



The growing problem of forced evictions and the crucial importance of community-based, locally appropriate alternatives

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The Centre on Housing Rights and Evictions (COHRE) is an international NGO which focuses on the right to adequate housing and protection against forced eviction. Through three regional programmes covering Africa, Asia-Pacific and the Americas, and five thematic programmes focusing on women and housing rights, forced evictions, the right to water, housing and property rights restitution, and economic, social and cultural rights litigation, COHRE has joined forces with a global network of organizations in pursuit of this goal. COHRE has official consultative status with the Economic and Social Council of the United Nations, the Organization of American States, the African Union and the Council of Europe.

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SUMMARY: This paper outlines the unprecedented scale of forced evictions taking place around the world and the justifications used for these (usually to serve "the public good" or make a city more "efficient"). It also outlines the disastrous consequences for those evicted and how these evictions run counter to achieving the Millennium Development Goals. The paper also presents case studies from Johannesburg, Bangkok and Accra, to explore what underlies eviction pressures. In all three, the "public good" is invoked to justify large-scale evictions, but it is not clear that these evictions will actually serve the public good. Furthermore, in all three cases, the government authorities have failed to engage with those threatened with eviction. The paper ends with some examples of constructive engagement between squatters and government authorities, and of the kinds of institutional frameworks that encourage this – but notes that these are too few to turn around the eviction trends.

I. BACKGROUND

EVERY YEAR, MILLIONS of people around the world are forcibly evicted, leaving them homeless and, in the process, entrenching patterns of poverty, discrimination and social exclusion. These evictions take place in virtually all countries and are, more often than not, directed at poor and vulnerable communities living on the edge of legality under informal tenure arrangements, who are evicted against their will, without consultation and without compensation or alternative housing.⁽¹⁾

Forced evictions can be caused by one, or any combination, of the following:

- development and infrastructure projects, which are often funded by major international financial institutions;
- large international events, including global conferences and international sporting events such as the Olympic Games;
- urban redevelopment and "beautification" initiatives, aimed at drawing investment into previously neglected areas and creating "world-class" cities;
- property-market forces, often supported by government intervention, resulting in systematic "gentrification" of areas, usually at the direct expense of the poorer residents;
- the absence of state support to the poor under deteriorating economic conditions; and

- political conflict resulting in “ethnic cleansing” of entire communities and groups.

Forced eviction is a global phenomenon, occurring in both developing and developed countries. Many evictions are counted not in thousands, but in hundreds of thousands of people. Recent mass evictions include:

- in July 2000, nearly 1,000,000 people were evicted in Rainbow Town, Port Harcourt, Nigeria;
- in early 2004, around 150,000 people were evicted in New Delhi and 77,000 in Kolkata (Calcutta), India;
- in Beijing, China, an estimated 300,000 people have lost their homes as a result of preparations for the 2008 Olympic Games;
- in 2003–2004 in Jakarta, as part of an effort to clear various areas of informal occupation, over 100,000 people were either evicted or threatened with eviction; and
- in India’s Narmada River Valley, the ongoing Narmada Sagar and Sardar Sarovar dam projects will, when finally completed, have displaced over 250,000 people.

a. The context of international law

Such evictions run directly counter to Millennium Development Goal 7, which aims to achieve “...significant improvement in the lives of at least 100 million slum dwellers by the year 2020”. And they continue to take place, despite the fact that international law explicitly recognizes the right to adequate housing, and has repeatedly declared the practice of forced eviction to be a gross and systematic violation of human rights.

The International Covenant on Economic, Social and Cultural Rights (CESCR) is the key legal source of housing rights under international human rights law. Article 11.1 of the Covenant explicitly recognizes the right to adequate housing. Article 11.1, as interpreted in General Comment No 4 and General Comment No 7, also prescribes legal protection against forced eviction, at least for those 150 countries that have signed and ratified the Covenant.⁽²⁾ General Comment No 7 indicates that “...the state itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions.” It states that “...evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights” and prescribes procedural protective mechanisms for evictees in those exceptional cases where eviction is unavoidable.⁽³⁾

In addition, in 1993, the UN Commission on Human Rights declared that “...forced evictions are a gross violation of human rights”⁽⁴⁾ and, in 1998, the UN Sub-Commission on the Protection and Promotion of Human Rights reaffirmed that:

“...the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment.”⁽⁵⁾

b. The consequences of forced eviction

The consequences of forced eviction for families and communities, and particularly for the poor, are severe and traumatic: property is often damaged or destroyed; productive assets are lost or rendered useless; social

1. COHRE (2003), “Forced evictions: violations of human rights – global survey 9”, www.cohre.org

2. Committee on Economic, Social and Cultural Rights (1991), General Comment No 4 on the Right to Adequate Housing (Art. 11.1 of the Covenant): forced evictions; also 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; and UNHCHR (2004), see treaty body database: <http://www.unhchr.ch/tbs/doc.nsf/> Statusfrset?OpenFrameSet

3. 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.

4. UNCHR (1993), Resolution 1993/77, paragraph 1.

5. UNCHR (1998), Resolution 1998/9 on forced evictions, E/CN.4/SUB.2/RES/1998/9, United Nations Sub-Commission on the Protection and Promotion of Human Rights.

6. See reference 1; also Leckie, S (1995), "When push comes to shove: forced evictions and human rights", Habitat International Coalition, pages 27–30; UNHCHR (1996), Fact Sheet No 25: "Forced evictions and human rights", can be accessed at <http://www.unhchr.ch/html/menu6/2/fs25.htm>; and Weru, J (2000), "Kenya's urban tragedy", *Habitat Debate* Vol 6, No 4.

7. Amnesty International Press Release (22 September 2004) AI Index: AFR 46/027/2004 (Public) Zimbabwe: "Ten dead following police misuse of tear gas"; also Amnesty International Press Release (1 October 2004) AI Index: AFR 46/028/2004 (Public) Zimbabwe: "Another death at Porta Farm – 11 people now dead following police misuse of tear gas"; Crisis in Zimbabwe Coalition (2004), "Background history to Porta Farm incident", reproduced 14 September 2004 at <http://www.kubatana.net/html/archive/locgov/040914ciz.asp?sector=LOCGOV>; and NGO Network Alliance Project (2004), "Porta Farm saga continues", *The Activist*, September 2004, reproduced 13 October 2004 at http://www.kubatana.net/html/archive/hr/041013ai.asp?sector=HR&range_start=1

8. Human Rights Watch (2004), "Demolished: forced evictions and the tenants' rights movement in China", *Human Rights Watch* Vol 16, No 4 (C).

9. See reference 8, pages 3–4.

10. Dawn Newspaper Group (2004), "Lahore: lawyer tries to commit suicide in CJ's presence", 15 September, can be accessed at <http://www.dawn.com/2004/09/15/local17.htm>

networks are broken up; livelihood strategies are compromised; access to essential facilities and services is lost; and often violence, including rape, physical assault and murder, are used to force people to comply.⁽⁶⁾

A recent example of this is found in an informal settlement on the outskirts of Harare, Zimbabwe:

"On 2 September 2004, riot police, war veterans and members of the youth 'militia' reportedly went to Porta Farm to forcibly evict some 10,000 people, many of whom have been living there since 1991. The police were acting in defiance of a court order prohibiting the eviction. According to eyewitness testimony, the police fired tear gas directly into the homes of the Porta Farm residents." Eleven people died, five of them children under the age of one.⁽⁷⁾

Indeed, the prospect of being forcibly evicted can be so terrifying that it is not uncommon for people to risk their lives in an attempt to resist or, even more extreme, to take their own lives when it becomes apparent that the eviction cannot be prevented. According to Human Rights Watch, "...a wave of almost daily protests (in opposition to evictions) swept (through) cities across China from September to December 2003."⁽⁸⁾ This opposition included a number of suicides and attempted suicides, including the following:

"In August, a Nanjing city man who returned from a lunch break one day to find his home demolished set himself afire and burned to death at the office of the municipal demolition and eviction department. In September, resident Wang Baoguan burned himself to death while being forcibly evicted in Beijing. On October 1, China's National Day, Beijing resident Ye Guoqiang attempted suicide by jumping from Beijing's Jinshui bridge to protest his forced eviction for construction related to the 2008 Beijing Olympics."⁽⁹⁾

Similar incidents have occurred elsewhere; for example in Lahore, Pakistan, a man recently tried to burn himself to death in front of the Chief Justice, in despair at "...having lost his life savings when the highways department demolished his house as an encroachment."⁽¹⁰⁾ And in South Africa, on Friday 14 January 2005, a protesting Pietermaritzburg hawker drank almost a litre of paraffin fuel and swallowed some tablets when she realized that the police were going to confiscate the shelter from which she ran her pavement tuckshop. The hawker had been trying for two years to get a trading licence. Another hawker on the scene said: *"I have been a target for so many years that I have lost count. I am not here out of boredom – I'm here because I have a family to support with the money I make."*⁽¹¹⁾

c. The need for systemic responses

The world is facing what could fairly be described as a global epidemic of forced evictions on an unprecedented scale. In this context, it is important for every democratic government to re-assess the situation in its country with respect to forced evictions, regularly and thoroughly, and to take urgent steps, including the passing of laws, the formulation of policies and the implementation of programmes to ensure that the types of injustices described are eliminated.⁽¹²⁾ Similarly, corporations such as banks, developers, mining companies and others, and parastatals such as electricity utilities, need to take stock of the effects of their activities on the housing rights of families and communities, and to take appropriate action where necessary to ensure that there are no negative impacts or consequences. As it is often unlikely that such institutions will take such steps of their own accord, governments should establish laws, regulatory frameworks, incentives and enforcement mechanisms to ensure their compliance. In addition, it is important that all civil society organizations and groups concerned with

human rights and development identify the effects of forced evictions on their spheres of work and constituency groups and form alliances and develop methodologies to counter these.

d. The case of South Africa

It is worth looking in more detail at the South African example, as it offers an instructive illustration of the persistence of the problem of forced evictions, even in a country hailed for its progressive housing policies, laws and programmes. Of course, few South Africans would need reminding of the effects that forced evictions can have on families and communities. Most are fully aware of how this brutally blunt tool was systematically used – initially to serve the ends of colonization and later, under apartheid, to manipulate and engineer the demographic, political, social and economic landscape of the country to the benefit of a racial elite. In the process, a high price was paid by millions of people across many generations, and is still being paid today.⁽¹³⁾

In the words of Don Mattera:

*Armed with bulldozers
they came
to do a job
nothing more
just hired killers.

We gave way
there was nothing we could do
although the bitterness stung in us
and in the earth around us.⁽¹⁴⁾*

Given this bitter legacy, and given the widespread awareness in South Africa of the consequences of forced removals on the lives and livelihoods of the affected people, it is most surprising to find that the practice is still a regular occurrence in South Africa. Although on a smaller scale than during the pre-1994 era, and although on the basis of more diverse ideological justifications, forced evictions are being implemented on a daily basis in South Africa by private landowners, companies and various levels and spheres of government.

Accurate numbers are difficult to obtain, and will remain elusive until comprehensive eviction monitoring systems are put in place. Yet some trends are beginning to emerge. In rural areas, high numbers of farm dwellers are being evicted from their homes due to factors such as gaps in protective laws, a lack of awareness among farm dwellers of their rights, a lack of adequate support or appropriate legal redress from the justice system, labour disputes, restructuring of commercial farming operations, mechanization, changes in land use, and coercion by farm owners.⁽¹⁵⁾

In the words of Judge Dunstan Mlambo:

“Although evictions, exploitation, degradation and abuse have no place in our fledgling rainbow nation, these abhorred facets of apartheid-era life continue unabated for many of our rural communities.”⁽¹⁶⁾

In urban areas, informal settlers, tenants and homeowners are being evicted for a variety of reasons, including inner-city regeneration projects, alleged criminal activities, health and safety conditions in buildings, and alleged illegal occupation. In addition, evictions are increasingly being tested as a method to recover unpaid rents, rates and utility bills.⁽¹⁷⁾

In the case of Johannesburg, the extended spate of evictions in the inner city is officially justified in the name of the Johannesburg Inner-City Regen-

11. “Hawker’s despair”, *Witness Echo*, 20 January 2005.

12. 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, page 19.

13. See Platzky, L and C Walker (1985), *The Surplus People: Forced Removals in South Africa*, Raven Press, Johannesburg; also Field, S (editor) (2001), *Lost Communities, Living Memories: Remembering Forced Removals in Cape Town*, David Philip, Cape Town; and Badsha, O and H Hughes (1995), *Imijondolo: A Photographic Essay on Forced Removals in the Inanda District of South Africa*, Afrapix, Raven Press, Johannesburg.

14. Mattera, D (1994 [1983]), “The day they came for our house”, *Azanian Love Song*, Justified Press, Johannesburg.

15. Agriculture and Land Affairs Portfolio Committee, Parliament of South Africa (2000), “Consideration and adoption of report on provincial study tour (November 1, 2000)”, reproduced by Parliamentary Monitoring Group, can be accessed at <http://www.pmg.org.za/docs/2000/viewminute.php?id=1>; also Programme for Land and Agrarian Studies (PLAAS) (2004), Submission to the Portfolio Committee on Agriculture and Land Affairs, National Assembly, 13 October 2004; Statistics South Africa (2004), *Agricultural Census (Census of Commercial Agriculture) 2002*; and Wegerif, M (2001), “Creating long-term tenure security for farm dwellers”, unpublished Discussion Paper presented to the National Land Tenure Conference, Durban, South Africa, 26–30 November 2001.

16. Rural Legal Trust AGM (2003), Keynote Address by Judge Dunstan Mlambo (can be accessed at http://www.rlt.org.za/rlt_trustees.html).

17. See African National Congress Western Cape (2001), "ANC repeats call for immediate moratorium on all evictions and water cut-offs by DA Unicity" (22 June 2000), can be accessed at <http://www.anc.org.za/anddocs/pr/2001/pr0621.html>; also Butler, M (2004), "Rates policy will make the poor poorer", *Witness Echo* 13 September 2004; Housing Portfolio Committee, Parliament of South Africa (2001), "Northern Cape visit committee report: adoption; Western Cape evictions" (20 June 2001), reproduced by Parliamentary Monitoring Group, can be accessed at <http://www.Pmg.Org.Za/Docs/2001/Viewminute.Php?id=762>; Huchzermeyer, M (2003), "Housing rights in South Africa: invasions, evictions, the media and the courts in the cases of Grootboom, Alexandra and Bredell", *Urban Forum* Vol 14, No 1, pages 8–107; "Evictions loom in suburbs" (of Cape Town), *Sunday Times* 8 July 2001; and "The poor unite to fight for their homes", *Witness Echo* 2 September 2004.

18. Garson, P (2003), "New confidence in inner-city regeneration", can be accessed at http://www.joburg.org.za/2004/aug/aug13_inner.stm.

19. COHRE (2005), "Any room for the poor? Forced evictions in Johannesburg, South Africa", consultation draft available from the end of February 2005 at www.cohre.org

20. See reference 6, Leckie (1995).

21. Roy, A (1999), "The greater common good", *Outlook India* 24 May.

eration Project (ICRP). The strategy underlying this ambitious project is complex, with many cross-cutting components. Key among these is the clearance of an estimated 235 "bad buildings", which are seen to be at the centre of developmental "sinkholes", perceived hotbeds of degeneration and crime. According to the ICRP, these "sinkholes" need to be eliminated or turned into socioeconomic "ripple ponds", which should then be incrementally linked with each other, "...gradually cleaning up the city, block by block", thus spreading an upward spiral of confidence and meeting the overall goal of "...raising and sustaining private investment, leading to a steady rise in property values."⁽¹⁸⁾ Turning around the fortunes of the Johannesburg CBD is perceived as essential in the process of re-establishing confidence in the province and, indeed, the country on the world stage.

The problem from the perspective of this paper is that, in the process, the end begins to justify the means, and the rights of ordinary people are severely compromised. The Johannesburg inner-city evictions will affect an estimated minimum of 25,000 people. If present practice continues, which includes using urgent applications for eviction and invoking health and building safety laws, few if any of the evicted are likely to be provided with any alternative accommodation or compensation for loss of personal belongings, nights spent on the pavement or any of the other effects of being evicted. There is no disputing that some of the buildings in question are indeed "unhealthy", "unsafe" and, at times, do serve as bases for criminals. Yet research clearly shows that the vast majority of affected people are, quite simply, ordinary poor people, trying to earn a living on the streets of Johannesburg. Indeed, they are themselves very often the victims of crime, unprotected by an under-resourced police force, rather than the criminals they are made out to be. In the name of clearing these depressed areas, they are being evicted with no credible alternative housing or tenure options being provided.⁽¹⁹⁾

Interestingly, the language used to explain forced evictions in Johannesburg has a similar ring to the language used in many other large eviction projects around the world. The reasons given are often highly technical and are invariably connected with notions of the "public interest". The formulations used in speeches, official website pages and presentations are, frequently, rhetorical and compelling, with the implication that questions, criticism or resistance to the evictions amount to disloyalty to ideals attached to the "greater good" of Johannesburg. Who, after all, would want to argue against turning the city of Johannesburg around?

e. The official discourse and its implications

Leckie notes that:

"...virtually no eviction is carried out without some form of public justification seeking to legitimize the action. Many of the rationales behind the eviction process are carefully designed to create sympathy for the evictor, while simultaneously aiming to portray the evicted as the deserved recipient of these policies – a process appropriately labelled 'bulldozer justice' by the retired Indian Supreme Court Justice Krishna Iyer."⁽²⁰⁾

And, indeed, what reply could the group of Indian villagers, facing imminent displacement by the Hirakud Dam in 1948, possibly have had to the great Jawaharlal Nehru when he told them: "If you are to suffer, you should suffer in the interest of the country."⁽²¹⁾

There is, of course, great merit in accounting publicly for courses of action that will affect people's lives. Explanations by the authorities as to

why specific evictions are planned open up the possibility of public dialogue on the merits of planned evictions. However, what is very interesting about most official discourse around evictions is the near total absence of any attempt by the authorities to prevent the evictions through creative alternatives. Once a planned eviction project has been decided upon, discussion usually turns to the more logistical issues of why, how and when, and seldom to the possibilities of averting the evictions through community-based, locally appropriate alternatives. This unfortunate gap in thinking and practice relates to the fact that the input to be made by the affected groups is almost universally underrated, discounted against the technical expertise commissioned by the implementers of such eviction projects.

This is a dangerously short-sighted approach. For example, those villagers displaced by the Hirakud Dam in India would have had many things to say about the dam, about the effect it would have on their livelihoods and their traditions, on their river and, indeed, on the "natural order of things". To listen to these stories would have taken time, and to hear them properly would have taken skill. However, had the implementers, experts and politicians taken the time and developed the skills to listen to those villagers, they may have been able to pre-empt and prevent some of the massive mistakes subsequently made. But living at a time when development and other experts were singing the praises of mega-dams, the affected villagers had no audience among decision makers.

In the end, it would take more than half a century of mistakes before the lessons that those villagers could have taught were finally being learnt, the hard way. In November 2000, the World Commission on Dams concluded, after a two-year investigation that included intensive public consultation, that while:

"...dams have made an important and significant contribution to human development, and benefits derived from them have been considerable... in too many cases an unacceptable and often unnecessary and high price has been paid to secure those benefits, especially in social and environmental terms, by people displaced, by communities downstream, by taxpayers and by the natural environment."⁽²²⁾

22. World Commission on Dams (2000), *Dams and Development: A New Framework for Decision-making*, Report of the World Commission on Dams, Earthscan, London.

II. THE SEARCH FOR ALTERNATIVES

FOLLOWING ARE TWO brief case studies illustrating, in quite different ways, the importance of developing community-based, locally appropriate alternatives to evictions; one is from Bangkok, Thailand, and the other from Accra, Ghana.

a. "A loss more significant than they think" – Pom Mahakan, Bangkok, Thailand

Pom Mahakan is a small 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 an eviction notice by the Bangkok Metropolitan Administration (BMA), and were offered relocation to a place 45 kilometres away, on the outskirts of Bangkok.

The community had to make way for a public park, as part of a "conservation and development" plan. The residents had lived at Pom Mahakan for up to six generations. Forced eviction from this area would amount to

23. Herzfeld, M (2003), "Pom Mahakan: humanity and order in the historic centre of Bangkok", *Thailand Human Rights Journal* Vol 1.

24. COHRE (2003), Tawatchai Woramahakun, community leader in Pom Mahakan, quote from "Pom Mahakan: people of the fort", a short film by Fionn Skiotis, COHRE, available on DVD.

25. Du Plessis, J (forthcoming 2005), "Pom Mahakan: people of the fort", Proceedings on UNESCO Roundtable Discussion on Social Sustainability in Historic Districts, held at the World Urban Forum, Barcelona, 13 September 2004.

26. *Bangkok Post*, 30 August 2003.

27. *Bangkok Post*, 25 April 2004.

28. See reference 23.

a violation of housing rights and would, at the same time, mean the death of what the anthropologist Herzfeld 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 modernizing Bangkok.⁽²³⁾

The Pom Mahakan residents organized themselves and tried to prevent the eviction, using all the well-known methods. They staged protests, delivered petitions, built barricades and organized a night-watch system to guard the community. In the words of a community leader, when pointing to a barricade at 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."⁽²⁴⁾

But they did not leave it at that. What is most interesting about this resistance is that the residents supplemented it with a number of additional, pre-emptive activities. Working with a coalition of NGOs (including COHRE), 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 among 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.⁽²⁵⁾

Yet despite public support for the land-sharing plan, repeated invitations for dialogue, and petitions and pleas, the Bangkok Metropolitan Administration failed to appreciate the enormous value of this community-driven initiative and refused to consider seriously the proposals put before them. In August 2003, an administrative court ruled that the eviction was legal and could go ahead.⁽²⁶⁾ In January 2004, the authorities started work on the unoccupied areas of Pom Mahakan, including moving the canal pier and excavating certain areas.

In April 2004, the authorities again announced their determination to implement the eviction of the residents. That month, the owner of the house that was being used as a museum and community centre 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 community's anti-eviction struggle, was dismantled and taken away.⁽²⁷⁾

The most recent reports from Pom Mahakan indicate that the other houses are still there and that the people are still holding on to the hope that, somehow, the BMA will change its mind. However, the large vacant area that had served as a meeting place, car park and market has been turned into a manicured lawn with concrete pathways, closely resembling the "grassy void" predicted by Herzfeld.⁽²⁸⁾ 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 the eviction. The new Bangkok governor, Mr Apirak Kosayodhin, has shown more openness than his predecessor to resolving such

issues through negotiation, 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."⁽²⁹⁾

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

If the authorities fail to take the opportunity, the loss could be immense. As Graeme Bristol of the KMUTT Architecture Programme 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 up losing a lot of any city's history by defining it out of existence."⁽³⁰⁾

Also as a result, one might add, the BMA stands 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.

b. The case of Agbogbloshie/Old Fadama – Accra, Ghana

In contrast to the small community of Pom Mahakan, the Agbogbloshie/Old Fadama settlement is bigger and faces larger-scale and more complex problems. The settlement consists of approximately 30,000 people living under very difficult conditions on the left bank of the Odaw River, in the upper reaches of the Korle Lagoon in Accra, Ghana. Depending on the exact area being referred to, or the attitude that the speaker has towards the community, the community is variously known as "Agbogbloshie", "Old Fadama" or "Sodom and Gomorrah". The latter, derogatory, name is mostly used by the settlement's detractors, who are calling for its demolition and the removal of the people.⁽³¹⁾

On 28 May 2002, the residents were served with an eviction notice by the Accra Metropolitan Assembly (AMA). This followed the completion of a series of studies and the formulation of a project known as the Korle Lagoon Ecological Restoration Project (KLERP), designed to restore this vital marine and river system to a cleaner and more natural ecological state. At a public meeting that was part of the environmental and social impact assessment study (ESIA), one of the consultants conducting the

29. See reference 24.

30. Personal communication, Graeme Bristol, KMUTT Architecture Programme, Bangkok, 13 October 2004.

31. COHRE (2004), "A precarious future: the informal settlement of Agbogbloshie Accra, Ghana", consultation draft available at www.cohre.org

32. GRI Newsreel Ghana (2001), "Ga youth protest against resettlement", 19 April 2001, can be accessed at <http://www.mclglobal.com/History/Apr2001/19d2001/19d1n.html#bee>; also IMDC (2001), "Korle Lagoon ecological restoration project: environmental and social impact assessment", IMDC (International Marine and Dredging Consultants), Antwerp, unpublished.

33. "No politics over Sodom and Gomorrah ... tourism ministry maintains", *Evening News*, 14 January 2004.

34. See reference 31.

35. See reference 31.

study had "...urged the government to declare Sodom and Gomorrah a national disaster site and resettle the people." He said the place was the most deprived in the whole country and "...if immediate steps are not taken to resettle the people in that area, the KLERP would be a waste of resources."⁽³²⁾ The recommendations in the ESIA report were to be particularly influential in official thinking on KLERP.

In response to the eviction notice, letters of protest were written by a number of organizations (including COHRE) to the government of Ghana and the AMA. The COHRE letter outlined the international legal obligations that would be violated if the forced eviction of the Agbogbloshie community were to take place, and identified the following transgressions:

- all feasible alternatives to the planned eviction had not been considered;
- the May 2002 notice had provided too little advance warning;
- residents had not been consulted throughout the process; and
- alternative housing or adequate resettlement sites had not been provided.

In addition, the residents, with the assistance of the Centre for Public Interest Law (CEPIL) based in Accra, responded with an appeal to the High Court for an injunction to prevent the AMA from carrying out the eviction. However, on 24 July 2002, the Accra High Court rejected the community's application and authorized the AMA to evict. There was an initial intention to appeal, but mainly for internal organizational reasons in the community, this was not followed through. Since then, there have been repeated assertions by the government that the eviction will definitely go ahead, but deadlines have come and gone. The last deadline was set in January 2004, when a Ministry of Tourism official was "emphatic" in stating that "...by September this year, Sodom and Gomorrah would be empty."⁽³³⁾

In such complex cases, litigation strategies have an important but limited place. The organizations assisting the residents soon realized that, in addition to looking at questions of legality, it was important to try to understand the rationale behind the eviction plan, and to grapple with issues such as internal community dynamics, the concerns of previous occupants of the area (members of the locally powerful Ga tribe, who had been removed to "new" Fadama in 1965), and the feasibility of in situ slum upgrading. A counter-study by an engineer and slum upgrading expert was therefore commissioned by COHRE to focus on some of these issues. The study found that, despite many legitimate concerns about living conditions in the settlement, the ESIA had grossly overstated the case against continued settlement in at least parts of the area, for example by:

"...concluding that Agbogbloshie is the major contributor to the lagoon's pollution load. However, upon closer scrutiny, it is clear that the assessment exaggerated the negative impacts of the settlement and, in some instances, made demonstrably false statements." In fact, far from being the main contributor, it was found that "...Agbogbloshie accounts for less than 5 per cent of the lagoon's pollution load."⁽³⁴⁾

On the basis of this and other findings, the COHRE report concluded that:

- Agbogbloshie could in fact be developed in situ, given the political will;
- an upgraded Agbogbloshie could co-exist with the KLERP; and
- the development of Agbogbloshie could provide the government with a model for informal land development that could be of major benefit to the future development of Accra.⁽³⁵⁾

The report:

"...strongly recommended that the government of Ghana ought to carefully

reconsider the issues in this case. In addition, given the importance and significance of these issues for the future of both the Agbogbloshie community and the city of Accra, it is further proposed that the Ghana office of the UNDP, non-governmental organizations and community-based organizations should urgently come together to explore the (various concerns raised), and to formulate constructive proposals."⁽³⁶⁾

A significant feature of the above is that Agbogbloshie was clearly being treated as a "special case" by the AMA and the Ghanaian government, different from the many other informal settlements in Ghana. According to the COHRE report:

"...there is a contradiction in the attitude of the government of Ghana towards Agbogbloshie. There are many forms of illegal settlements in Accra, involving both land and housing, and the government takes a tolerant and progressive attitude to these. Yet the government maintains an uncompromising position toward the community of Agbogbloshie."⁽³⁷⁾

The plan to evict residents of Agbogbloshie, with all the political, financial, time and other costs such action inevitably entails, is in fact quite startling in a context where the population of the city of Accra (which more or less coincides with the area of jurisdiction of the AMA), is expected to grow by up to 4.4 per cent annually between 2000 and 2020, from an estimated 1.7 million in 2000 to 4 million by 2020.

The plan also contradicts the relatively high level of services that have been provided to the community by the AMA, implying some form of de facto recognition, and the well-known fact that the community effectively runs Accra's main fresh produce market plus numerous other entrepreneurial operations, including vehicle-servicing, scrap metal, timber, housing construction and bulk processing of, for example, palm-nut oil.⁽³⁸⁾

The reasons underlying this "special" treatment are vital in developing an understanding of the crucially important role the residents could and should play in resolving the situation. It is evident that the government of Ghana is under immense pressure with respect to the implementation of KLERP, including the removal of Agbogbloshie, for at least three reasons.

First, it appears that under the terms of the loan funding for KLERP (reportedly from the Arab Bank for Economic Development in Africa, the Agence France de Développement, and others), protracted delays to the project, caused by the community's refusal to leave, will have serious negative cost implications. This is something that, according to the mayor of Accra, Stanley Nii Adjiri Blankson, Ghana, with its classification until recently as a Highly Indebted Poor Country (HIPC), can ill afford.⁽³⁹⁾

Second, there is local pressure on the government to remove the Agbogbloshie community. This pressure comes particularly from among Ga youth living in overcrowded conditions elsewhere in Accra, who regard the area as belonging to the Ga people. For example, on 19 April 2001, a year before the serving of the eviction notice, it was ominously reported that:

"...placard-bearing youth from the Ga-Adangme Youth Association on Wednesday protested against the proposed resettlement of people living in Sodom and Gomorrah, a slum in Accra. They contended that the settlers do not need to be resettled, neither should the squatters be compensated because they had been warned about the place being a project site before they became squatters. About 20,000 (sic) squatters live at Sodom and Gomorrah, an area marked as part of the Korle Lagoon Ecological Restoration Project (KLERP). The youth mounted several placards, some of which read: 'Give us back our land – Ga Youth', 'Beware of potential bloodshed', 'No room for squatters', 'Ga land keep off'."⁽⁴⁰⁾

36. See reference 31.

37. See reference 31.

38. Personal communication, Farouk Braimah (then programme officer for the Center for Public Interest Law, Accra, Ghana) and various residents of Agbogbloshie/Old Fadama, 14 April 2004.

39. Personal communication, Stanley Nii Adjiri Blankson, mayor of Accra, 16 September 2004.

40. See reference 32, GRi Newsreel Ghana (2001).

41. See reference 39.

42. See reference 39.

43. Personal communication, Farouk Braimah (now acting executive director, People's Dialogue, Accra, Ghana), 6 November 2004.

44. See reference 31; also Slum Dwellers International – SDI (2004), "Old Fadama, Accra, Ghana – 'Will push come to shove?", a short film by SDI, available on DVD.

Consequently, there is genuine fear among politicians that delays in the planned eviction could spark off ethnic tensions. According to the mayor of Accra: "*Ghana is one of the most peaceful countries in the region. If ethnic violence broke out in Ghana, it would 'spread like wildfire'.*"⁽⁴¹⁾

Lastly, there is a genuine (and fully justified) concern about the conditions under which people are living. However, there is no vision of how to deal with this, other than the option of relocating people "...back to where they came from."⁽⁴²⁾

Whatever the AMA and the Ghanaian government decide to do with respect to the complex challenge of Agbogbloshie, it is inconceivable that they can do this successfully without the sustained and intensive involvement of the affected people themselves. On the basis of expert advice, they embarked on a legitimate and important river and marine rehabilitation programme. Yet they made the serious error of accepting, at face value, the necessity and inevitability of removing a community consisting of up to 30,000 people. In the process, they met with resistance, confusion and threats of violence. The fact that they have not taken any decisive action to implement the eviction – despite hard rhetoric in the media and despite having a court order in their favour – may be indicative of their unease at the possible consequences of the eviction. It also offers an opportunity to all concerned to explore other ways of resolving the situation.

Recently, some local groups have started working with the residents to begin to do exactly that. According to Farouk Braimah of People's Dialogue in Accra, the methodology being followed is to open up space within which the residents can negotiate directly with the government. A key objective according to Braimah is "...to make sure that we avoid the situation of people being evicted without alternatives."⁽⁴³⁾ The methodology used is to mobilize the energies and 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 through 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. The groups are 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 will be relocation, in-situ upgrading or a combination of the two will, according to Braimah, be decided during these negotiations. However, he senses a potential split between those who would be prepared to move, provided adequate alternatives were made available, and another group, mostly younger men and women, who are directly tied to activities and incomes derived from the Agbogbloshie market.

The spaces being opened up by communities and their support organizations through actions such as this are vital, yet they will remain small and limited while the threat of eviction exists. The AMA and the government of Ghana would do well to declare a moratorium on the evictions pending the outcome of intensive negotiations with the residents concerning their future, through a process that will allow them to be properly heard and directly included in the planning process. Until such time, all possible strategies to open spaces for dialogue, even while resisting the planned eviction, should continue.⁽⁴⁴⁾

III. CONCLUSION

WHEN CONSIDERING EVICTION cases such as those described in this paper, one is confronted by two questions.

1. Is this right? Moral and legal questions arise, which can be looked at from many angles, including international laws and standards, national laws, standards and policies, and the impact of the eviction on the residents.

2. Will this work? Is there a realistic chance that the outcomes promised by the proponents of the project – those broader objectives for the “public good” – will come to fruition? Can the proposed process be concluded without major conflicts, delays or setbacks? Will the outcome be sustainable, or will the land simply be reoccupied later, as more and more newcomers settle in the city?

Of course, these issues do not arise in neat compartments. They are intermingled in a complexity of challenges which, if not properly understood and dealt with, can push the parties down a path of action and reaction that results in much worse situations than before. All over the world, communities are, through daily struggle, trying to open up spaces to be heard, and trying to be involved in the formulation and implementation of strategies to achieve their security and well-being.

Some governments have, to their credit, reciprocated. For example, in 2001, the government of Brazil passed the statute of the city, a federal law on urban development “...which sets the instruments and the orientation towards a democratic (participatory) management of the cities”, opening up invaluable avenues for community involvement in the realization of housing rights and the prevention of evictions.⁽⁴⁵⁾ In 2003, the government of Thailand launched a national community-upgrading programme that would support 200 “cities without slums” programmes.⁽⁴⁶⁾ And in Nairobi, Kenya, there are signs that the government will desist from its threats, made in early 2004, to evict forcibly more than 100,000 people living on land reserved for road development, power lines and railway lines, and will work closely with the affected communities to find viable alternatives.⁽⁴⁷⁾

Such examples are encouraging, yet are still too few to represent any turning point in the global struggle against forced evictions. It is high time that many more governments, globally, begin to follow suit.

45. Saule, N, A M Velasco and Z Arashiro (2002), “Legal frameworks for citizen participation: Latin America regional report”, LogoLink–University of Sussex, page 14, can be accessed at <http://www.ids.ac.uk/logolink/resources/legalframeregional.htm>; also UN-Habitat (2004), “Dialogue on civil society’s contribution to local urban governance”, Partners’ Dialogues: Urban Governance, World Urban Forum, Barcelona, 16 September 2004, page 3, can be accessed at <http://www.unhabitat.org/wuf/2004/documents/K0471975%20WUF2-4.pdf>

46. Boonyabancha, S (2004), “A decade of change: from the Urban Community Development Office to the Community Organization Development Institute in Thailand” in Mitlin, D and D Satterthwaite (editors) (2004), *Empowering Squatter Citizen: Local Government, Civil Society and Urban Poverty Reduction*, Earthscan, London, page 51.

47. COHRE (2005), “Listening to the poor? Housing rights in Nairobi, Kenya”, draft Consultation Report: Fact-Finding Mission to Nairobi, Kenya, July 2004 (available at the end of March 2005 at www.cohre.org).