

# **CAMPAIGN AGAINST FORCED EVICTIONS IN THE INFORMAL SETTLEMENTS IN NAIROBI**

This is a Joint Position Paper prepared by members of the Campaign Against Forced Evictions in the Informal Settlements in Nairobi on March 17th 2004.

Members of this Campaign include:

- (i) African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN)
- (ii) Basic Rights Campaign
- (iii) Carolina for Kibera
- (iv) Intermediate Technology Development Group (ITDG)
- (v) Kenya Human Rights Commission
- (vi) Kituo Cha Sheria
- (vii) Kutoka Network of Parishes in the Informal Settlements

|   |                                  |
|---|----------------------------------|
| Christ the King, Line Saba                            | Sacred Heart, Dagoretti          |
| Christ the King, Embakasi                             | St. John's, Korogocho            |
| Consolata Shrine, Westlands                           | St. Joseph, Kahawa West          |
| Holy Cross, Dandora                                   | St. Joseph and Mary, Shauri Moyo |
| Holy Mary Mother of God, Githurai Kangemi             | St. Joseph the Worker,           |
| Holy Trinity, Kariobangi                              | St. Mary's, Mukuru kwa Njenga    |
| Our Lady of Guadalupe, Adams Eastleigh/Mathare Valley | St. Theresa's,                   |

- (viii) Maji na Ufanisi
- (ix) Pamoja Trust
- (x) Shelter Forum

## **1. Introduction**

In the last few weeks, Nairobi informal settlements residents have experienced great threat to their short and long term stability, resultant from threats of demolition and eviction. Currently, there are notices from several government ministries to undertake large-scale demolition of structures that purportedly present a risk to the occupants of railway line operational corridors and households living near or under electric power lines and wayleaves or are in the way of planned bypass roads.

These large-scale demolitions are being undertaken with little consideration of their disastrous effect on the residents. The internal displacement that will invariably accompany the forced evictions will lead to increased violence, insecurity, loss of livelihoods, community structures and consequently greater poverty for hundreds of thousands of people living in informal settlements such as Kibera, Korogocho, Agare, Lunga Lunga, Sinai, Soweto and others.

Forced evictions of this magnitude are unprecedented in Kenya. To render tens of thousands homeless in a matter of a few days is an unlawful slum eradication campaign. Furthermore, forced evictions of this nature are in breach of well-established international norms and laws which obligate the Government to provide the affected communities with: (1) adequate and reasonable notice, (2) genuine consultation, (3) information on the proposed evictions and (4) adequate alternative housing or resettlement.

## **2. Historical Background**

Currently, there are over 168 informal settlements in Nairobi that are home to over two million people. Residents of Nairobi's informal settlements constitute 55% of the city's total population and yet they are crowded on 5% of the total land area in the city. These staggering statistics have their historical roots in the failure of the State to provide for 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 main reason being advanced justifying evictions 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 very complex because of its historical context. Any solution for 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 spaces where they live.

These irregular allocations by the local administration are normal business in the informal settlements. As recently as February 19<sup>th</sup> this year, Kenya Railways was issuing receipts for 'rent' paid by people occupying plots located on the rail line operational corridors. People have been increasingly occupying space near the rail line and under power lines for decades and they have occupied these places 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 informal settlements. This combined project of the Government and UN Habitat is specifically designed to improve the housing and infrastructure of Soweto village in Kibera. Since the signing of that agreement, however, the project has been characterized by confusion caused by 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.

### **3. Ongoing and Threatened Evictions**

The Ministry of Roads, Public Works and Housing has already effected demolitions in Kibera in connection with the construction of a city bypass. On Sunday, February 8<sup>th</sup>, 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 over 2,000 people. It has also caused property losses to the tune of millions of shillings.

Contrary to established international norms, residents of Raila village were given no demolition notice. In further violation of the law, the community was not consulted or 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 that village.

In addition to the demolition of Raila village, there have been numerous announcements, meetings and press statements over the last two 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: (a) within 100 feet of either side of the rail line, (b) under power lines and (c) the area earmarked for the new road bypasses.

**(a.) Effect of Demolitions by the Kenya Railways Corporation**

On January 29, 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 March 3rd. The rail line is five kilometers long and passes through the entire community of Kibera from Soweto/Highrise up to Gatwekera.

Studies show that over 20,000 structures along the rail line will be demolished and over 108,000 people rendered homeless and internally displaced.[1] The broader Kibera community will also be detrimentally effected. The demolitions will destroy thirteen (13) primary schools that educate 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 center and three meeting halls.

Demolitions by the Kenya Railways are still ongoing. During the week of March 8<sup>th</sup>, 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.

**(b.) Effect of Demolitions by the Kenya Power & Lighting Co. Ltd.**

On February 1, 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. The losses, however, 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 as described below.

Similarly, the planned demolitions for the settlements in the Mukuru kwa Njenga will render 900 people homeless. In addition, these communities will 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 a notice of eviction. Most of these people live in their kiosk 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, Njiku among other informal settlements. The number of people affected by these demolitions is currently being calculated.

**(c.) Effect of Demolitions for the Bypass**

Finally, the Ministry of Roads, Public Works and Housing has announced that in Kibera, structures on the proposed bypass will also be demolished. The intended bypass passes from Makina to Highrise estate. Reports show that 16,800 structures will be demolished which will in turn render over 170,000 people homeless. 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 enumeration, we have identified fifty-four (54) churches that have been earmarked for demolition. In addition, thirteen (13) primary schools will be demolished as well as three medical clinics and two community centers.

**4. Response of the Affected Communities, Civil Society, Faith Based Groups and International Housing Groups**

**a. Affected Communities**

Not surprisingly, the intended demolitions have caused fear, panic and confusion among the affected communities. This is because 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 have no maps to identify which structures are earmarked. 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 black out, the communities immediately began to organize themselves to resist the forced evictions and to ask for an opportunity to dialogue with the Government for an alternative. In Kibera, religious leaders asked for and were granted a meeting with the District Officer on February 20th. In addition there is an on-going signature campaign to

collect 500,000 signatures to protest the evictions. The communities also successfully organized a prayer rally on March 1st, which was presided 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 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. They hope the court will impel Kenya Railways to hold adequate consultations with the community so that an alternative settlement is identified.[2] The suit argues 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 such licenses have not expired. Furthermore, the threatened evictions are in contravention of the Railways Corporation Act, Children's Act and international procedures that prohibit forced and arbitrary evictions.[3]

On February 27, High Court Judge Lenaola issued an order requiring the plaintiffs to return to court in ten days with concrete suggestions for the time frame needed for the community to move. On March 8<sup>th</sup>, High Court Judge Ochieng Ag J. court heard argument on the application and ordered that the planned eviction by the Kenya Railways is further enjoined for three weeks. He further ordered that the Kenya Railways and the affected residents enter into negotiations “and actively explore the possibility of a negotiated time frame for the applicants to relocate.” The case was set for a mention on March 29<sup>th</sup> for further orders and directions. The parties have agreed to meet on March 26<sup>th</sup>.

#### **b. Civil Society and Faith Based Groups**

Upon hearing of the threatened evictions, the civil society organizations and faith based groups that have been working for many years on housing and land issues facing the urban poor mobilized themselves and the affected communities to protest against evictions. They argue that forced evictions of this scale and nature cannot be tolerated in a democratic state that purports to uphold the rule of law.

The NGOs working on land and housing issues [4] paid for a full page advertisement on February 20<sup>th</sup> 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 must be followed including providing adequate and reasonable notice, appropriate resettlement, and consultation and planning with the affected communities.

Notably, during the last week of February, 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 proceeding with any evictions.

The NGOs along with church and community leaders have also organized to meet and dialogue with different ministries and officers 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 among others. The aim of these meetings is not only to stop the planned evictions but to also ask the Government to work closely with the affected communities in developing an alternative resettlement plan.

### **c. International Housing Rights Groups**

The Special Rapporteur on Adequate Housing to the UN Commission on Human Rights, Mr. Miloon Kothari was in Kenya on a two-week mission in mid-February on the invitation of the Government of Kenya. He was evaluating to what extent the right to adequate housing is being realized in the country. During his visit, Mr. Miloon visited a number of informal settlements and was apprised of the ongoing evictions that were taking place. He pointed out in his Preliminary Report that these evictions were done in flagrant violation of 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.

The Government should immediately put this procedure [sic]. 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.

Other international organizations have also condemned the planned evictions. The Centre on Housing Rights and Evictions (COHRE), an international human rights group based in Geneva, issued a statement to President Kibaki and the relevant Ministers on February 24th saying that the threatened mass evictions in Kenya are "a violation of international human rights law and in

particular the right to adequate housing." They further stated: "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 urges the Government of Kenya to abide by her legal obligations, which require the government to "explore all feasible alternatives to the evictions, that no person be rendered homeless, and that there be genuine consultation with those affected. [5]

In addition, housing rights monitors from a number of other countries including Egypt, Pakistan, Philippines, India, South Africa, Brazil, have issued statements objecting to the planned forced evictions in Kenya. All of these organizations work in countries that have experienced housing crisis facing the urban poor. Their message is 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 an alternative plan.

## **6. Government Response to Protests?**

On February 29th, the Minister of Roads, Public Works and Housing announced at a rally in Kibera that he was directed by President Kibaki to suspend the demolition of structures built on road bypasses, near rail lines, under power lines and on public land. Mr. Odinga said the Government intended to look for alternative resettlement areas for the affected parties.

Unfortunately, the very next day Mr. Odinga changed his stand. He then said that the suspension did not apply to the planned demolitions that are connected with the bypass road. Additionally, the Minister of Energy has unilaterally excluded his Ministry from the Presidential pronouncement. On March 3rd, Mr. Ayacko stated in the Daily Nation that he was merely extending the eviction notice for power line demolitions by forty days or until April 13th.

## **7. The Government's Plans to Undertake Forced Evictions are Against the Law**



Because the suspension of evictions does not apply to the bypass construction in Kibera or to any planned evictions by Kenya Power & Light, there still remains an imminent threat of eviction for tens of thousands of poor people. The good intentions of the Government to restore law and order following misrule by the Moi regime through these forced evictions is about to harm her weakest citizens.

The eviction that has already occurred in Kibera's Raila village and the planned evictions are gross violation of human and legal rights. The rule of law must prevail regardless of whether the affected residents are squatters or not. It is a fundamental human rights principle that any process to evict people must ensure a peaceful and lawful process that respects the rights and dignity of the people. Development of any kind cannot take precedence over the human rights of the poor. All of the justifications for the "necessary" evictions do not absolve the government from its legal obligation under the laws to give adequate notice and to prepare and implement a plan for resettlement.

The planned evictions are also in contravention of prior commitments made by the Government with respect to the right to housing. On December 11, 2002, President Kibaki stated in a speech in Mombasa that decent housing is a basic human right similar to education and other human rights. Additionally, the planned evictions are contrary to the Government's stated policy on slum

upgrading as it is contained in the National Housing Policy Sessional Paper that was approved by the cabinet in October of 2003. The proposed forced evictions are also a contravention of the draft constitution, which expressly recognizes the right to adequate housing that includes the right to be free from forced eviction.

Furthermore, the planned evictions are in breach of prior commitments made by the Government to UN Habitat and the international community with respect to slum upgrading in Kibera. There has been a great deal of publicity of Habitat's efforts to garner international donor support for this project. However, it appears the planned evictions will eviscerate a significant part of the Soweto community and will thereby undermine the long-standing plans to develop this settlement. It is unclear what, if any, co-ordination is taking place between these two proposed projects.

## **8. Concerns on the Short and Long-Term Threat of Forced Evictions**

Based on the above facts, members of the Campaign Against Forced Evictions in the Informal Settlement of Nairobi want to stress the shocking ills that are unfolding. This Campaign acknowledges that the basic idea of slum renewal is a good one. However, lack of coordinated thinking and respect for the rule of law and the dignity of the affected parties is alarming. To that

end, we must protest and point out the aspects cited below that show just how

dangerous the acts of the Government are.

**a. Large-scale Homeless and Internal Displacement for Tens of Thousands of People**

Of immediate concern is that the planned evictions will render tens of thousands of people homeless. The effect of these evictions will essentially create refugee communities of internally displaced slum dwellers.

Contrary to popular views, most residents of the informal settlements settled in Nairobi long ago and no longer have a rural home or alternative abode to return to. Moreover, settlements like Kibera and Korogocho are over congested. Rents have doubled and even tripled in some areas since news of the evictions. As a result, the evictions will force many thousands of people to migrate to other smaller slums or to create new slum areas.

**b. Provocation of Violence and Insecurity**

The planned evictions are likely to provoke physical conflict and violence. For example, residents on the rail line in Kibera are already scuffling over who will occupy the limited space that will be available after the demolitions. There is also the threat that affected residents particularly

structure owners will physically try to resist the evictions, which will inevitably result in violence.

**c. Long-Term Poverty and Social Upheaval**

In addition to the short-term threat of violence and chaos, the long-term negative implications for the economic and social development of the slum settlements are very serious. The affected areas are not only dwelling places. They also have a large number of kiosks, dukas and open-air

markets. Thousands of people will lose their businesses and sources of income. The unavoidable result will be greater impoverishment and hardship to families who are already struggling to survive. Moreover, the involuntary displacement that will accompany these evictions is not limited

to the physical dislocation of families, houses, businesses, schools and churches. It also involves significant dismantling of the neighborhoods, families, culture and the local community in the affected areas.

## 9. Proposals for a Way Forward

We respectfully urge the Government of Kenya to carry out the following acts:

- a. Immediately suspend plans for any and all forced evictions in the informal settlements.
- b. Disseminate information and carry out in-depth consultations with all affected communities to find a feasible alternative to the forced evictions.
- c. If there are no alternatives, ensure that international standards related to forced evictions are followed including but not limited to the following:
  - i. adequate and reasonable notice to all affected parties
  - ii. information on the proposed evictions
  - iii. consultation with the affected parties
  - iv. adequate alternative housing or resettlement
- d. Develop a comprehensive policy on evictions that is consistent with local and international human rights law.
- e. The Provincial Administration should not implement any order for eviction. Instead, a coordinated and disinterested body should be made responsible for orderly and peaceful evictions.
- f. Appoint an inter-ministerial consultative group to coordinate any and all plans related to evictions and demolitions that will take place in the informal settlements.
- g. Provide immediate assistance to those people who have already been evicted.

**For more information please contact:**

**Shelter Forum  
Kibera**

**Michael Arunga**

**0721-213236**

**[arungam@shelterforum.or.ke](mailto:arungam@shelterforum.or.ke)**

**Christ the King Church**

**Office of Human Rights**

**Christine Bodewes**

**0733/ 920846**

**St. John's Church Korogocho**

**Fr. Daniel Moschetti**

**020-780430**

**[combonikario@clubinternetk.com](mailto:combonikario@clubinternetk.com)**

[1] Data concerning the number of people and structures that will be affected by the demolitions have been calculated by the Kibera Rent and Housing Committee and is being further verified by researchers at the Pamoja Trust.

[2] The lawsuit is entitled *Maina Ngare Nderu and 87 Others v. Kenya Railways Corporation, Civil Suit No. 189 of 2004*.

[3] See Kenya Railways Corporation Act, Cap. 397, Laws of Kenya and National Housing Policy Sessional Paper, October 2003; see also Covenant on Economic, Social and Cultural Rights, Article 11(1), UN Committee on Economic, Social and Cultural Rights, General Comment No. 4, General Comment No. 7, and African Charter of Human and Peoples Rights.

[4] Shelter Forum, Maji na Ufanisi, Pamoja Trust, Kituo cha Sheria, People Against Torture, Release Political Prisoners and Muungano ya Wanavijiji.

[5] See COHRE letters and press statements issued February 24, 2004.

