

## <sup>1</sup>This is Port Harcourt, the Garden City of Rubbles!



©V. Ohaeri, SERAC

In a manner reminiscent of the infamous July 1990 Maroko forced evictions, thousands of poor inhabitants of Njemanze waterfront community, Port Harcourt, have at the peak of torrential rains of the coastal delta region of Nigeria, been forcibly evicted, rendered homeless, and pushed deeper into poverty. To the Rivers State government (RSG), the demolition of Port Harcourt waterfronts, beginning with Njemanze, was a distasteful promise made not so long ago, kept and fulfilled on Friday, August 28, 2009. The intrigues, planning and execution methods of the Njemanze demolitions tells a moving story that evokes imageries of a rudderless ship in an open sea, sailing stealthily to a damning fate. The storyline seamlessly weaves what would have been the good, the not so good, and potentially the nastiest that is to happen since the waterfronts demolitions saga began.

As with other disempowered communities located at the center of Port Harcourt's busy business districts, Njemanze waterfront sits on a prime real estate coveted by land speculators, investors, corporate bodies, and including the government among others. However, the RSG is justifying the demolitions of waterfront areas on the grounds that the communities lack basic infrastructure and services such as running water, sanitary, health and recreational facilities, drainage and educational systems.

Port Harcourt is home to about 41 waterfronts located on the fringes of the coastal city. Notable among them are Abonnema Wharf, Njemanze, Bundu and Marine-Base, Aggrey, Ndoki, Bundu, Nembe, Belle, and Bonny waterfronts. Others are Abuja/Prisons, Reclamation, Borokiri, Elechi, Afikpo, Timber, Okrika, Captain Amagala, Dockyard Creek, Rex Lawson, Enugu, Ojike and Abba waterfronts among many others. Whereas more than half of the city's inhabitants live in these areas, each waterfront is home to as much as 5 to 10 different tribes, ethnic groups and communities.

---

<sup>1</sup> The Social and Economic Rights Action Center's (SERAC's) Program Coordinator, Victoria Ohaeri and Community Organizer, Emmanuella Ukozor filed in this report from Port Harcourt. Views and opinions expressed by in this article are those of the authors, and not necessarily those of SERAC.

## Demolition day, August 28, 2009

7. 00 a.m. local time, on a rainy Friday morning, SERAC staff was in Njemanze waterfront community to gain first-hand information regarding the scale and potential impacts of the highly probable evictions, and to conduct an evidence-based assessment of the due process aspects and processes in the handling of waterfronts land acquisition and compensation. Apprehension, fear, and tension filled the air as large numbers of residents clustered in groups discussing the imminent demolitions and sharing common tales of woes. Some of them were seen packing their belongings and safeguarding them in uncompleted buildings at some safer locations, as they deemed appropriate. As of this time, the community was still a well lived community and a few structures appeared very dilapidated and unoccupied. The buildings in the community ranged from rock-solid block structures to timber homes, planks and cardboards, wooden shacks, or a mixture of both erected on marshlands and low-lying areas littered with pungent refuse. The inhabitable conditions within the community have the capacity to make the hardest of hearts thaw out in pity.

Njemanze waterfront is popularly classified into upland and lowland area. The lowland area is the primary target of the current demolitions, even though buildings in the upland area have been clearly marked for demolition. Majority of the buildings in the upland area could be described as legal structures, at least for sake of the fact that the buildings are neither shanties, nor so-closely clustered together, and most importantly, have not been alleged to contravene any known building, planning and zoning regulations. It is in this upland area that some residents of low-lying areas sought refuge for their belongings.



1. Residents seek refuge for their personal belongings
2. A building in Njemanze upland area
3. Buildings in upland area have been marked for demolition
4. Residents cluster at various locations to discuss the demolitions

A bulldozer with registration number, XA 625 APR was then, stationed at the entrance of the low-lying area, and positioned in a way that leaves no one in doubt about its ruthlessness and thirst to commence scything operations. “The truck had arrived the previous day and was waylaid by protesting youths”, a resident told SERAC. Another version had it that the demolition squad discovered onsite that the smaller bulldozer would have tough luck navigating through the community due to the swampy nature of the environment, and advised that some bigger bulldozing equipment, the swamp buggy be brought in to undertake the exercise. It also seemed that part of the truck’s role was to clear the way for the awaited bigger equipment.



1. 2. 3.

1. A demolition-thirsty bulldozer stood at the entrance of Njemanze, August 28, 2009
2. Njemanze was still a well lived community, August 28, 2009
3. Some of the block buildings in the community

Residents regaled SERAC staff with tons of bitter tales of exclusion, revenge, ignorance, and most especially, insensitivity to the plight of non-landlords. At the initial stages of the waterfronts demolitions saga, the Rivers State government had requested residents to enumerate property owners/landlords and forward list to the government to guide the official determination of persons eligible for compensation. Ostensibly encouraged by this directive, residents launched efforts to organize themselves into a cohesive structure and nominated representatives that would negotiate and engage the government on issues related to the planned demolitions. That effort culminated in the birth of the Njemanze Waterfronts Landlords/Property Owners Association (MWLPOA). In addition to levying property owners<sup>2</sup> under the pretext of using the resources to engage the services of a lawyer to defend the community’s cause, the Association, either by design or accident, carried on with the production of the list, excluding names of certain neighbours and community members.



SERAC identified and interviewed about a dozen property owners<sup>3</sup> who are yet to be compensated. Some of them had participated in the land measurement, enumeration and valuation exercises conducted by the private estate valuers that the RSG commissioned to undertake the exercise. Despite being a private law firm and nothing more, Osinah Ginah and Co. Chambers<sup>4</sup> - wholly owned by the Commissioner for Urban Development, Mr. Osinah Ginah – undertook seventy (70) property valuations out of 171 identified properties and houses. The firm deducted 10 percent from the total compensation sum as legal fees for “for pursuing these compensation/claims and other expenses on behalf of the donor”. Requests by property owners to allow them to independently engage private valuers

<sup>2</sup>Each landlord was levied N2, 000 per property. Some property owners paid upward of N36, 000. Ms. Nenene Briggs explained that she paid N36, 000 because of the number of houses her family owned in Njemanze.

<sup>3</sup>SERAC identified, interviewed and listed the named uncompensated residents: Nenene Briggs, Rebecca Briggs, Horsfall Jimi-Gold, Npamiamari Briggs, Onengiye-Ofori George, Philomena Membre, Gogogbaa Briggs, Negro Briggs, Sogbere Membre

<sup>4</sup>Other participating law chambers include B. Abia and Associates with office address at No 22 Club Road, 2<sup>ND</sup> floor, Port Harcourt, Rivers State

Pictures inset: Abonema Wharf community representative, Chief Jim Tom George express solidarity with neighbouring Njemanze residents in the struggle for their right to live in the city; an uncompensated resident shares her grief with SERAC’s Victoria Ohaeri.

were ignored, but rather, official directives left them with no other option than to execute powers of attorneys with the state-appointed valuer firms.

The unilaterally prepared powers of attorney (POA) foisted on Njemanze landlords were nothing short of astonishing, in terms of its deliberate design to confound and diminish the capacity of the property owners to challenge the structures of poverty and inequality. The POA gave powers to the contracted firms to do among other things:

- To represent my (the interest of the donors, (landlords)) on the compensation claims/valuation in respect of the Waterfront Dualisation Project by the Rivers State government of Nigeria and/or any of its accredited and authorized valuers/agents, the project which may affect my (the donors, (landlords)) property or properties at .....
- To enter into negotiation and dialogue for the benefit of the donor with the **valuers/agents/contractors duly appointed by the RSG** over the waterfronts acquisition and compensation claims/valuation for Njemanze Waterfront Dualisation Project which may affect donor's properties.
- On behalf of the donor, to strike all reasonable compromise and take all necessary steps for the actualization of the contents of this power of attorney
- On behalf of the donor, to sign for, collect all payments, due and made payable of the donor, as compensation claims, in respect of the stated acquisition from the duly appointed valuer/agent of the RSG.

Part of the tragicomedy playing out of this waterfront properties valuation exercise derives from the urban development commissioner's multiple role in the compensation processes. For instance, all in one fell swoop, the Commissioner for Urban Development is one of the donees empowered by the power of attorney to represent the interest of donor landlords; his law firm is also one of the duly appointed valuer/agent of the RSG; he is the appointer of the duly appointed valuers/agents of the RSG; and of course, the regulator and overseer of the land acquisition and compensation processes. With this up-for-grabs scenario in mind, what is however, plainly disquieting is the barefaced contempt for clearly established code of conduct stipulations. Section 10 of the Code of Conduct and Tribunal Act, CAP 15, Laws of the Federation of Nigeria 2004 says, "A public officer shall not ask for, or accept any property or benefits of any kind for himself or any other person on account of anything done, or omitted to be done by him, in the discharge of his duties". Section 17 also has a direct bearing on the subject: "A public officer who does any act prohibited by the Code of Conduct and Tribunal Act through a nominee, trustee or other agent shall be deemed *ipso facto* to have committed a breach of this Act".

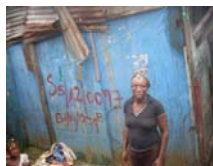
Although community members were well aware of the compensation-related meetings and processes, some of the uncompensated property owners did not avail themselves of the opportunities presented by the arrangements to assert their rights. Some completely trusted that the MWLPOA would do a decent job since most of them knew each other, and had lived together for many years. There were also indications that the internal strife among MWLPOA members resulted in the deliberate omission of certain names from what was popularly referred to as the master list. Some of those who took steps to challenge the irregularities were

discouraged by the inefficiency and bureaucratic bottlenecks that characterize the official complaint procedures.

The flurry of narratives by residents raised concerns as regards the affected persons' familiarity with extant recourse procedures, together with the capacity, or even willingness to exploit these procedures to challenge the denials of their rights. In reaction to a suggestion that community members may well have slept on their rights, Mrs. Nenene Briggs responded this way,

*"I have not slept on my rights... I did everything within my power. I went to the Ministry of Urban Development secretariat several times, and could not meet the Commissioner. No state official was willing to listen to me. One day, I was lucky to reach the commissioner on phone and explained my predicament to him. He asked me to lodge a formal complaint in writing with the ministry, which I did, and nothing has happened till date. I submitted my passport photographs and that of my building, filled forms and did everything I was told to do in July 2009, and now, they are saying that my name is missing from the master list. Who removed my name, and how have I slept on my right in the circumstances?"*

Apparently irked by the fact that he any compensation in respect of his shares a similar view with Nenene. lawyer, and formally protested the master list, lamenting that compensation, will create a great a of his family"<sup>5</sup>. He had a four room accredited agents and estate valuers Development had valued his



has not been called upon to receive property, gloomy Npapamiari Briggs He had engaged the services of a non-inclusion of his building in the "demolishing it, without grave hardship for him and members building in Njemanze, and the from the Ministry of Urban property.

Some other affected persons, perhaps due to their young age, were not as audacious as Nenene Briggs. They just waited and hoped that everything would naturally fall into place. And as is often the case, it did not. Mr. Sogbere Membre's problem was not as a result of lack of courage or ignorance, but for his total faith and hope of a credible compensation process as promised by the Commissioner for Urban Development during one of his visits to the community.



*"I believed the commissioner when he said that the compensation processes would pay special attention, and adequately respond to the interest of young landlords. If only I had known better....."*

Just like Mr. Membre, Ms. Rebecca Briggs had inherited one of her father's buildings in Njemanze. Before he died intestate on June 14, 2007, late Mr. Briggs had shared out the 14 buildings he owned in Njemanze waterfront among his many children, including Ms. Rebecca Briggs.

---

<sup>5</sup> Petition letter to Hon. Commissioner for Urban Development dated August 6, 2009 written through his counsel, N. Gillis Harry.

*“I had expected the elders to do the right thing, and include my name. I don’t know what else to do”, says Ms. Rebecca Briggs.*

As the interviews intensified, SERAC observed general low levels of awareness of the human rights and entitlements that accrue to them as right holders, as well as the corresponding state obligations to respect, protect and fulfil these rights. Large numbers of residents numbering close to a hundred persons thronged the marked bore-hole site in Njemanze Waterfront where SERAC staff sensitized them on their housing and property rights as espoused in many state laws and policies, the Nigerian Constitution, the Rental and Recovery of Premises Law and under wide-ranging human rights instruments. Using language of rights and citizenship to analyze housing and urban environment challenges facing the community, SERAC enlightened local populations on various ways they can exercise housing rights, and to protect themselves from the widespread violation of this right. Substantive policy and legal provisions relating to housing were simplified into leaflets, community bulletins and newsletters to enlighten them on the due process rights of affected persons should eviction become inevitable when the state is undertaking city infrastructural or economic development projects.

SERAC proceeds upon the recognition that human rights cannot be fully realized unless and until people whose rights are at stake not only become aware of those rights, but are able or enabled to seek, claim and defend them. The gusto that greeted the public enlightenment sessions responds directly to the imperative of addressing the longstanding marginalization of Nigeria’s growing and poverty-stricken population’s rights through vigorous human rights education.

### **And the demolitions began...**

The court order believed to be granted by the Federal High Court sitting in Port Harcourt seemed to be on the lips of most residents. The “order” emanated from a suit<sup>6</sup> instituted by Chiefs and people of Okrika-Ijaw against Rivers State Government. In what seemed like an obiter<sup>7</sup>, the judge had directed all the parties to maintain *status quo ante* till further hearing of the case. The RSG insists that the statement was a mere directive to the parties that was more or less advisory<sup>8</sup>. On the other hand, the residents basked in the euphoria of the relief that the order portended. So short-lived a relief!

---

<sup>6</sup> Suit No: FHC/PH/CS/13609/2009

<sup>7</sup> The Plaintiffs counsel, Professor Yomi Osibanjo had prayed the court to restrain the respondents (the RSG and their agents) from carrying out the planned demolition of the waterfronts till the determination of the pending suit.

<sup>8</sup> SERAC discussion with RSG Urban Development Commissioner, August 20, 2009.

About 9.00 a.m. that rainy morning, SERAC watched the swamp buggy advance slowly towards the community accompanied by a rich mix of security operatives comprising the police, the mobile police, soldiers and un-uniformed men numbering over thirty. Confusion and pandemonium thickened as tears welled up in the eyes of many. Yet, so countless people, particularly non-landlords, stayed put, because “they had no where else to go”. At about 10.00 a.m. thereabout, the security operatives went into the communities, or and began to chase residents out from their homes. Security operatives were seen flogging and beating residents with horse electric whips. The heavy crushing equipment started pulling down poles that smashed to the ground with loud bangs. It then dawned on community members that the demolition squad was in no mood to engage in recreation. Women and children were seen running around scampering for safety, and retrieving whatever belongings that came handy.



Beaming with smiles, the Commissioner for Urban Development, Mr. Osinah Ginah was on ground to personally supervise the conquering of Njemanze. Hordes of journalists besieged him in an attempt to get last minute details of the demolitions. “Some N800million has been paid as compensation to those living in this area”, he told reporters. In response to an enquiry concerning the United Nations Habitat report that encouraged “*the enactment of an eviction moratorium and the establishment of a consultation and participatory mechanism to enable all stakeholders to get involved in the planning and implementation of the city’s development strategy, including the upgrading and rehabilitation of the waterfront and other informal settlements*”, the Commissioner announced that “the RSG received no such report nor directive from the UN body regarding the waterfronts demolitions”.

Although the UN-HABITAT and Amnesty International estimates that “some 45,000 people live in the two settlements being targeted, Njemanze and Abonnema Wharf” , SERAC observes that the figure could be much higher considering the land mass and population density in Njemanze waterfront alone.



**Goodbye Njemanze!!!**

### **Waterfronts Demolitions: An Analysis from the Layman’s Perspective**

For an urban renewal initiative to satisfy the requirements of due process, human rights and the rule of law, it must be accompanied by an effective interplay of the democratic principles of due consultation, full disclosure, transparency and inclusive participation in its conceptual, planning, implementation and monitoring processes. These principles must be deployed in a sustainable manner in order to foster better growth and development.

Along these lines, did the Rivers State government comply with due process, and the rule of law in the pursuit of its urban renewal plans? Like a doctor who fervently believes in the efficacy of his antidote, the Commissioner for Urban Development Mr. Osinah Ginah never tires to resonate the due process mantra, by seizing every available opportunity to declare to all and sundry, that the RSG has followed due process, and observed the rule of law in effecting the extensive demolitions in the state, as well as in the execution of the urban renewal agenda. In his view<sup>9</sup>, never again would Port Harcourt be enmeshed in the cesspool of urban distortion and criminality that has gained distasteful prominence in the garden city.

Bearing in mind the surging local discontent the waterfronts acquisition saga induced, SERAC conducted a random sample survey of public opinion to gauge the popularity and public perception of the scheduled waterfronts demolitions. While support for the exercise has been vociferous in some quarters, so too have the criticisms and angst deepened, especially with respect to the state's continued failure to advance a credible explanation for the massive demolitions and forced evictions of waterfront residents. Beyond the desire to make way for, and provide large expanse of land for the privately-owned Integrated Cultural Centre, a provider of funfair and entertainment activities, owned by the Silverbird Group of Companies Limited, there seems to be nothing much on ground that offers a contrary view. Investigations continue to reveal that the Silverbird Showtime Project - even with the illusory MoU entered into with the RSG - is purely a private business, devoid of any public purpose colorations as required by law.

SERAC observed that the majority of residents were unaware of the Waterfronts Dualization Project, and as such, the project generated scant interest among the populations. The more popular view is that the waterfront demolitions were borne out of political desperation to pave way for private businesses to flourish. Under this pretext, the RSG launched a massive campaign to criminalize the waterfronts, all in an effort to "give a dog a bad name, just to kill it". Consequently, the RSG changed the character and focus of the demolitions from urban renewal to crime fighting and combating militancy and insurgence. Rivers Governor, Rotimi Amaechi, has at various public fora, described the waterfronts "as lawlessness places", adding that "lives are no longer safe for the residents to live"<sup>10</sup>... "We must chase the criminals away from Port Harcourt for the people to move around and enjoy themselves", he said. Despite several visits to the Njemanze and Abonema Wharf waterfronts, SERAC could not verify allegations of high crime rate, nor could it establish the specific offences classified as violence crimes perpetrated by residents of waterfront areas.

Clearly more and more, discussions are gradually moving away from the purpose for which the waterfronts are being demolished to the economic benefits that the reclaimed lands will yield to prospective investors. Of course, there are very weak official discussions around improving the housing stock in a sustainable fashion as would benefit the urban poor populations who constitute the vast majority of the city dwellers. Also, mum is the word regarding any official policy, strategy and institutional arrangement for tackling slum production and replication when the poor are pushed out *en masse* from their current abodes.

---

<sup>9</sup> SERAC meeting with Rivers State Commissioner of Urban Development in Lagos, August 20, 2009

<sup>10</sup> : [The Port Harcourt Telegraph: 24 July 2009](#) .



## **Waterfronts Demolitions: Gauging the Extent of Compliance with Due Process, Human Rights and the Rule of Law**

Assuming the human rights norms and traditions were yet to evolve, what would due process, outside of the human rights jurisprudence, mean in the circumstances? Your dictionary .com<sup>11</sup> defines due process as ‘the course of legal proceedings established by the legal system of a nation or state to protect individual rights and liberties’. It has also been defined as the **exercise of government power under the rule of law with due regard for the essential and fundamental fairness rights of individuals**<sup>12</sup>. Going by the interpretative guidance of the Fourteenth Amendment to the American Constitution, “due process refers to how those explicit fundamental and essential rights are protected. It may also refer to implicit rights, not mentioned in the Constitution, so fundamental and essential that they should not be tampered with nor encroached upon unless there is a compelling need to do so”.

In light of the above definitions, did the RSG:

1. Follow all course of legal proceedings established by the legal system of the Nigerian State to protect individual rights and liberties?
2. Exercise governmental power under the rule of law with due regard for the essential and fundamental fairness rights of individuals?
3. Take steps to ensure that explicit fundamental and essential rights, and including implicit rights, not mentioned in the Constitution, are protected?
4. Was there any compelling need to waive due process in the circumstances?

Generally speaking, the answers to these questions are lurking somewhere in the middle. In some cases, it revels in the extreme left, or in the opposite direction, or even nowhere at all.

To start with, the legal system of a state encompasses all laws, bye-laws, policies, treaties and regulations applicable in that jurisdiction, and including a “positive expectation on the part of the State to move its machinery towards the actual realization of human rights.” In Port Harcourt, however, there are serious concerns that the demolitions were being planned in defiance of federal legislations, - particularly section 11 of the National Inland Waterways Authority Act, CAP N47, Laws of the Federation of Nigeria 2007. The law explicitly, vests exclusive management, direction and control on the National Inland Waterways Authority to administer, acquire, develop and use any landed property in all navigable waterways, inland waterways, riverports, and internal waters of Nigeria. By that law, no person including a State has the right to erect permanent structures; reclaim land; undertake acquisition or lease/hire of properties within the right-of-way without the written consent, approval or permission of the Authority. These provisions clearly limit the RSG’s possibility to acquire (through buy-out), demolish and re-develop the waterfront settlements.

---

<sup>11</sup> <http://www.yourdictionary.com/due-process>

<sup>12</sup> <http://faculty.ncwc.edu/mstevens/410/410lect06.htm>

As of August 27, 2009, NIWA<sup>13</sup> informed SERAC that no such authority or express permission had been granted to the RSG, and even so, the Rivers State government has yet to seek any permission in that line. This discovery further bears out SERAC's petition to NIWA<sup>14</sup> and the Federal Ministry of Transport expressing deep concerns about the usurpation of NIWA's statutory mandate regarding the management and control of waterfronts in Port Harcourt, Rivers State. SERAC urged NIWA to take urgent steps to prevent the perpetration of massive violations of human rights by the Rivers State government within NIWA's territorial jurisdiction.

In a figment of imagination, assuming once again, that the NIWA law did not exist, nor applies in the circumstances, Sections 86, 89, and 90 of the Rivers State Physical Planning and Development Law No 6 of 2003 contain some fine provisions that that oblige the state to undertake the following in the pursuit of its urban renewal plans: proper and reasonable notice, genuine and effective consultation, fair hearing, institutional responsibility, community participation, replacement cost for loss of asset or income, financial assistance to aid relocation, and assistance to affected persons to find new accommodation. Section 90 of that law is more instructive:

90. Where the Urban Renewal Board proposes to make an order for the demolition of a building or part thereof used for human habitation it shall provide the persons likely to be displaced from their homes by the order alternative accommodation and or site and or financial assistance by way of a grant or loan or guarantee either directly or through other authorities, on such terms and condition as the Urban Renewal Board shall deem fit

The operative word in section 90 is "shall". In a plethora of decided cases, the courts have consistently held that the use of the word, *shall* imposes a compulsory obligation that is not qualified by resource-related considerations. In brazen disdain for its own state laws and policies, SERAC could not locate a single non-landlord person likely to be displaced in Njemanze community that the RSG provided with "alternative accommodation and or site or financial assistance by way of grant, or loan or guarantee either directly or through other authorities".

No doubt, the RSG did take giant strides to compensate property owners, and nothing more. Gladly and novel too, the compensation was based on prime market value of land, and as would support the dispossessed to secure an alternative. Regardless of the questionable motives for the waterfront land acquisitions, the associated compensation processes and arrangements wore the garb of participation and inclusiveness in many respects. The RSG held regular consultations

---

<sup>13</sup> Telephone interview with Area Manager, National Inland Waterways Authority, Port Harcourt Area Office on August 27, 2009, Mr. Sambo Muazu.

<sup>14</sup> Petition to NIWA dated August 24, 2009

with property owners, and somewhat involved them in the enumeration, valuation, land measurements exercises. At the same time, their focus and emphasis was so heavily skewed on property owners and landlords that they disregarded all other subsisting legal interests in the properties that may be held by non-landlords. Very much like the Abonema Wharf Road demolitions of February 9 -13, 2009, it was apparent that the waterfront demolitions was to happen without counterpart arrangements for ensuring that existing tenancy, lease or other obligations on these properties have been fully discharged. Consequently, it is impossible not to observe the sharp divisions between landlords and their tenants spurned by what was perceived by the latter as discriminatory trends that may compromise the potentials of the Rivers State Urban Renewal Programme.

Even with all the irregularities attending the exercise, the payment of compensation to identified property owners is very commendable. Commendable in the sense that paying compensation to persons affected by state-led economic or urban development programs is still an alien practice in all states of the Nigerian federation. Had the demolitions happened in Lagos for instance, not even a single landlord, who cannot brandish the popular Certificate of Occupancy (C of O), would have gone home with a penny. Quite often too, informal neighbourhoods without the C of O are regularly targeted for demolitions because of the “benefit” it offers the state to evade paying compensation. And in cases where the payment of compensation is so mandatory that it cannot be avoided, a miserable pittance is handed out to beneficiaries, premised on a compensation regime that has not been reviewed since Nigeria’s independence. The Lekki Free Trade Zone project is a case in point.

Suffice it to say that the RSG blew a golden opportunity to provide a first-of-its-kind best practice example of urban development in Nigeria. The flow of the waterfronts storyline pulsates along zigzag lines, lacking consistency in its rhythm and tempo. With the will to compensate landlords clearly out of doubt, together with the gargantuan compensation budgetary framework earmarked for the project<sup>15</sup>, it becomes increasingly difficult to establish why the state will hesitate to run a fine race to finish line. What, who and why did the state willfully shut its eyes to the provisions of its own state urban development law that ought to, as a matter of priority, drive the urban renewal agenda? Whatever happened to the fundamental rights and freedoms enshrined in the Nigerian Constitution, which the Rivers State governor swore to uphold and defend? What led the plethora of state and national laws safeguarding the rights of all Nigerians – landlords, tenants, sub-lessors, licensees and squatters alike - to bow to the pressure of state machinations?

Perhaps too, the presence of independent national and international monitors and observers may have helped the waterfront acquisition and compensation exercises gain some level of credibility. That way, the RSG would be provided with the much-needed independent advisory, monitoring and supervisory assistance in relation to the implementation of the urban renewal programme, with an eye on achieving greater focus, accord, synergy between urban stakeholders, and ability to build on lessons learned. Many national and international inter-governmental and non-governmental agencies extended an olive branch to the state, all of which were so unrepentantly

---

<sup>15</sup>Waterfronts demolition: Amaechi to pay N20bn compensation – see [http://article.wn.com/view/2009/07/27/Demolition\\_Rivers\\_to\\_Pay\\_N20bn\\_Compensation](http://article.wn.com/view/2009/07/27/Demolition_Rivers_to_Pay_N20bn_Compensation)

ignored, to the state’s own detriment, and at the expense of transparency and accountability in the waterfronts project execution arrangements.

The Waterfront Dualization Project, as conceived and hatched, succeeded in pitching landlords against tenants, tribes against tribes and more prominently, drew thick feudal lines between the jolly and the gloomy. A popular community leader described the course of action leading up to the decision to demolish the waterfronts as “high intimidation”, “oppression” and “marginalization”. Hear him further: “we are girding up our loins for tribal war...what we cannot achieve in peace, we will achieve through violent rebellion...for every house they dare to demolish in our community, we will retaliate by burning ten in the neighbouring Ikwerre community”<sup>16</sup>. This state of affairs saw the landlords, disappear once the cash, often running into millions of Naira, is at hand, leaving embittered tenants at the mercy of rampaging bulldozers. A compensated landlord informed SERAC that they “are happy with the acquisitions and the compensation sums paid”<sup>17</sup>. Another landlord artfully dodged the refunded unused rent to his tenants, stating that “the Lord will take care of all his children”. Indeed!



Section 44 specifically *any* property, whether

compensation. Since the protection guaranteed by Section 44 of the Constitution applies to all types of property, it is not limited to persons who hold valid title to the land on which they reside. Although such land possession may serve as an additional basis of protection, particularly regarding the person’s interest in the land, such title is irrelevant in regards to the other types of property that may be owned or possessed by an individual, such as a house and/or household items, and which are entitled to equal protection with land under section 44 of the Constitution. As such, all persons are entitled to the safeguards contained in the Constitution, including due process of law, compensation, and access to the courts for a fair valuation of the property.

forbids the government from taking immovable or movable, without

Although some people who have been the victims of forced evictions and demolitions in Rivers State do not have legal interests on the lands that they live, the lack of valid title to the land on which one resides does not justify the government’s forced evictions and demolitions. That the government may not destroy or demolish such property without following the procedures required by law and providing compensation – even when the persons affected are non-owners of the land, or have failed to follow all of the requirements of the law – was affirmed in **Anambra State Environmental Sanitation Authority (ASESA) v. Raymond Ekwenem [2001] 51 FWLR (PT 51) 2034 at page 2054-2055:**

“The attitude of the law to accountability by those who on the pretext of enforcing a break of the law or some rights took it upon themselves to seize arbitrarily or to destroy with impunity the property of another was well summed up in *Ajao vs.*

<sup>16</sup> SERAC/SDN interview with Bunduama local chief and politician on June 23, 2009

<sup>17</sup> Picture: a compensated landlord that previously owned a Pentecostal church in Njemanze. See also Waterfront: Communities Back Amaechi’s Planned Demolition By Thisday Newspapers `Lola Adewoyin, 08.27.2009

*Ashiru* (1973) 8 NSCC 525, where the Supreme Court, per Elias, CJN, at page 533, forcefully cautioned against arbitrariness and its consequences as follows:-

‘It cannot be over emphasized to both high and low that every person resident in this country has a right to go about his or her lawful business unmolested or unhampered by anyone else, be it a Government functionary or a private individual. The courts will frown upon any manifestation of arbitrary power assumed by anyone over the life or the property of another even if that other is suspected of having breached some law or regulation.’”

Another sad twist to the tale is that the waterfronts demolitions are coming on the heels of the formal release of the UN Habitat report following the five-person fact-finding mission to Port Harcourt, Nigeria, from 12 to 16 March 2009. Among other recommendations, the report urged the RSG to “**implement pilot projects for *in situ* upgrading and rehabilitation of Abonnema Wharf and Njemanze waterfronts** to test and demonstrate an alternative approach to urban renewal that is not based on demolition and redevelopment”.

The Niger Delta, with Port Harcourt as its commercial nerve center, is a volatile region. If not properly handled, the waterfront demolitions could spiral in the wrong direction; deepen mistrust amongst communities, and fuel another cycle of violence in the Niger Delta region. If the vituperations and utterances by some of the waterfronts community representatives are anything to go by, an ethnic war and flashes of communal uprisings are very much imminent in the State. In the target locations, the planned demolition of the waterfronts are widely perceived to be motivated by political and ethnic considerations, and form part of a recurrent rehearsal of the Ikwere script to perpetuate their hold on political power in the state. The preponderance of opinion and the popular analysis of the waterfronts discourse along ethnic and tribal lines clearly dictate an urgency to look beyond the implementation of Waterfronts Dualization Project as it currently put together. It has become imperative for the project promoters to go back to the drawing board to re-plan its urban renewal agenda in a way that averts the imminent humanitarian challenges and crisis that may come about in the affected areas.

Whether or not the waterfront demolitions are driven by political, ethnic, religious or public good considerations, economic and development activity cannot truly be successful unless they promote the fundamental essence of the human rights doctrine<sup>18</sup>. Indeed, the promotion of human dignity must be the goal and rational basis for every economic and development activity. Internationally recognized human rights principles of fairness, equality, nondiscrimination, participation and self-determination entrenched in various human rights instruments can, and must, find expression in the policies and practices fostered by economic globalization and urban development if they are to produce the desired goals of achieving economic prosperity and stability<sup>19</sup>.

---

<sup>18</sup> Felix Morka, Economic Globalization and Economic, Social and Cultural Human Rights. Text of a speech by Felix Morka at the signing ceremony of the Lekki Free Trade Zone Project, Lagos.

<sup>19</sup> Felix Morka, *ibid*.