused by unpaid rents, inadequate social protection and the State's selling of its own housing public stock. This emergency in the Rome housing situation has many common elements with the crisis existing in other Italian and European towns.

On 31 March 2005, the eviction delay period will expire. This Government regulation has been completely ineffective in protecting the poorest of the poor against the threat of evictions. The implementation of this regulation has been insufficiently funded and has reflected the withdrawal of Central Government responsibility, in that the crucial tasks of addressing problems of insecure tenure and evictions have been relegated to the municipal government sphere.

The root causes of the critical housing situation are identified as follows:

- the combined effect of the exponential growth of housing costs and consequent rise in rental prices;
- the progressive elimination of social housing for rental due to privatisation and the sale of extensive social housing properties (for example, those owned by insurance companies);
- the absence of any national and European community institutional system in the form of financial support to help address migratory flows;
- the continued absence of a national housing policy in Italy.

In the discussions held with critical stakeholders, the following issues were agreed upon:

We found that important structural interventions are needed to support the housing options available to that segment of the poor that has an absolute need for public housing support; and to make available rental housing for lower-middle and lower income families who are also in need of such support.

We found that it is unacceptable to decrease housing 'vouchers' that have benefited thousand of

² Translated from the Italian original.

families by making rental costs more affordable.

We found that the current political-administrative approach of the municipal authority is correct. The municipal authority has allocated significant resources to implement a diversified policy aimed at different segments of the population. In particular, this policy is intended to increase the availability of affordable rental housing.

We found that the Rome Municipal Council is discussing, through a participatory methodology, an important legal provision to describe and deal with Rome's housing emergency.

We agreed that it is necessary to promote awareness, at national and international levels, of the importance of access to housing. Loss of one's home, or the inability to have home, threatens the right to life itself. Acceptance of this principle makes assistance from public institutions an obligation. It can also promote solidarity amongst all stakeholders.

We pointed out the importance of Article 11 of the *International Covenant for Economical, Social and Cultural Rights* (which Italy has ratified). Article 11 states that "[t]he States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right".

We found that it is necessary to promote an 'action plan for zero evictions' - based on the right to housing as a right to life - at local, national and European levels.

We found agreement over the programmatic proposal included in the deliberation over housing policies in the Rome area, which was adopted by the municipality government; and particularly the decision of the Municipal Council to declare Rome an 'evictions-free territory'.

We found agreement on the need to demand a housing support fund at the European Community level, to help meet the needs of international migrants.

We found agreement on the need to lobby (together with ANCI), representatives of the European Commission and Parliament, to promote new legislation and supportive funding to guarantee social rights, and housing rights in particular.

Finally, we decided to renew the invitation to the AGFE mission for periodic monitoring of the housing situation in Rome. The Municipality of Rome will be present at international initiatives that this mission will promote, as will representatives of those towns which have severe housing problems.

The AGFE delegation appreciates the engagement of all interested parties to propose and find solutions to the housing crisis. The delegation will report the results of this mission to the next AGFE meeting in order to concretely follow-up identified issues. This will be carried out with respect to the autonomy of all organisations and individuals concerned.

THE MUNICIPALITY OF ROME

Claudio Minnelli, responsible for housing policy.
Nicola Galloro, Mayor's delegate for housing emergency.

UN-HABITAT AGFE MISSION

Cesare Ottolini, International Alliance of Inhabitants.
Bernard Birsinger, Mayor of Bobigny (France).
Jacqueline Leavitt, Huairou Commission (USA).
Olivier Valentin, Anti-eviction co-ordination (France).

Signed: ROME, 19 FEBRUARY 2005