



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

URGENT ACTION APPEAL

More Forced Evictions in Port Harcourt, Nigeria

Forced evictions, house demolitions, illicit use of force, loss of livelihoods

Case NIG-FEDEUFLL-070212

The Housing and Land Rights Network (HLRN), part of Habitat International Coalition (HIC), has received a call from Nigerian colleagues at the Social and Economic Rights Action Center (SERAC) for solidarity in response to Nigeria's Rivers State Government's large-scale property demolitions and eviction in the area of the Abonnema Wharf, in Port Harcourt, Nigeria. **Your Urgent Action is required.**

HLRN has learned that since 27 June 2012, the Rivers State government has carried out the forced eviction of families in the Abonnema Wharf, affecting homes and livelihoods of an estimated 25,000 families without ensuring any reparations, including resettlement and rehabilitation.

According to SERAC, on Wednesday 27 June 2012, at about 06.00 AM, the Rivers State government's demolition squad, assisted by heavily armed police and other security forces, invaded the Abonnema Wharf community located on the Port Harcourt waterfront. Without warning, bulldozers began to tear down homes and other structures in the community as residents, who were rudely awakened by the violence, fled in utter consternation. Members of the demolition squad brutally beat residents who attempted to salvage personal belongings. The demolition continued until about 19:00 PM.

Background

The high cost of inner-city rentals and urban housing deficits has forced many households into the properties on the Port Harcourt waterfront, creating a large low-income and underprivileged community. In June 2008, the government of Rivers State, through the State Commissioner of Urban Development, began issuing notices to landlords throughout the entire Port Harcourt waterfront of a government decision to acquire and demolish all buildings in the area.

Despite a government promise to relocate and compensate victims, no such arrangement yet exists for the displaced residents. The Abonnema Wharf is one of some 44 communities that the Rivers State government has slated for demolition. The affected Abonnema Wharf and Njemanze waterfronts are home to over 70,000 persons comprised of both indigenous residents and more-recent migrants.

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Since 2008, many evictions have taken place, including the demolition of the Njemanze community, in 2009, resulting in the forced evictions of an estimated 13,800 to 19,000 persons. The forced eviction of the Bundu community, in 2009, saw at least 12 peaceful demonstrators either shot dead or seriously injured.¹

Official Reasoning

According to the River State government, administered by Gov. Chibuike Rotimi Amaechi, the destruction of these informal communities, where approximately 80% of the citizens of Port Harcourt reside, will better control and deter criminal activity in the communities.² The government's justification of the demolitions as a public service and remedy to crime is not convincing. Nowhere does Nigerian law refer to demolition as a crime-fighting strategy.

It seems that other, unspoken motivations guide this conduct. The evictions and demolitions are taking place on properties that have become prime waterfront real estate. They are being undertaken to favor private investors who intend to develop the area for upscale entertainment and business facilities.

Legal Aspects

The current and still-planned evictions and demolitions, with their grave human and material consequences, also violate the human right to private and family life, to access to justice, to work, education and health, all of which rights are guaranteed in the above-cited and other international and regional human rights treaties that the Federal Republic of Nigeria has ratified, as well as rights enshrined in its 1999 Constitution.

Domestic Laws

The demolition of the Abonnema Wharf community is being carried out with disregard to the national judicial process. On behalf of the affected community, on 11 November 2011 in *Jim George & Others vs. The Executive Governor of Rivers State & Others (Suit No.PHC/2286/2009)*, SERAC obtained an interim injunction, restraining the Rivers State government from destroying the community. A ruling on a contested application of the government to vacate the interim order of injunction was fixed for 2 July 2012. Despite this pending lawsuit and a subsistence order of interim injunction, the Rivers State government proceeded, lawlessly, to destroy the community.

The ongoing demolitions and evictions actually contravene the 1999 Nigerian Constitution, legislation, national policies and Nigeria's human rights obligations under international law. Section 37 of the Nigerian Constitution guarantees the fundamental rights to privacy and family life. Nigeria's housing policy formally recognizes both the right to housing as consistent with essential human need and the government's corresponding obligation to ensure all persons' access to adequate housing.

The evictions so far have been arbitrary. Officials are violating many human rights and several treaties to which Nigeria is a ratifying party through their failure to conduct effective consultation with the affected inhabitants; the government's failure to provide reparations, including restitution and compensation; and the use of force, as well as being inconsistent with the necessity and proportionality principles.

These demolitions and evictions also violate the right to life and the dignity of the human person, as enshrined in sections 33(1) and 34(1) of the Constitution of Nigeria. The actions also contravene similar provisions under Articles 4 and 5 of the African Charter on Human and People's Rights (ACHPR), ratified by Nigeria on 22 June 1983. Moreover, the real reasons for which Rivers State officials carry out these progressive Port Harcourt demolitions also may be in contravention of Article 14 of ACHPR, as they serve private interest and not the overall well-being of the public need or general interest.

Human Rights, International Law, and Treaty Violations

Enjoying the rights protected in these instruments is essential to realizing the human right to adequate housing enshrined also in Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESR), which is binding on Nigerian law.

In its 1998 review of Nigeria, the Committee on Economic, Social and Cultural Rights already observed the unacceptability of the housing-rights situation in the country, saying that it was:

appalled at the great number of homeless people, and notes with concern the acute housing problem in Nigeria, where decent housing is scarce and relatively expensive. The urban poor, especially women and children, are forced to live in makeshift shelters in appalling and degrading conditions, presenting hazards for both physical and mental health.

Nigeria ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), on 29 July 1993. States parties to ICESCR, under Article 11, recognize the obligation to respect, protect and fulfill the human right of everyone to "an adequate standard of living, including... adequate housing, and to the continuous improvement of living conditions." These evictions violate that right, as well as affect the congruent rights of the inhabitants related to adequate housing, including the right to food, the right to water, the right to health, the right to education and the right to work and means of subsistence.

The State of Nigeria also has recognized its citizen's congruent civil and political rights to information and participation, as guaranteed under the International Covenant on Civil and Political Rights. Nigeria ratified that treaty also on the same date as ICESCR in 1993.

These rights, as integral to the right to adequate housing, are also supported in General Comments No. 4 (1991) and No. 7 (1997) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), which oversees State parties' compliance with ICESCR. These international instruments recognize that "forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances."

Thus, international law imposes certain minimum norms and obligations that State parties to the Covenant must respect in cases of eviction and displacement, including the duty to inform affected people well in advance, to agree with them on a plan for rehousing with secure tenure, and provide adequate compensation, as well as reparations in the case of legally prohibited forced eviction.

The UN Commission on Human Rights has recognized that forced evictions constitute a “gross violation of human rights, in particular, the right to adequate housing.”³ Further, the UN General Assembly adopted by acclamation resolution A/RES/60/147, in 2006, recognizing gross human rights violation victims’ rights and entitlements to reparations.

Successive Special Rapporteurs to the UN Human Rights Council on adequate housing have stressed that the forced evictions carried out with conduct such as that exhibited by Nigerian officials and their agents in this case would constitute a gross violation of human rights, in particular the right to adequate housing. They have noted that, in general, women, children and elderly persons are always the most affected by forced evictions, especially those already living in vulnerable situations.

To ensure the respect for, and protection of rights consistent with CESCR General Comment No. 7, it is understood that no one may be forcefully evicted without (1) effective and sufficient consultations with the affected parties, and (2) provision of appropriate and sufficient alternative measures. In other words, these minimum international norms guarantee that those who suffer eviction have access to appropriate measures, particularly alternative shelter, in order to secure an adequate living, and to assure sustaining economic activities where they reside.

Grounded in Nigeria’s existing treaty obligations, the UN *Basic Principles and Guidelines on Development-based Evictions and Displacement* further stress that states should adopt, to the maximum of their available resources, appropriate strategies, policies and programs to ensure effective protection of individuals, groups and communities against forced eviction and its consequences. States and governments at all levels, therefore, should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, and prosecute those who commit forced eviction as a gross violation of human rights.⁴

If the displaced communities are relocated, the government has the further responsibility to ensure that the relocation site will fulfill the criteria for adequate housing, according to international human rights law, including services for accessing water, employment options, schools and health-care facilities.

Conclusion

The recent Abonnema Wharf demolitions and further threats of forced evictions in Port Harcourt violate international law, Nigeria’s international and national human rights obligations and commitments. The victims of these violations are entitled to reparations, and standards of justice require the prosecution of those responsible for violating the dispossessed and evicted persons’ human rights.

Recommendations

We urge the Government of Nigeria, its agencies, officials and local authorities to uphold their treaty-bound obligations to avoid and protect against forced eviction, and to provide the affected families with effective remedies and reparations. We, therefore, urge the central and local governments to ensure adequate compensation and alternative accommodation *in advance* of any evictions, as essential elements of their obligations to respect, protect and fulfill the human right to adequate housing under Nigeria’s treaty obligations.

HIC-HLRN supports SERAC in urging the Government of Nigeria, the Government of Rivers State and local Port Harcourt authorities to uphold the binding obligations they share to:

1. Provide tenants with adequate alternative accommodation *before* proceeding with any demolition, and hold consultation with the affected community in order to determine alternative accommodation consistent with the express needs of the waterfront inhabitants;
2. Conduct meaningful consultations with the inhabitants of the areas under past, current and future demolitions in Port Harcourt, in order to explore alternatives to the evictions and demolitions and to assess and meet the needs of all people whose rights are violated by this supposed public-private partnership project;
3. Give adequate notice to the tenants before proceeding with any further demolition and ensuring that premises occupied by the tenants are both empty and vacant before carrying out any further demolition; and
4. Follow scrupulously the principles of General Comment No. 7 on the right to adequate housing: forced eviction, as well as the United Nations' Basic Principles and Guidelines on Development-based Evictions and Displacement.

In addition, HLRN urges the Government of Nigeria and its agents to comply with the state's human rights treaty obligations by taking immediate steps to:

- Ensure and effect full reparations for those persons and households whose rights have been violated in past, ongoing and future waves of Port Harcourt violations;
- Publicly condemn the Port Harcourt evictions;
- Promote a forum in which the Government of Nigeria and all the interested parties, including the recognized representatives of the inhabitants of the informal communities, concerned habitat networks, NGOs, relevant UN agencies, and public bodies can consult, come to mutual understanding with the concerned communities and consistent with their needs, in order to agree upon the alternatives to evicting persons;
- Guarantee secure tenure for all in Nigeria, particularly those currently lacking such protection, in genuine consultation with the affected persons and/or groups;
- Reform land administration and distribute land equitably with a view to protecting and meeting the needs of the country's most-disadvantaged inhabitants;
- Enable and support the establishment of popular funds for development of land and housing; and
- Ensure equitable access to basic public services for citizens and inhabitants.

HIC-HLRN also requests that the Government of Nigeria and Rivers State order an immediate end to such evictions, and respect all the conditions that Nigeria and its officials are obliged to observe as a prerequisite to such actions, in accordance with General Comment No. 7 of the UN Committee on Economic, Social and Cultural Rights. In so doing, it is essential also to establish a process leading to an impartial investigation that will review the facts, prosecute and punish the people responsible for any and all violations.

HIC-HLRN calls the international community, in particular the relevant human rights mechanisms and treaty bodies of the United Nations and African Union, to intercede with Nigeria and demand an end of all demolitions and forced evictions in the country in accordance with applicable human right norms.

Action requested:

Please write to the authorities in Nigeria, urging them with recommendations—found in the sample letter below—to respect human rights, as they are obliged under international law and their own Constitution. Please send a copy of your letter also to the following:

violation@hlrn.org, and info@serac.org.

A sample letter is provided below, or you may send your letter automatically from the HLRN website at: <http://www.hlrn.org/cases.php>

For more information please contact HLRN or SERAC in Nigeria:

Addresses of Duty-Holders:

H.E. Mr. Goodluck Jonathan (Salutation: Dear Pres. Jonathan, or Dear Mr. President)
President of the Federal Republic of Nigeria
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Federal Secretariat Phase 2
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Governor Chibuike Rotimi Amaechi (Salutation: Your Excellency)
Rivers State Governor
Governor's Office
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Mr. Tammy Danagogo (Salutation: Dear Honorable Commissioner)
Rivers State Commissioner for Urban Development and Physical Planning
Ministry of Urban Development and Physical Planning
Rivers State Secretariat
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[no fax or email address available; HLRN and SERAC will ensure delivery]

Professor Bem Angwe
The Executive Secretary (Salutation: Dear Secretary Angwe)
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Amb. Umunna Humphrey Orjiako (Salutation: Your Excellency, Dear Amb. Orjiako)
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[Sample letter]

To:

President Jonathan:
Governor Chibuike Rotimi Amaechi:
Commissioner Danagogo:
Professor Bem Angwe:
Ambassador Umunna Humphrey Orjiako

We are deeply disturbed by the news from the Housing and Land Rights Network (HLRN), part of the Habitat International Coalition (HIC), a global coalition of member organizations in over 100 countries, and the Nigerian organization Social and Economic Rights Action Center (SERAC) about the demolitions and forced evictions that started on 27 June 2012 and are still ongoing in Abonnema Wharf, Port Harcourt.

We have learnt that the Rivers State government continues to embark on its plans to demolish the waterfront communities in Port Harcourt. Local sources have indicated that, although the government justifies these actions as a tactic to reduce criminal activities, it is clear that private business interests are guiding the demolition of these properties.

Since 2008, many evictions have taken place in Port Harcourt, including the demolition of the Njemanze community, in 2009, resulting in the forced evictions of an estimated 13,800 to 19,000 persons; and the Bundu community, in 2009, where at least 12 persons were shot and seriously injured.

The Rivers State government's action is in flagrant disregard to national and international legal provisions. On behalf of the affected community, SERAC obtained an order of interim injunction restraining the Rivers State government from destroying the community on 11 November 2011 in *Jim George & Others vs. The Executive Governor of Rivers State & Others (Suit No.PHC/2286/2009)*. A ruling on a contested application of the government to vacate the interim injunction was fixed for 2 July 2012. Despite the pending lawsuit and an interim subsistence order, the Rivers State government has proceeded, lawlessly, to destroy the community.

The ongoing demolitions and evictions contravene the 1999 Nigerian Constitution, existing legislation, national policies and Nigeria's human rights obligations under international law. Section 37 of the Nigerian Constitution guarantees the fundamental rights to privacy and family life. Nigeria's housing policy formally recognizes both the right to housing as consistent with essential human need and the government's corresponding obligation to ensure all persons' access to adequate housing.

These demolitions and evictions also violate the right to life and the dignity of the human person, as enshrined in sections 33(1) and 34(1) of the Constitution of Nigeria. The actions also contravene similar provisions under Articles 4 and 5 of the African Charter on Human and People's Rights (ACHPR), ratified by Nigeria on 22 June 1983. Moreover, the real reasons for which Rivers State officials carry out these progressive Port Harcourt demolitions also may be in contravention of Article 14 of ACHPR, as they serve private interest and not the overall well-being of the public need or general interest.

In its 1998 review of Nigeria, the Committee on Economic, Social and Cultural Rights already addressed the unacceptability of the housing-rights situation in the country, saying that it was:

appalled at the great number of homeless people, and notes with concern the acute housing problem in Nigeria where decent housing is scarce and relatively expensive. The urban poor, especially women and children, are forced to live in makeshift shelters in appalling and degrading conditions presenting hazards for both physical and mental health.

The current and the still-planned evictions and demolitions, with their grave human and material consequences, also violate the human right to private and family life, to access to justice, to work, education and health, all of which rights are guaranteed in the above-cited and other international and regional human rights treaties that the Federal Republic of Nigeria has ratified, as well as enshrined in its 1999 Constitution.

The State of Nigeria has recognized its citizens' congruent civil and political rights to information and participation, as guaranteed under the International Covenant on Civil and Political Rights. Nigeria ratified that treaty also on the same date as ICESCR in 1993. These rights, as integral to the right to adequate housing, are also supported in General Comments No. 4 (1991) and No. 7 (1997) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), which oversees State parties' compliance with ICESCR. The international instruments recognize that "forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances."

To ensure these rights consistent with CESCR General Comment No. 7, it is understood that no one may be forcefully evicted without (1) effective and sufficient consultations with the affected parties, and (2) provision of appropriate and sufficient alternative measures. In other words, these minimum international norms guarantee that those who suffer eviction have access to appropriate measures, particularly alternative shelter, in order to secure an adequate living, and to assure sustaining economic activities where they reside.

In relocating Abonnema Wharf community, the government has the further responsibility to ensure that the relocation site will fulfill the criteria for adequate housing according to international human rights law, including services for attaining water and access to employment options, schools, and health-care facilities.

HIC-HLRN supports SERAC in urging the Government of Nigeria, the Government of Rivers State and local Port Harcourt authorities to uphold the binding obligations they share to:

1. Provide tenants with adequate alternative accommodation *before* proceeding with any demolition, and hold consultation with the affected community in order to

determine alternative accommodation consistent with the express needs of the waterfront inhabitants;

2. Conduct meaningful consultations with the inhabitants of the areas under past, current and future demolitions in Port Harcourt, in order to explore alternatives to the evictions and demolitions and to assess and meet the needs of all people whose rights are violated by this supposed public-private partnership project;
3. Give adequate notice to the tenants before proceeding with any further demolition and ensuring that premises occupied by the tenants are both empty and vacant before carrying out any further demolition; and
4. Follow scrupulously the principles of General Comment No. 7 on the right to adequate housing: forced eviction, as well as the United Nations' Basic Principles and Guidelines on Development-based Evictions and Displacement.

In addition, HLRN urges the Government of Nigeria and its agents to comply with the state's human rights treaty obligations by taking immediate steps to:

- Ensure and effect full reparations for those persons and households whose rights have been violated in past, ongoing and future waves of Port Harcourt violations;
- Publicly condemn the Port Harcourt evictions;
- Promote a forum in which the Government of Nigeria and all the interested parties, including the recognized representatives of the inhabitants of the informal communities, concerned habitat networks, NGOs, relevant UN agencies, and public bodies can consult, come to mutual understanding with the concerned communities and consistent with their needs, in order to agree upon the alternatives to evicting persons;
- Guarantee secure tenure for all in Nigeria, particularly those currently lacking such protection, in genuine consultation with the affected persons and/or groups;
- Reform land administration and distribute land equitably with a view to protecting and meeting the needs of the country's most-disadvantaged inhabitants;
- Enable and support the establishment of popular funds for development of land and housing; and
- Ensure equitable access to basic public services for citizens and inhabitants.

HIC-HLRN also requests that the Government of Nigeria and Rivers State order an immediate end to such evictions, and respect all the conditions that Nigeria and its officials are obliged to observe as a prerequisite to such actions, in accordance with General Comment No. 7 of the UN Committee on Economic, Social and Cultural Rights. In so doing, it is essential also to establish a process leading to an impartial investigation that will review the facts, prosecute and punish the people responsible for any and all violations.

HIC-HLRN also requests that the government order an immediate end to such evictions, and respect all the conditions that Nigeria is obliged to observe during such actions, in accordance with General Comment No. 7 of the UN Committee on Economic, Social and Cultural Rights, and establish a process leading to an investigation that will review the facts, prosecute and punish the people responsible for them.

Thank you in advance for your attention to this matter.

We look forward to hearing from you about your efforts to remedy the ongoing violations of human rights resulting from these eviction actions.

Sincerely,

[Name of organization and contact information]

¹ Amnesty International, *Port Harcourt Demolitions: Excessive Use of Force Against Demonstrators* (11 October 2011), at: <http://www.amnesty.org/en/library/info/AFR44/022/2010>.

² Anayo Onukwugha, "Nigeria: Demolition of Houses Continues in Port Harcourt," *Leadership in Nigeria* (11 July 2012), at: http://www.leadership.ng/nga/articles/27030/2012/06/11/demolition_houses_continues_port_harcourt.html .

³ UN Commission on Human Rights, resolution 1993/77.

⁴ As consistent with Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in its resolution A/RES/60/147, and the Principles on housing and property restitution for refugees and displaced persons (see E/CN.4/Sub.2/2005/17 and Add.1).