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‘JUST MOVE THEM’

FORCED EVICTIONS IN
PORT HARCOURT,
NIGERIA

HOUSING IS A
HUMAN RIGHT

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Cover photo: Abonnema Wharf waterfront in Port Harcourt, Rivers State, Nigeria. The area has been named as the next to be demolished as part of the city's redevelopment programme. Thousands of residents are at risk of forced eviction as a result.

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FORCED EVICTIONS IN PORT HARCOURT, NIGERIA

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Njemanze resident Love Basset Okpabio and her family. The home she lived in with her husband and five children was demolished on 28 August 2009. She received no eviction notice, no compensation and no alternative accommodation.

1/INTRODUCTION

“We suffered a lot... When the bulldozers came... [e]verything was lost... food utensils, television, fridge, a lot of things, my clothes, my children’s clothes... my children’s books, birth certificates. There was nothing [we could do]... I slept that night at that compound opposite Njemanze... I slept with my children, my husband; rain was falling.”

Love Bassett Okpadio, resident of Njemanze informal waterfront settlement in Port Harcourt, Rivers State, Nigeria. The home she lived in with her husband and five children was demolished on 28 August 2009. She received no eviction notice prior to the eviction, no compensation and no alternative accommodation.

On 28 August 2009, Njemanze informal settlement in Port Harcourt, Rivers State, Nigeria, was demolished as part of the state authorities’ urban renewal programme for the city. It is estimated that between 13,800 and 19,000 people¹ were forcibly evicted from their homes. These evictions were carried out without prior and genuine consultation with residents and without the provision of adequate notice, compensation or alternative accommodation and legal remedies. Thousands of people, including children, women and the elderly were left homeless and vulnerable to other human rights violations.

Njemanze is one of more than 40 waterfront settlements² in Port Harcourt, which make up some of the city’s most densely populated areas.³ If the authorities continue with the planned demolitions of all remaining waterfront settlements without first implementing adequate human rights safeguards, more than 200,000 people will be at risk of losing their homes and livelihoods.

The Rivers State government claims the demolition of the waterfronts is necessary to implement the Greater Port Harcourt Master Plan, the main strategy document for the city’s redevelopment programme. But the plan has been developed without consultation with the communities affected and it has not been made publicly available. The state governor has also repeatedly stated that “the demolition exercise [will] sanitize and check criminal activities”⁴ in the city.

In addition, the enumeration (the collection of detailed information about a community, including buildings and residents) and valuation of Port Harcourt’s waterfront properties have been conducted with considerable irregularities. In one settlement, these preparatory stages for demolition have been accompanied by excessive use of force by Nigerian security forces. At least 12 people were shot and seriously injured in Bundu waterfront on 12 October 2009 when armed security forces opened fire on a crowd of people peacefully protesting against the proposed demolition of their homes. Eyewitnesses told Amnesty International they saw six dead bodies piled in the back of a Hilux police pick-up truck. One body was traced to a morgue by a relative. The total number of dead remains unknown. A year later, no investigation has been carried out.⁵

Nigeria is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other international and regional human rights treaties, which require it to realize the right to adequate housing, and to prevent and refrain from carrying out forced evictions. Under international human rights law and standards, the government must carry out genuine consultation with communities to identify all feasible alternatives to evictions and on resettlement options, provide adequate notice, adequate alternative

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Port Harcourt's waterfront settlements are built on reclaimed land along the city's shoreline. Though some residents hold temporary occupancy licences, issued by the authorities, that permit them to build temporary structures, others have no documentation for their ownership and use of the land. Some residents have lived in the waterfronts for more than 30 years.

accommodation, compensation, and effective remedies. Under state law, the Rivers State government is required to set up bodies to oversee the "upgrading" process, carry out public consultations and explore alternatives to demolitions.⁶ National and state laws also require governments to provide alternative accommodation and/or compensation.⁷ The Rivers State government is failing to meet these obligations to the Port Harcourt waterfront residents.

The demolition of the waterfronts in Port Harcourt also runs contrary to Nigeria's commitment to the UN Millennium Development Goals (MDGs), specifically to reduce the number of people living in slums by 2020 (Goal No. 7, Target 11). Demolition of the waterfronts, far from solving the problem of slums, will push Nigeria further away from achieving its MDG targets, by driving

people further into poverty and into more insecure and overcrowded housing. It also contradicts the state government's own goals on poverty reduction as described in the Rivers State Economic Empowerment Development Strategy (RIVSEEDS), which commits the authority to the "gradual phasing out of waterfront settlements through annual reconstruction and allocation."⁸

This report documents the August 2009 forced eviction of Njemanze waterfront residents and examines failures by the Rivers State government to provide safeguards against forced evictions in its preparation for the demolition of other settlements in the waterfront areas.

The report is based on interviews and research carried out in December 2009 and April 2010 in Port Harcourt. Amnesty International delegates visited the waterfront sites and met families whose homes had already been demolished and others whose homes were at risk of demolition. They interviewed property owners, tenants and landlords, and residents who had been subjected to excessive use of force in Bundu. They also met the governor of Rivers State, the Commissioner for Urban Planning and Development, and the Administrator of the Greater Port Harcourt Development Authority. They spoke to lawyers, human rights NGOs, community-based organizations (CBOs), and tenant, house-owner and landlord associations.

Amnesty International is calling on the Rivers State authorities to cease all forced evictions immediately and to adopt a moratorium on all evictions from the waterfronts in Port Harcourt. The moratorium must remain effective until all necessary safeguards have been put in place to ensure that evictions are carried out in accordance with international human rights law and standards, including the development of a resettlement plan to provide adequate alternative housing to residents. The authorities should undertake a genuine public consultation on the Greater Port Harcourt Master Plan and ensure that it complies with international standards, in particular on the right to adequate housing. They should also fully implement the Rivers State 2003 Physical Planning and Development Law No. 6, by establishing all required legal bodies to oversee planning and development in the state.

2/BACKGROUND

Port Harcourt, capital of Rivers State, is located in Nigeria's oil rich Niger Delta. The waterfront settlements are built on reclaimed land along the city's shoreline. Accurate information on the number of people living in the waterfronts is not available but it is estimated to be between 200,000 and 500,000 people.⁹ The vast majority of residents are believed to be tenants. The failure by the Rivers State government to collect comprehensive data about all residents including tenants prompted the UN Human Settlements Programme (UN-HABITAT), in their 2009 report, to stress the "urgent need for a thorough enumeration" in unplanned settlements in Port Harcourt.¹⁰

Because the reclaimed land on which the settlements were built is not officially designated as residential, the residents have frequently been issued Temporary Occupancy Licences (TOLs). These licences permit the holder to build temporary structures but exclude the use of certain permanent building materials, such as concrete. TOLs can be revoked with just seven days notice and without payment of compensation. Most of the waterfront structures have been built with permanent material not permitted under the terms of the TOL. However, as UN-HABITAT has pointed out, by regularly renewing residents' TOLs, the state government is "tacitly tolerating and recognizing these settlements."¹¹ Other residents have no documentation for their ownership and use of the land. Some have lived in the waterfronts for more than 30 years.

UN-HABITAT and the Nigerian NGO the Social and Economic Rights Action Center (SERAC) have

FORCED EVICTIONS

The UN Committee on Economic, Social and Cultural Rights defines a forced eviction as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection."¹⁸

The Committee has emphasized in its General Comment No. 7 that evictions may be carried out only as a last resort, once all other feasible alternatives to eviction have been explored and all procedural protections are in place. These include "an opportunity for genuine consultation with those affected; adequate and reasonable notice for affected persons prior to the eviction; information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected... government officials or their representatives to be present during an eviction; all persons carrying out the eviction to be properly identified; evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; provision of legal remedies; and provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts."¹⁹

Adequate alternative housing and compensation for all losses must be made available to those affected, regardless of whether they rent, own, occupy or lease the land or housing in question. Evictions must not "render individuals homeless or vulnerable to the violation of other human rights."²⁰

The prohibition on forced evictions does not, however, apply to evictions carried out in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

The UN Commission on Human Rights has also recognized that forced evictions constitute gross violations of a range of human rights, in particular the right to adequate housing.²¹



Satellite images show the removal of approximately 375 buildings in Njemanze waterfront, Njemanze Street and Abonnema Wharf Road between 19 February 2008 (date of image above) and 11 February 2010 (date of image on p. 5). Analysis by the American Association for the Advancement of Science.

suggested that, as the waterfront settlements are built on reclaimed land, some of the land is likely to fall under the jurisdiction of the National Inland Waterways Authority and not the state governor. The National Inland Waterways Authority has the right to all land within the right of way of such waterways. If the waterfronts fall under the jurisdiction of the National Inland Waterways Authority, it would mean that the governor did not have the authority to order demolitions on this land.

FORCED EVICTIONS IN THE WATERFRONTS

On taking office in October 2007, the governor of Rivers State announced the plan to rebuild Port Harcourt. He also announced the suspension of demolitions in the waterfronts, a policy of the previous administration, stating: "We believe that the concerns of the residents of these waterfronts should be carefully considered before a final decision is reached on this matter."¹² However, in July 2008, the governor said during a radio broadcast that all waterfronts would be demolished as part of a programme of "urban renewal".

In February 2009, demolitions of buildings and other structures took place along Abonnema Wharf road,¹³ including the local office of the National Union of Tenants Nigeria (NUTN). According to UN-HABITAT approximately 40 to 50 buildings and other structures were destroyed.



The Secretary General of the NUTN told Amnesty International that, when their offices were demolished in February 2009, “all the property belonging to National Union of Tenants in its office including cash, documents and furniture and fittings were carried away by the state government, which claimed that it had acquired the building and everything in it.”

On 6 November 2009, buildings along Njemanze street, adjacent to Njemanze waterfront, were also demolished; scores of people living there were forcibly evicted. Residents who had relocated there following the demolition of Njemanze waterfront were forcibly evicted a second time. All of the demolitions were carried out without prior consultation with the residents and without the provision of adequate notice, compensation or alternative accommodation.

In 2009, the UN Special Rapporteur on adequate housing sent three communications to the Nigerian government, including two urgent appeals, expressing

concern over the situation in Port Harcourt and requesting further information. No response was received.¹⁴

On 21 August 2009, UN-HABITAT submitted to the Rivers State government a report of their March 2009 fact-finding mission to Port Harcourt, in which they expressed concern that the majority of residents affected by the demolitions had been forcibly evicted from their homes and properties.¹⁵ It recommended that the Rivers State government declare an immediate moratorium on demolitions and evictions in the city until further safeguards could be fully implemented,¹⁶ concluding that: “the present policy is non-inclusive and not pro-poor and not in compliance with the Habitat Agenda.”¹⁷ The Rivers State government ignored the report and the recommendation. Seven days later Njemanze waterfront was demolished.

3/PORT HARCOURT'S 'URBAN RENEWAL' PROGRAMME

In his July 2008 radio address, the governor of Rivers State announced that all the waterfronts would be demolished as part of a programme of "urban renewal" for Port Harcourt. This programme has been developed without any consultation with the affected communities and without their participation. Although mass evictions are planned under the renewal programme, the authorities have not developed any resettlement plan to provide the hundreds of thousands of people who will be evicted with alternative accommodation. They have also only offered compensation to structure owners, completely ignoring tenants under the plans.

Under Nigerian state and federal law, the eviction of people from their homes is legal provided that certain procedures are followed. According to Nigeria's National Land Use Act 1978, which places all urban land under the control and management of the state governor, who in turn allocates land to individuals and organizations, it is lawful for the governor to revoke a right of occupancy where it serves the greater public interest. The Act provides for the payment of compensation and, in the case of residential buildings, for the option of relocation.²²

However, the Rivers State government claims to have undertaken a buy-out scheme, purchasing all the properties in the waterfront and paying owners a replacement value for them. Under this scheme,

tenants have no entitlements and house owners who do not want to sell their properties are given no alternative. The governor of Rivers State told Amnesty International that residents who refuse to have their houses valued will not be compensated for the loss of their property. However, their houses will still be demolished with no offer of alternative accommodation.

The Rivers State government has cited its 2003 Physical Planning and Development Law No. 6 as providing the legal basis for the demolition of the waterfronts and the eviction of the residents. However, Law No. 6 stipulates that an "Urban Renewal Board" should be established to oversee all urban planning and development in the state.²³ This Board would be empowered to declare an area, such as the waterfronts, to be an "improvement area".²⁴ Once land has been designated as an "improvement area", the authorities must consult affected residents, and provide alternative housing. Law No. 6 also imposes restrictions on demolitions.²⁵ No Urban Renewal Board has been established in Rivers State.

Law No. 6 also establishes specific bodies to oversee all matters affecting physical planning and development in the state, including planning approvals, the serving of enforcement notices, and the demolition of buildings and revocation of rights of occupancy. These bodies include: the Rivers State Urban and Regional Planning Board; the Local Planning Authority; a Development Control Department; the Urban and Regional Planning Fund; and the Urban and Regional Planning Tribunal (which is empowered to investigate and adjudicate on the same matters). None of these bodies have been set up.

In failing to put in place the necessary legal bodies to oversee the demolition and redevelopment of the area, the Rivers State government has contravened state law.

The Rivers State government has also failed to explore all possible alternatives to demolition provided for under Law No. 6. Article 59 states that structures lacking the required development permits may also be altered or varied, but the government has not explored these options as alternatives to evictions.²⁶



A 'MASTER PLAN' FOR THE CITY

In 2007, Arcus GIBB, a construction, engineering and consultancy firm based in South Africa, was contracted to develop a "master plan" for Port Harcourt, updating an earlier plan formulated in 1975 but never implemented.²⁷ The plan, launched in April 2009, is intended to guide the development of the city for the next 50 years. It encompasses the entire city and some surrounding areas and the "development of the waterfront promenade" is a central feature.²⁸

The Committee on Economic, Social and Cultural Rights has stressed the importance of genuine consultation with, and participation by, affected communities in the design of housing strategies and programmes, to ensure that they are relevant and effective and that human rights are respected.²⁹ The Nigerian government is also obliged to respect the

Bulldozers demolish Njemanze waterfront, 28 August 2009. Residents did not have time to pack their things. Many lost everything.

rights to information and to participation in public affairs, as protected by Articles 19 (2) and 25 (a) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Nigeria on 29 July 1993.³⁰

No public consultations were carried out before or during the development of the Port Harcourt master plan. A Nigerian developer told Amnesty International: "the Greater Port Harcourt Master Plan is a standard town planning manual. Although it runs to four volumes, there are few specifics. No in-depth socio-economic study was done. Ideally it should have taken a couple of years. There should have been a household survey, a social survey."

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Many of Port Harcourt's waterfront residents also run businesses within the settlements. Nigeria's informal economy is estimated to account for 60 per cent of employment.

Amnesty International and other NGOs in Nigeria requested copies of the plan from the Greater Port Harcourt City Development Authority but the plan was not available. The only publicly available document is a map, the Greater Port Harcourt City Spatial Development Map, with zoned areas of residential and non-residential use. These residential areas are indicated as low, medium or high density. The areas on the map where there are currently waterfront settlements are designated as "built-up areas," rather than residential ones.

LACK OF ADEQUATE ALTERNATIVE HOUSING

“[Residents] are not entitled to anything because the land is not their own, it is government land, and they were not allocated land to build other than a few of them for temporary stay.”³¹

Rivers State Commissioner for Urban Development

The UN Committee on Economic, Social and Cultural Rights has clarified that adequate alternative housing and compensation for all losses must be made available to those affected by evictions.

The Greater Port Harcourt City Development Authority, which is responsible for implementing Port Harcourt's master plan,³² states in its plan showreel that the development of the waterfronts will “go hand in hand with the implementation of a strategic relocation plan to ensure that the people currently living in unsafe and flood-prone areas [are] resettled in newly serviced areas.”³³ However, no details of the relocation plan are available and the Rivers State government has confirmed that they have no plans to relocate waterfront residents following their eviction.³⁴ The governor told Amnesty International: “We need to just move them and they will have to find their own accommodation.”³⁵

The Authority suggested that residents would be able to move to new buildings in another part of the city, but that people will be expected to take up these opportunities through their own means. No additional financial assistance will be available. The state government claims that “residents of the waterfronts [will be able] to... buy residential units for between 2 and 5 million naira” (US\$13,000-32,000).³⁶ However, according to a local developer citing the example of Rainbow Town, where up to 10,000 people were displaced to make way for luxury flats, “the cheapest flat is expected to be approximately 40 million naira, an amount equivalent to US\$264,000”. This figure is well beyond the reach of the waterfront residents.

THE SILVERBIRD SHOWTIME DEVELOPMENT

Port Harcourt's redevelopment is to be funded partly by the Rivers State government and also by public private partnership initiatives.³⁷ The settlements of Njemanze waterfront, Njemanze street and Abonnema Wharf road, which have already been demolished, and Abonnema Wharf waterfront which is targeted for demolition next, are all within a 2km radius of one such project, “Silverbird Showtime”. According to UN-HABITAT, the demolitions at Njemanze waterfront and adjacent areas, and the planned demolition of Abonnema Wharf waterfront are “motivated by the Silverbird Showtime project.”³⁸ UN-HABITAT estimated that the demolitions of Abonnema Wharf and Njemanze waterfronts alone would affect 45,000 people.

The Silverbird Showtime development consists of an eight-screen cinema, opened in April 2009, and other planned commercial projects including a theme park, a conference centre, a shopping mall and a hotel. In a Memorandum of Understanding (MoU) between the Rivers State government and Silverbird Communications Ltd, which owns the development, the government agrees to ensure “peaceful evacuation and relocation of present occupants”. It also states that the Rivers State government will ensure neat surroundings within a 2km radius of the site. The Rivers State government provides 20 per cent of the investment for the enterprise, and receives 20 per cent of the profits in return. It is expected to lease the land to Silverbird for 99 years.³⁹

According to a Nigerian developer, similar arrangements will govern the redevelopment of the other waterfronts: “The government provides land and the private developer provides money. The government's part of the deal is to ensure the land is unoccupied and unencumbered. Once the government has done that, [the project] gets developed and [the government and the company] share the profits. Silverbird is the model. Ordinarily, public private partnership isn't a problem, it happens all over the world, but the duty of care is missing here.”

4/LACK OF PRIOR CONSULTATION AND ACCESS TO INFORMATION

“The people are not saying the demolition is bad. They are saying [it] is a developmental process. You must come down to the people, liaise with the people properly, then, most importantly, you have to relocate the people somewhere... You don’t just come and demolish the place and throw the people away. Where will they go to?”

Fubara Tokuibiyi Samuel, Community Organizer in Port Harcourt

The UN Committee on Economic, Social and Cultural Rights has stated that “States shall ensure prior to carrying out any evictions, particularly those involving large groups, that all feasible alternatives are explored in genuine consultation with the affected persons”⁴⁰

The UN Basic Principles and Guidelines on Development-based Evictions and Displacement⁴¹ (Basic Principles), as developed by the UN Special Rapporteur on adequate housing, reflect existing standards and jurisprudence on the issue of forced eviction. They include detailed guidance on the steps that should be taken prior to, during and following evictions in order to ensure compliance with relevant principles of international human rights law. The Basic Principles provide that “States should explore fully all possible alternatives to evictions. All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider”.⁴²

The authorities have failed to comply with these requirements. Residents of the Port Harcourt waterfront settlements have not been given adequate information about the proposed demolitions there or the intended use of the land. According to residents interviewed by Amnesty International, the Rivers State government has only engaged with house owners who are willing to sell their properties and has not undertaken consultations with other potentially affected members of the communities.

In an attempt to make the governor engage with their concerns, waterfront residents have petitioned the state and federal governments and staged numerous protests.

On 9 July 2009, the governor met waterfront community leaders at Government House in Port Harcourt. However, instead of establishing a genuine consultation process, the governor, who has repeatedly stated that “there is no going back on the demolitions”,⁴³ threatened to use the combined forces of the police, navy, air force and army to demolish the waterfronts: “[Mobile police] men will be there with their guns; policemen will be there with their guns; army will bring their own; air force bring their own; navy will bring their own for me to go and take back my land.”⁴⁴

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Rooftops of Elechi Beach waterfront, situated next to Njemanze. Enumeration has taken place, but house owners have not been told how much they will receive for their properties.

When a woman attending the meeting told the governor that the women of the waterfronts would not agree to sell their land, the governor replied: "When I am coming [to demolish] even you, you will run... inside Government House, [there are] army trucks, that one that can shoot you. It is here... I will show you one. But I won't use it, because you are my own people. I am begging for you not to confront government... This one [Njemanze] they are finished [paying], I will go and pay and start demolishing so that you will know I am serious... Give me seven days. I will start demolishing the ones I have paid for, so that you will know I am serious. And once I finish that one, nothing will stop me from [continuing to demolish outwards]."⁴⁵

On 14 and 15 July 2009, hundreds of residents from the waterfronts marched through Port Harcourt to protest against the demolition and to seek an audience with the governor. Several people were arrested on their way to Government House. Love Basset Okpabio was one of the tenants that tried to meet with the governor: "We march to the Government House [but] a lot of us were held back. Police catch us... we have to bail ourselves out of [jail]... They catch both men and women. My cousin was among them. [He stayed] four days [in detention] and [paid] bail [of] 5,000 naira (approximately US\$30)... [At the demonstration] they say we are illegal people, that they have paid the landlord." On 6 October 2009, protestors prevented an attempted enumeration at Bundu waterfront.

The lack of consultation and information about the waterfront demolitions has fuelled rumour and speculation among residents and heightened tension in the area. SERAC warned in their September 2009 briefing that the way the Rivers State government undertook the demolition of Njemanze waterfront, and the planned demolition of the other waterfronts "has succeeded in pitching landlords against tenants, tribes against tribes... 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... demolition of the waterfronts [is] widely perceived to be motivated by political and ethnic considerations..."⁴⁶

5/TENANTS' RIGHTS IGNORED

Communication between the state authorities and waterfront residents has been almost exclusively with house owners. Tenants have been entirely excluded. Most landlords have not passed on any information to their tenants. According to the Rivers State Commissioner for Urban Development, this is because there are very few tenants in the waterfronts. Other agencies and organizations have stated, however, that the majority of residents in the waterfronts are believed to be tenants. Max Lock Consultancy, in their 2009 study, estimated a ratio of five tenants to one landlord.⁴⁷

As a result of the lack of compensation, alternative accommodation and assistance with relocation, waterfront tenants who have been forcibly evicted from their homes struggle to find places to stay. To secure rental accommodation in other parts of the city, prospective tenants are often required to pay a deposit of one or even two years' rent in advance. Many tenants are too poor to go anywhere else.

Tenants whose homes are marked for demolition and who are consequently at risk of eviction are living in considerable insecurity and uncertainty. Charity Roberts has lived in Bishop Johnson waterfront since 1989. She and her four children aged between 8 and 23 share two rooms between them. Charity teaches in a primary school nearby. She says that if Bishop Johnson waterfront is demolished she will have nowhere to go. Concerned about the future, she says: "I've thought of going. Cash is the problem... Right now, people don't even have enough

to eat. How will they relocate? There are some people [whose livelihood depends on] the waterside [fishing, etc.]. What would they do? Since I don't have money, I would stay here [too]... Even for me it is going to be a very big problem. What of those that have no education?"

THE STATE GOVERNMENT'S RESPONSIBILITY AS LANDLORD

The state government's buy-out scheme to purchase all waterfront properties from the owners prior to demolition makes it the legal owner of those properties and, by default, the landlord to any tenants still living there. According to the National Union of Tenants Nigeria, this new relationship between the government and the tenants imposes upon the government a legal duty to serve on any tenant a written notice to quit and a court order for possession before they can be evicted.⁴⁸

In July 2009 the Commissioner for Urban Development announced that the "government would not be responsible to any tenant whose rent has not expired before the demolition starts" and directed landlords to stop collecting rent from tenants.⁴⁹ However, this does not negate the landlord's legal obligations to the tenant.

The Rivers State Rent Control and Recovery of Possession of Premises Edict No. 3 1984, Section 38, states that "[N]o person shall demolish, remove the roof of, alter or modify a building to which this edict applies with a view to ejecting a tenant without the approval of [a] tribunal." Any person who does so "shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred naira or imprisonment for three months or both."⁵⁰

Most landlords in Njemanze who sold their property to the state government vacated before the demolitions began. The demolition notices, although addressed to landlords, were in effect served on tenants. UN-HABITAT noted in its 2009 report that "it appeared that the [Rivers State government] served Demolition Notices on the tenants of its own buildings and evicted them without any court order, thus violating statutory rental legislation."⁵¹

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Members of the Abonnema Wharf Community House Owners Association.

6/IRREGULARITIES IN THE ENUMERATION PROCESS

“We have given notices for enumeration but we have not decided when we are going in for demolition.”

Commissioner for Urban Development

Enumeration involves the collection of detailed information about a community, including about tenants, landlords, women, children and men, young and old. It is a mapping exercise to assess which services might be needed in a community, such as health clinics and schools. In the context of planned evictions, it is necessary in order to know how many people may have to leave their homes and may also include an inventory of possessions and goods that may be damaged. This process has not been undertaken in Rivers State.

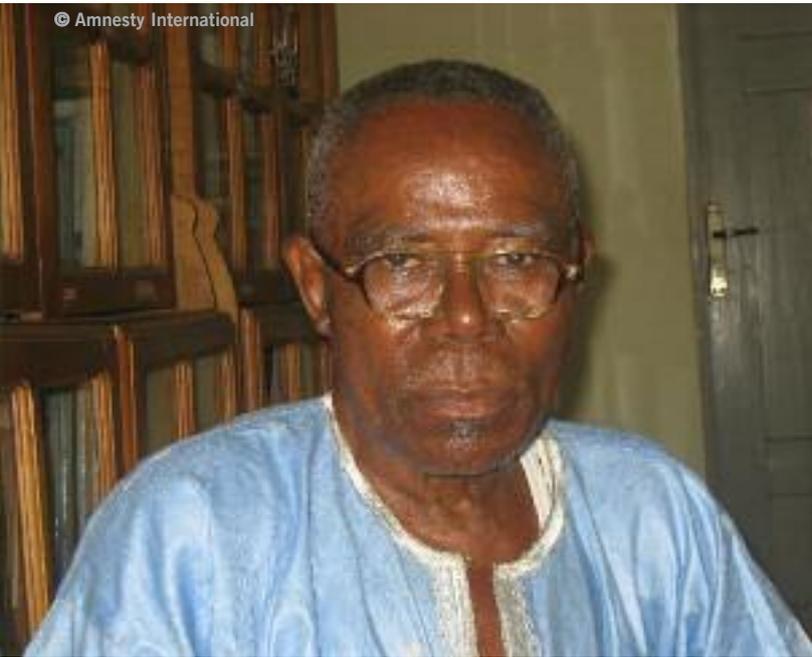
Valuation is a separate process to enumeration and is used to determine the value of properties prior to a sale or other acquisition processes. Enumeration can be a useful tool for authorities prior to any redevelopment process to identify the people who will be affected and likely impact. It does not need to result in evictions. However, the way in which the Rivers State government is conducting enumerations fails to identify all affected people. Tenants are excluded from the process. It has



Blessing Briggs, a 54-year-old widow and landlady of a property at Abonnema Wharf waterfront, who received no notification of the enumeration that took place in her area.

also used the process largely for valuation of properties to determine compensation for structure owners rather than assess impacts of evictions on all affected residents.

In the case of the waterfronts, the NGO Stakeholder Democracy Network told Amnesty International: “Enumeration has been undertaken primarily to determine issues around compensation in relation to the proposed demolition, in many instances enumeration was carried out at the same time as valuation. And it has been carried out by the same government agencies that are doing the demolitions. It is understood by all stakeholders to be related to the demolition [process].”



Pastor Harrison Dication Wokoma, a resident of Abonnema Wharf waterfront, and president of Abonnema Wharf House Owners Association.

On 10 February 2009, the Rivers State authorities began the enumeration of houses at Abonnema Wharf waterfront. Local landlady Blessing Briggs, a 54-year-old widow, did not know the valuers were coming: "I heard from people... [that the waterfronts would be demolished]. They say [the governor] want to pay money and make [us] pack... I receive no notice [of the enumeration exercise], no pre-information; [the enumerators] just come."

Enumeration and valuation of the waterfront properties have often been carried out by private companies. Throughout, the process has been characterized by a lack of transparency.

House owners in Abonnema Wharf and Elechi Beach waterfronts told Amnesty International that when they agreed to the enumeration and valuation of their

properties, they were required to sign over Power of Attorney to the valuers, who deducted 10 per cent of the total compensation awarded as professional fees. This fee was non-negotiable and was not fully explained to the house owners beforehand. Property owners were not told what final valuation had been placed on their properties.

Pastor Harrison Dication Wokoma, a resident of Abonnema Wharf waterfront, which is earmarked for demolition, and president of Abonnema Wharf House Owners Association, told Amnesty International: "I have a property in Abonnema Wharf community... I was not served notice... [There was] no letter. [The Association] had a series of meetings. We are not in favour [of the demolition unless] due process is taken... [Then the] government sent people, enumerators and valuers to put numbers and mark buildings. I was in the house when they came. They only said 'whose house is this?'... Later we... had our own valuers... But [there is] no renegotiation, no comparison to know which work is acceptable. I don't know how much government wanted to pay."

AkpoBari Celestine, a project officer at Social Action, an NGO based in Port Harcourt, told Amnesty International: "Any enumeration carried out without community co-operation and participation is an exercise that was not planned for the good of the people... the enumeration ended up as a select act to count houses of those who support government and leaving out those who said no to such activity."

EXCESSIVE USE OF FORCE DURING ENUMERATION AT BUNDU

On 12 October 2009, government authorities accompanied by armed police and members of the Joint Task Force (JTF) – which comprises members of the army, navy, air force and police – went to Bundu waterfront community to conduct an enumeration and assess the value of structures earmarked for demolition there.

Bundu is one of the largest waterfronts in Port Harcourt and home to more than 20,000 people.⁵² An

enumeration had also been attempted on 6 October 2009 but residents gathered at the entrance of the community and the enumerators and security forces did not enter.

Residents learnt of the second planned enumeration the day before and on 12 October a crowd gathered at the entrance to the community, next to the city's prison, to protest against the enumeration and the proposed demolitions. Those present at the protest described it as peaceful, with many women and children singing and chanting songs. At around 8.30am, two Mobile Police armoured personnel carriers approached the entrance of the community and parked next to the prison. At 9am a convoy of approximately 10 police and army vehicles approached the prison junction.⁵³ A small armoured vehicle leading the convey drove into the crowd and security forces opened fire.

Amnesty International interviewed 12 people who were shot and seriously injured by security forces during the incident.⁵⁴ In addition, eyewitnesses told Amnesty International they saw six dead bodies piled in the back of a Hilux police pick-up truck. One body was traced to the morgue by a relative. Another man who was arrested that morning has not been seen by his family since.

Tamuno Tonye Ama, a 34-year-old man who took part in the protest, said: "Without any warning, the soldiers started shooting. They first fired shots in the air and they drove their vehicles to the end of the road. Members of the community who were leading the protest told people not to run because, at the time, they believed that the government would not shoot to kill... The soldiers started shooting again but this time, they fired shots into the crowd. I was shot on my left thigh and the bullet is still lodged in my flesh... We tried to run away but there was nowhere to go. Soldiers kept firing and... charged towards the crowd and people were now running all over the place."

As people ran away, members of the security forces followed them into the waterfront, shooting as they went. According to eyewitnesses, security forces continued right through the waterfront up to the water's edge. Amnesty International saw bullet holes in



Augustine Onwe (pictured centre) was shot twice during the protests at Bundu Waterfront while on his way to work. He hid in a nearby house until the soldiers pursuing him went away. He was later treated for his wounds at Teme Clinic.

buildings and structures along the route that the security forces used. Seventeen-year-old Belinda Joy Williams was shot in the leg while she was in her house. The bullet broke her thigh bone and she had to wear a leg brace for several months.

It was reported that, after the shooting, members of the security forces accompanied enumerators into the waterfront to continue with their work.

Despite clear evidence that the security forces opened fire, shot and injured several people during the Bundu enumeration, the governor of Rivers State told Amnesty International: "There was no firing, no shooting and no one was killed or injured on the day. In fact, nothing



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Seventeen-year-old Belinda Joy Williams was shot in the leg while in her house, some 100m away from where soldiers and police officers opened fire on residents protesting about an enumeration at Bundu Waterfront, 12 October 2009. The bullet broke her thigh bone and she had to wear a leg brace for several months.

happened at all.”⁵⁵ In a somewhat contradictory statement that appeared to be a justification for the use of force and firearms, the Commissioner for Urban Development claimed that the government authorities had been attacked.⁵⁶ However, no other witnesses reported seeing anyone other than security officers carrying or firing weapons. No soldiers or police officers were injured.

Several women at the Bundu waterfront protest were beaten by members of the security forces. Patience Osirn had been taking part in the protest. On hearing the shooting, she ran back to her house where her three children were: “I tell them lie flat and stay like that ‘till after the sound stops. [The army men] they follow me

and as I lock the door, they just smash the door open. The small one begins to vomit. Two [soldiers] came in and begin beating me. They are with guns... My son says ‘leave my mum alone, don’t beat her.’ One of the army men beat [my] son to keep quiet. He’s 12 years old. They beat him a lot on his head and body with hand and boots... One of them carried [away] the television... They confiscated [my husband’s] documents, stole our money. As to this day, that fear is still inside me.”

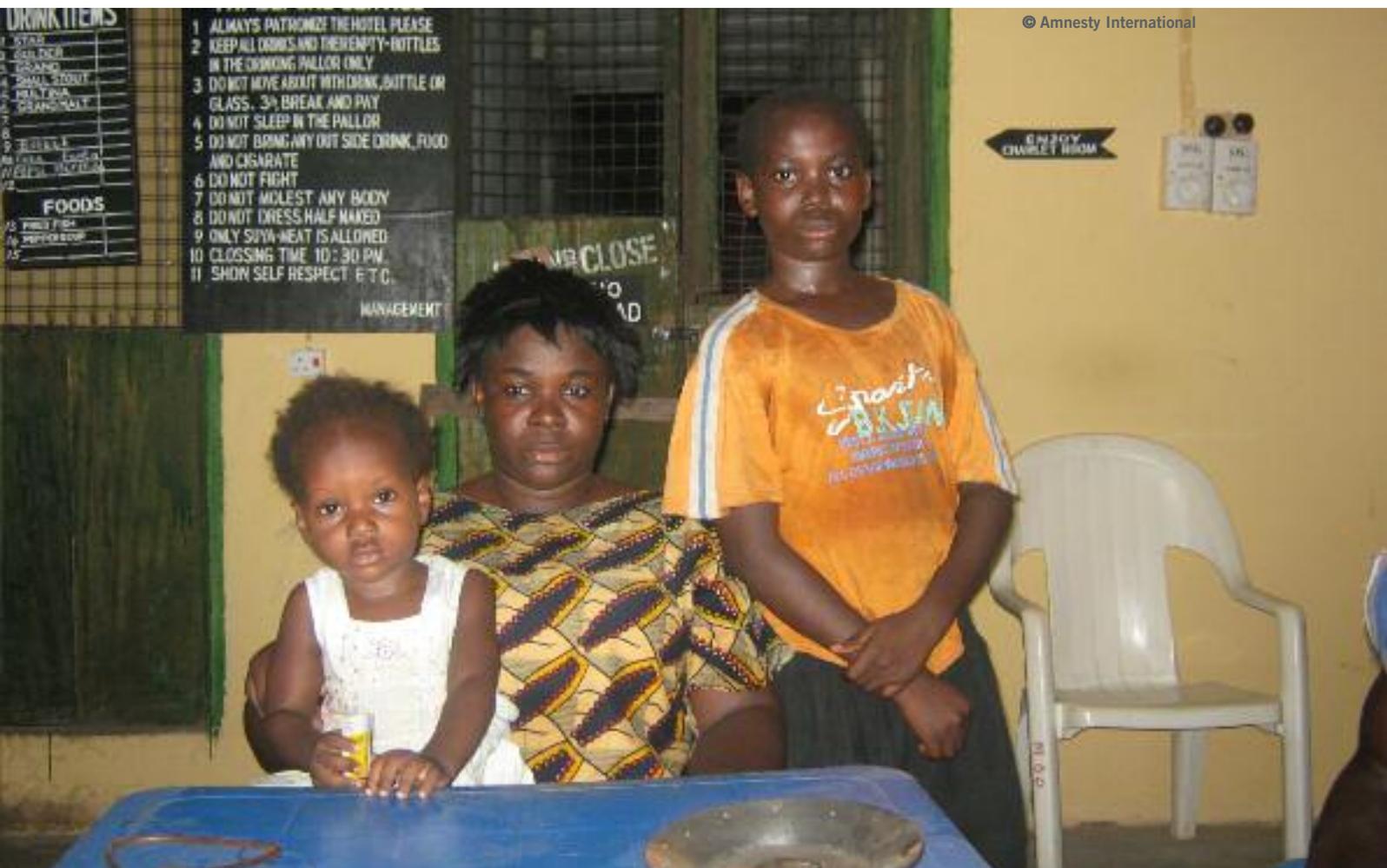
Amnesty International viewed damage to doors and locks that residents and business owners said was caused by security forces forcibly entering their properties.

INTERNATIONAL STANDARDS ON THE USE OF FORCE AND FIREARMS

When police or other security forces carry out evictions they must uphold international human rights law and standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The excessive use of force by Nigeria’s security forces in Bundu waterfront community on 12 October 2009, including the use of firearms on protesters, is contrary to Nigeria’s international human rights obligations and national laws.

Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials make clear that firearms can only be used in very limited circumstances, for example when there exists a grave or imminent threat of death or serious injury and when strictly unavoidable in order to protect life.”⁵⁷ Principle No. 3 also restricts the use of “less than lethal weapons”: “The use of ‘less than lethal’ weapons, such as tear gas or pepper spray, should be carefully controlled to minimize the risk of endangering uninvolved persons.”

Principle No. 12 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials clarifies that security forces must not use force to



disperse lawful and peaceful assemblies. Principle No. 14 states that, in the case of violent assemblies, security forces must only use firearms when less dangerous means are not practicable and only to the minimum extent necessary.⁵⁸

Whenever the use of force and firearms is unavoidable, law enforcement officials must “exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.”⁵⁹ By misusing lethal force or using excessive force in a manner that violates the principles of necessity and proportionality, the police and other security forces can violate the prohibition against “arbitrary deprivation” of life.⁶⁰

During preparations for evictions in Bundu waterfront, Nigerian security forces used excessive force against residents, who were intimidated, beaten and shot at. One resident, Patience Osirn, ran back to her house where her three children were when she heard the shooting but security forces followed her there.



Njemanze waterfront residents' personal belongings are piled at the side of the road near the site of the demolition. People had nowhere to go and no time to pack.

In addition to the right to life, the actions of the security forces also violate other rights, such as the right of peaceful assembly. The right of peaceful assembly is protected by Article 21 of the ICCPR, ratified by Nigeria on 29 July 1993;⁶¹ and by Article 11 of the African Charter on Human and Peoples' Rights, ratified by Nigeria on 22 June 1983.⁶²

7/PROVISION OF LEGAL REMEDIES

The Committee on Economic, Social and Cultural Rights has stressed that "legal remedies or procedures should be provided to those who are affected by eviction orders"⁶³ and where necessary and possible, legal aid should be provided to people who are in need of it to seek redress from the courts.⁶⁴

Many waterfront residents in Port Harcourt are already living in poverty. Those evicted are unlikely to be able to afford lawyers' or court fees, and the government-funded Legal Aid Council is unable to provide assistance for everyone who needs it, with insufficient lawyers to cover the whole country.

When demolition notices were served, no information about procedures for challenging the demolition was provided.

Further barriers to legal remedies arise from the non-justiciable status of social and economic rights in Nigeria. Chapter 2 of Nigeria's 1999 Constitution, Section 16 (2) (d) directs the state to ensure that suitable, adequate shelter is provided for all citizens.⁶⁵ However, as with other provisions on social and economic rights, this falls within the Constitution's "directive principles". As such, it is not justiciable and therefore remains unenforceable in Nigeria's courts.

Chapter 4 of the 1999 Constitution protects "fundamental rights", which are justiciable and therefore enforceable in Nigerian courts. With the

assistance of human rights and legal NGOs, some cases have been filed at court for the enforcement of residents' fundamental human rights.⁶⁶ Despite ongoing court cases, the Rivers State government has continued with demolitions.

In August 2008, tenants of Abonnema Wharf road filed a suit at the Federal High Court in Port Harcourt, *National Union of Tenants Nigeria vs the Federal Republic of Nigeria* (FHC/PH/CS/563/2008), for the enforcement of their fundamental human rights. They were seeking an injunction against the Rivers State government to prevent the demolition of the buildings they occupied on Abonnema Wharf road. The court issued a motion in the absence of the government of Nigeria on 11 August 2008, granting the applicants leave to apply for the injunction. However, the government continued to prepare for demolitions, which were eventually carried out while the suit was still pending.

Immediately before the demolition of the buildings along Abonnema Wharf road, a notice of consequence of disobedience to court order was served on the Commissioner for Urban Development. Dated 2 February 2009, it warned: "Take notice that unless you obey the directions contained in this order you will be guilty of contempt of court and will be liable to be committed to prison." The buildings were demolished between 9 and 13 February 2009.

In a separate case on 30 July 2009, waterfront community leaders filed a suit in the Federal High Court (PHC/CS/13609/2009) seeking "an order of perpetual injunction" on the Rivers State government, preventing them from demolishing the waterfront settlements. On 14 August, the case was adjourned to 13 October 2009, and the court advised all parties to "maintain status quo ante". On 28 August 2009, Njemanze waterfront was demolished. On 12 October 2009, the day before the first hearing of the case was scheduled to take place, security forces opened fire on people protesting against the attempted enumeration at Bundu waterfront.⁶⁷

8/FORCED EVICTIONS IN NJEMANZE

"They gave [s]even days notice. Just one week. That is not a notice.... We thought they were playing, we never knew they were serious, up until they came with their bulldozers...."

Taribo Bobmanuel, a former resident of Njemanze waterfront

LACK OF ADEQUATE NOTICE

Formal notice of the demolitions along Abonnema Wharf road, Njemanze street, and the entire Njemanze waterfront was given just seven days before the demolitions were due to take place. In Njemanze waterfront, removal notices were pasted on buildings and demolition notices served on occupiers on 13 August 2009.⁶⁸ The notices informed "the developer" that their building or structure would be demolished seven days from the date of issue.

Under Nigerian law, those residents issued with temporary occupancy licences may have their licences revoked with seven days notice and without the payment of any compensation.⁶⁹ Residents who built in the



Nene Briggs and her children. Thirteen-year-old Queen Briggs (bottom right) was at home eating breakfast with her mother and sisters when she heard people shouting “bulldozer, bulldozer”. Queen was running out of her house when she fell over and broke her leg. She was taken to a local trauma clinic, where she was operated on. She has been wearing a leg brace ever since.

waterfronts without applying for any type of certification or licence have no formal ownership documents.

The UN Committee on Economic, Social and Cultural Rights has stated that adequate and reasonable notice must be provided to all affected people prior to the scheduled date of eviction.⁷⁰ The Basic Principles provide that “Due eviction notice should allow and enable those subject to eviction to take an inventory in order to assess the values of their properties, investments and other material goods that may be damaged. Those subject to eviction should also be given the opportunity to assess and document non-monetary losses to be compensated.”⁷¹ All affected people must be served notice, irrespective of their tenure status. The authorities failed to give notice to all affected parties and the notice that was provided was

also inadequate as the time period was too short.

Although many of the tenants in Njemanze waterfront were aware of the governor’s announcement regarding demolitions, most did not know specific details, or simply did not believe the bulldozers would come. At the time of enumeration and valuation, buildings were marked with large crosses and numbered, but exact dates were not given until seven days before the demolition took place. Confidence Log, a former resident of Njemanze, told Amnesty International: “I came [home] and there was a cross on the wall. I hear something on the radio that they will [demolish the buildings], they didn’t give a specific date.”

When the demolition crews arrived on 28 August 2009, most residents did not have enough time to pack their belongings and were forced to run from their houses with what they could carry.

Thirteen-year-old Queen Briggs was at home eating breakfast with her mother and sisters when she heard people shouting “bulldozer, bulldozer”. Queen and her family did not know that they were coming that day: “Mummy now went outside to look. When she went down to the waterside she saw bulldozers. People were shouting ‘you people should pack, you people should pack’ so we start packing. I took our bag [out of the house]. I did two trips. My mum said I should not come [into the house] again. As I went down a third time I fell down on the step. My leg opened. I could see bone.” Queen Briggs was taken to a local trauma clinic, where she was operated on. She has been wearing a leg brace ever since.

Those who were not at home when the demolitions began were unable to save anything. Many who had rushed back when they heard about the demolition reported being prevented from nearing their house by security forces and non-uniformed men who accompanied the demolition crews.

Representatives of SERAC, who witnessed the demolition, reported that swamp buggies (demolition vehicles) were accompanied by approximately 30 members of the Nigerian security forces, including

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police, mobile police, soldiers and non-uniformed men: “At about 10am the security operatives went in [to] the communities and began to chase residents out from their homes. [They] were seen flogging and beating residents with whips.”⁷²

Residents stated that the non-uniformed men, who were not believed to be security force officers, looted

Structures along Njemanze street, marked for demolition with a red cross. They were demolished in November 2009.

houses while the demolitions took place. Residents and onlookers told Amnesty International that the security forces took no action to stop the looters.

ENUMERATED, VALUED, DEMOLISHED – BUT NOT PAID

Property valuations were not disclosed to house owners following enumerations at the waterfront settlements. In Njemanze waterfront, house owners were not told how much they would receive until shortly before the demolition took place, when they were invited to collect their money. A few of the house owners were never paid at all. SERAC confirmed that at least nine house owners were not compensated at the time of the demolition.⁷³

Nene Briggs was a landlord in Njemanze. She received no payment when her properties were demolished, even though her house had been enumerated and valued. Nene and her four children are now staying in one room in Abonnema Wharf, a wooden structure with one mattress that was previously used as a kiosk for selling drinks. It was lent to them by a friend. Without the rental income from her properties in Njemanze, Nene is unable to pay for her children's schooling, and relies on donations from friends to buy food.

Onegiye-Ofori George and Nelson Douglas also owned properties in Njemanze waterfront which were demolished on 28 August 2009. Their properties were valued but the Ministry of Urban Development never disclosed the figure to them. They did not receive any compensation following the demolition of their properties. Onegiye-Ofori George has since been made homeless and is staying at a friend's property in neighbouring Abonnema Wharf.

PEOPLE LEFT HOMELESS AND VULNERABLE

“Evictions should not result in individuals becoming homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State Party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”⁷⁴

The UN Committee on Economic, Social and Cultural Rights, General Comment Number No. 7

A year after being forcibly evicted from their homes in Njemanze waterfront, many of the settlement's most vulnerable residents still have nowhere to live. Amnesty International delegates spoke with several families who are currently living in a local church, near the demolition site. There are no facilities for families at the church and they sleep on mats on the floor. Several NGOs have stated that there are still former residents of Njemanze sleeping outside in cars and under flyovers.

Chidi (not his real name), aged 15, has been sleeping under a flyover in the centre of Port Harcourt since the demolition of the house he shared with his aunt in Njemanze. His aunt now stays with friends in another part of town and there is no room for him there. Chidi told Amnesty International that since his home was demolished he has been arrested five times. Most nights, he and the other boys that sleep under the flyover are woken by police officers or by older boys who steal their money and possessions. If they do not

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A woman sleeps on a bench in a church near Njemanze waterfront, which serves as a shelter for displaced residents. A year after being forcibly evicted from their homes, many of the settlement's most vulnerable residents still had nowhere to live.

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Former Njemanze resident and landlord, Nene Briggs, sits on a pile of rubble in Njemanze street. She was one of several house owners who did not receive compensation when their property was demolished. Nene and her four children now share a single room with one mattress in Abonnema Wharf.

pay, they are flogged and made to move on. Chidi survives by doing odd jobs for people. He said he sometimes resorts to petty theft to get money for food.

The Human Rights Social Development and Environmental Foundation, a Nigerian NGO working with street children in the city, told Amnesty International that at least 10 boys between the ages of 11 and 18, who used to live in Njemanze waterfront, now sleep rough under the flyover.

Other residents evicted from Njemanze waterfront are staying with friends and family around Port Harcourt. Many are in neighbouring waterfronts also marked for demolition. Some have returned to their families in villages outside the city.

In addition to losing their homes, many people lost their businesses and crucial sources of income as a result of the demolitions. Nigeria's informal economy is estimated to employ 60 per cent of the total workforce. Women feel the impact of loss of livelihood because their businesses and trading are often localized within Njemanze.

Justina Jack, a seamstress, lived in two rented rooms in Njemanze with her four children, aged between 2 and 12 years old. Justina was attending her father's funeral in a neighbouring community when a neighbour telephoned to inform her that demolitions had begun. She rushed home but was too late. Her house and all her property, including her sewing machines, had been destroyed. Justina now has no way to earn a living and cannot afford to pay for her three eldest children to go to school. She and her husband have separated. Justina told Amnesty International: "I heard that they are planning to demolish the place but I didn't know the definite date. My landlord [gave] me nothing. I didn't even find him. Till today I don't know where he is."

Blessing Batubo lived with her seven children and her husband in a three-bedroom rented house in Njemanze for 12 years. She was at the market when the demolition started. When she returned home, she found her children standing outside the house. She was unable to save anything. Blessing used to sell soft drinks and beer in Njemanze, but her fridges and stock were destroyed in the demolition. The family is now living at the church. Blessing does not know where her husband is; he left shortly after the demolition. Her husband's brothers and sisters have been helping her care for the children.

Amnesty International spoke to many members of families that had been split up as a result of the evictions. Often, the wives and children are "sent back to the village" because their fathers and husbands can no longer take care of them. Some men described how their family had been "cut in two".

Former resident Love Basset Okpabio, who lived in Njemanze waterfront with her husband and five

children before her home was demolished on 28 August 2009, took two months to find alternative accommodation. She now shares one room with her husband and her two sons. She sent her three daughters aged 5, 8 and 12 to live with their grandmother in a neighbouring state. She has no money to visit her daughters or to pay for them to continue with school.

Koomene Goknows, aged 32, another former Njemanze resident, told Amnesty International: "My wife is at home with our first [child] in the village. One child is with their uncle. They spread our family; the demolition make us separated, it made us to see [each other] once in a week, twice in a month."

9/NIGERIA'S INTERNATIONAL OBLIGATIONS

Nigeria is obliged under a range of international treaties to respect, protect and fulfil the right to adequate housing. These include Article 11 (1) of the ICESCR, ratified by Nigeria on 29 July 1993; Articles 4 and 27 (3) of the Convention on the Rights of the Child, ratified by Nigeria 19 April 1991; the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Nigeria on 6 October 1967; Articles 18 and 20 of the African Charter on the Rights and Welfare of the Child, ratified by Nigeria on 23 July 2001; Article 14 (2) (h) of the Convention on the Elimination of All Forms of Discrimination against Women, ratified by Nigeria on 13 June 1985; and Article 16 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ratified by Nigeria on 1 December 2004.

The UN Committee on Economic, Social and Cultural Rights has emphasized that "the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head, or which views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity."⁷⁵

The Committee has identified seven elements to determine the adequacy of housing: 1) legal security of

tenure; 2) availability of services, materials, facilities and infrastructure; 3) location; 4) habitability; 5) affordability; 6) accessibility; and 7) cultural adequacy.⁷⁶ It has also stated that "Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups."⁷⁷ Nigeria is under an obligation to refrain from and prevent forced evictions and to guarantee a minimum degree of security of tenure to all people.

Forced evictions constitute gross violations of a range of human rights, in particular the right to adequate housing.⁷⁸ Under Article 17 of the ICCPR, forced evictions also violate the right to the protection of the law against arbitrary or unlawful interference with a person's privacy, family or home.⁷⁹ As the African Commission on Human and Peoples' Rights has also affirmed in the case of SERAC and the Centre for Economic and Social Rights, forced evictions contravene the African Charter on Human and People's Rights to which Nigeria is a party, in particular, Articles 14 and 16 on the right to property and the right to health, and Article 18 (1) on the state's duty to protect the family.

In addition to the ICCPR and the African Charter, Nigeria has ratified several international and regional human rights instruments that contain human rights standards relevant to policing, including the Convention Against Torture and its Optional Protocol, and the International Convention for the Protection of All Persons from Enforced Disappearances. The UN and other intergovernmental organizations have also developed comprehensive standards, including on the use of force and firearms.

10/CONCLUSION

The Rivers State government has consistently violated its international human rights obligations by carrying out forced evictions in Port Harcourt's waterfront settlements. It has announced demolition of all the waterfront areas without putting in place legal protections and other safeguards against forced eviction, as required under international human rights law and standards. It has failed to develop any resettlement plan to provide alternative housing to the hundreds of thousands of people who will be forced to leave their homes if the waterfronts are demolished. Tenants have been completely ignored in the process and the plans for urban renewal of the waterfronts have been developed without any consultation with the communities who are most affected by them. The authorities' plans place hundreds of thousands of people at risk of being forcibly evicted from their homes and left vulnerable to other human rights violations.

The Rivers State government must immediately cease all forced evictions and adopt a moratorium on all evictions and demolitions in the waterfront areas until adequate safeguards are put in place to ensure that they comply with international human rights standards. They must also ensure protection from excessive use of force by security forces.

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Njemanze waterfront in Port Harcourt was demolished on 28 August 2009. Bulldozers were accompanied by approximately 30 members of the Nigerian security forces, including police, mobile police and soldiers.

11/RECOMMENDATIONS

TO THE RIVERS STATE GOVERNMENT

- Immediately cease all forced evictions;
- Adopt a moratorium on all evictions and demolitions in the waterfront areas, until adequate safeguards are put in place to ensure that all evictions comply with international human rights standards;
- Legislate and enforce a clear prohibition on forced evictions. Develop and adopt guidelines for evictions, which should be based on the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, and must comply with international human rights law and standards;
- Ensure that all victims of forced evictions have access to effective remedies and the right to reparations, which includes restitution, compensation, rehabilitation, compensation, satisfaction and a guarantee of non-repetition;
- Provide adequate alternative housing to all those who were forcibly evicted from Njemanze waterfront and surrounding areas and compensation for any loss of property and possessions that were damaged in the process;
- Fully compensate all residents who owned property in Njemanze waterfront, Njemanze street or Abonnema Wharf road, whose houses were demolished but who did not receive any payment or compensation;

- Fully implement the Rivers State 2003 Physical Planning and Development Law No. 6, including by establishing the Urban Renewal Board; the Rivers State Urban and Regional Planning Board; the Local Planning Authority; a Development Control Department; the Urban and Regional Planning Fund; and the Urban and Regional Planning Tribunal. Fully explore the possibility of declaring the waterfronts an improvement area;

- Ensure the effective dissemination of all relevant information about proposed public private partnerships before they are finalized, and allow adequate time for community input;

- Fully implement the recommendations contained in the 2009 UN-HABITAT report.

TO THE GREATER PORT HARCOURT CITY DEVELOPMENT AUTHORITY

- Publish the Greater Port Harcourt Master Plan in full and make copies publicly available;
- Subject the Greater Port Harcourt Master Plan to a comprehensive public review to ensure it complies with international human rights law and standards. Hold a genuine public consultation on the Greater Port Harcourt Master Plan, allowing for input from affected people;
- Ensure genuine consultation with all potentially affected people when considering plans for the urban renewal, redevelopment, upgrading or demolition of the waterfronts. Ensure that evictions are only carried out as a last resort, after all feasible alternatives have been explored. Procedural protections required under international human rights law should be in place, in particular the requirements on consultation, adequate notice and adequate alternative housing;
- Ensure that any alternative housing provided to people meets adequate housing requirements, especially in terms of location, affordability, habitability and availability of public services such

as health and education, which remain major obstacles to relocation in new urban cities. Ensure families are relocated together.

TO THE FEDERAL GOVERNMENT

- Publicly condemn all forced evictions;
- Set up an independent commission of inquiry to investigate the use of force and firearms by the police and the Joint Task Force (JTF) at Bundu waterfront on 12 October 2009, including an investigation into all resultant deaths or injuries:
 - The findings of the commission of inquiry must be made public;
 - those suspected of excessive use of force should be prosecuted in fair trials, in accordance with international standards and without recourse to the death penalty;
- Make public the interim report of the Presidential Technical Committee on Land Reform;
- Sign and ratify the Optional Protocol of the ICESCR;
- Ratify the Protocol on the statute of the African Court of Justice and Human Rights, and make a declaration that would allow direct access to the court by individuals and NGOs.

TO THE NATIONAL ASSEMBLY

- Publicly condemn all forced evictions;
- Legislate a clear prohibition on forced evictions;
- Amend the Nigerian Constitution to ensure that the rights contained in Chapter 2 are enforceable in Nigeria's courts, including Article 2 (d) which directs the state to ensure that suitable, adequate shelter is provided for all citizens;

- Urge the Federal Government to set up an independent commission of inquiry to investigate excessive use of force by the police and JTF at Bundu waterfront on 12 October 2009.

TO NIGERIA POLICE FORCE AND THE JTF

- Co-operate fully with the investigation into the excessive use of force by JTF and police during the attempted enumeration at Bundu waterfront on 12 October 2009;
- Suspend those suspected of being responsible for the use of excessive force, including those with command responsibility, pending prosecution in accordance with international fair trials standards and without recourse to the death penalty;
- Review the role of police and JTF in assisting demolitions, evictions, enumerations and valuations and ensure personnel are not deployed to assist the administrative authorities in carrying out illegal evictions;
- Ensure that adequate systems and mechanisms are put in place alongside training and regulations on the use of force and firearms to make sure that police officers apply the relevant UN standards in their daily work. This includes ensuring that police officers have access to a differentiated range of police equipment, including adequate self-protective equipment; and that they have adequate training on the use of a range of equipment for the differentiated use of force, and other tactical methods, including open hand techniques (using no equipment), to apply the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

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The rubble left after the demolition of homes, shops and other buildings in Njemanze waterfront, Port Harcourt, Nigeria, in August 2009. It is estimated that between 13,800 and 19,000 people were forcibly evicted from their homes there.

ENDNOTES

- 1 UN-HABITAT estimates that there are 276 structures in Njemanze waterfront, with 10 rooms per structure and five-six occupants per room, making a total population of 13,800. (UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March, P 26). Max Lock Consultancy, who conducted a study of the waterfronts in 2009, estimate that in high-density waterfront areas, such as Njemanze, there are 3,445 people per hectare, and Njemanze, at 5.57 hectares, had a population of 19,200 people; (*Port Harcourt Waterfront Urban Regeneration Scoping Study, December 2009, Max Lock Consultancy Nigeria Ltd*, pp. 24-26).
- 2 The Rivers State government, UN-HABITAT and NGO estimates range between 41 and 51 waterfront settlements.
- 3 UN-HABITAT estimates a minimum waterfront population of 200,000. Max Lock estimates 481,900. NGO and CBO estimates are much higher. Accurate information is not available.
- 4 Rivers State government press release, 14 July 2009.
- 5 For further information, see Amnesty International report *Nigeria: Port Harcourt demolitions: Excessive use of force against demonstrations* (Index: AFR44/022/2010)
- 6 Rivers State Physical Planning and Development Law No. 6 of 2003, section 85.
- 7 National Land Use Act 1978, Sections 29 and 33, Rivers State Physical Planning and Development law No. 6 of 2003, section 90.
- 8 Rivers State Economic Empowerment and Development Strategy (RIVSEEDS) Chapter 11, p. 85, http://web.ng.undp.org/documents/SEEDS/River_state.pdf
- 9 UN-HABITAT estimates 200,000 people; Max Lock estimates 481,900; NGOs and CBOs from the area estimate much higher. Accurate information is not available because data on the population of the waterfronts has not been collected.
- 10 UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March. p. 26.
- 11 UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March, p. 25
- 12 Speech by the governor of Rivers State, 27 October 2007.
- 13 Demolitions along Abonnema Wharf road were also carried out between June and September 2008. According to UN-HABITAT, these were mainly of commercial buildings. (*Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March).
- 14 A/HRC/13/20/Add.1 www2.ohchr.org/english/issues/housing/docs/A-HRC-13-20-Add1_EFS.pdf
- 15 UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March, p. 73.
- 16 UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March; p. 79.
- 17 UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March 2009, p. 73, p. 79 and p. x, para. 9.2.
- 18 UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, The Right to Adequate Housing, para. 3.
- 19 UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, The Right to Adequate Housing, para. 15.
- 20 UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, The Right to Adequate Housing, para. 16.
- 21 UN Commission on Human Rights Resolution 1993/77, para. 1.
- 22 On 2 April 2009, former President Yar'Adua established a Presidential Technical Committee on Land Reform. The Committee submitted an interim report to the President in 2009. However, the report has not been made public. The Chairman of the Committee, Professor Akin L. Mabogunje, has stated elsewhere that "the power of Governors and the Local Governments to revoke any right of occupancy over land for overriding public interest has been

used arbitrarily in the past and helps to underscore the fragility of the rights conferred by the Certificate.”
(Mabogunje, A.L. *Land reform in Nigeria: Progress, problems and prospects*, 2010, p. 8, viii).

23 Rivers State Physical Planning and Development Law, No. 6 of 2003, Part 1, section 1: “There is hereby established a Board to be known as the Rivers State Urban and Regional Planning Board (hereinafter referred to as “the Board”).
Section 84. (1)The Board hereby delegates the power to implement all urban renewal policies and programmes to the urban Renewal Board as specified in the Rivers State Urban Renewal Board Law made pursuant to this law.”

24 Rivers State Physical Planning and Development law No. 6 of 2003:

“85 (1) A development plan to which Section 11 (c) of this Law applies may designate and the Urban Renewal Board may, after the plan has been approved by order published in the State Gazette, declare any part of the area for which such plan has been made to be an Improvement Area for the Purpose of rehabilitating, renovating and upgrading the physical environment, social facilities and infrastructure of the area.

(2) The rehabilitation, renovation and upgrading may be brought about through the combined efforts of the residents of the area concerned, the Urban Renewal Board and other body in complementary effort to the rehabilitation, renovation or upgrading of the area.

(3) The Urban Renewal Board, shall before declaring any part of an area to be an Improvement Area, satisfy itself that the purpose set out in sub section (2) of this section is likely to be achieved.”

25 Rivers State Physical Planning and Development law No. 6 of 2003, Section 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...”

26 Article 59 of the Rivers State Planning and Development Law permits the Control Department to serve an enforcement notice of demolition on the developer or owner of any structure on any land whenever development begins without obtaining a development permit. However, the notice may also direct the developer or owner to alter, vary or remove the structure.

27 The 1975 Master Plan is not publicly available.

28 Greater Port Harcourt City Development Authority Master Plan Showreel, www.gphcity.com/index.php

29 UN Committee on ESCR, General Comment No. 4.

30 ICCPR:

Article 25: Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

Article 19 (2): Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

31 Amnesty International interview, April 2010.

32 Greater Port Harcourt City Development Authority website: www.gphcity.com/about/aboutGPHDA.php

33 Greater Port Harcourt City Development Authority Master Plan Showreel, www.gphcity.com/index.php

34 Amnesty International meeting with the Commissioner of Urban Development, April 2010; and with the governor of Rivers State in December 2009.

35 Amnesty International interview with the Rivers State governor, December 2009.

36 Rivers State government press release, 27 July 2009.

37 Greater Port Harcourt Information Brochure, p. 7, produced by the Greater Port Harcourt City Development Authority.

38 UN-HABITAT refer to planned demolitions; at the time of writing their report Njemanze waterfront had not been demolished. (UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria, 12-16 March 2009*. p. 33).

39 The MoU was shown to UN-HABITAT and reported in the local press. However, the document was never made publicly available.

40 UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, The Right to Adequate Housing, para. 13.

41 Basic Principles And Guidelines On Development-Based Evictions And Displacement, Annex 1 of the report A/HRC/4/18 of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, were considered by the Human Rights Council in 2007, available at www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf

42 Para. 38. A/HRC/4/18: "In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate."

43 Rivers State government press release, 9 July, 2009: "No Going Back on Waterfront Demolition...RSG. The Rivers State Government says there is no going back on its decision to demolish waterfronts in the state capital as part of its on-going efforts to beautify the city of Port Harcourt."

44 Governor of Rivers State, at a meeting with community leaders in Government House, Port Harcourt, 9 July 2009. The meeting was filmed. The incident was also widely reported in the local press.

45 *ibid*

46 See SERAC report *This is Port Harcourt, Garden City of Rubble*, 2009.

47 Max Lock Consultancy Nigeria Ltd: *Port Harcourt Waterfront Urban Regeneration Scoping Study 2009*, p. 24.

48 National Union of Tenants of Nigeria, *Comprehensive Report to the Advisory Group on Forced Evictions on Njemanze Waterfront Demolition*, 7 October 2009.

49 Rivers State government press release, 29 July 2009, *Abonnema Wharf Landlords Back Demolition of Water Fronts*.

50 Rivers State Rent Control and Recovery of Possession of Premises Edict No. 3 1984, Section 38

- (1) "Subject to the provisions of this edict or any other law in force, no person shall demolish, remove the roof of, alter or modify a building to which this edict applies with a view to ejecting a tenant without the approval of the tribunal.
- (2) (i) Any person who in respect of any accommodation to which this edict applies:
 - (a) attempts to eject or forcibly ejects a tenant;
 - (b) harasses or molests a tenant by action or words, with a view to ejecting such tenant; or
- (ii) Any person who in respect of any accommodation to which this edict applies;
 - (a) harasses or molests a landlord in respect of any accommodation let by him by action or words; or
 - (b) does any act or thing whatsoever calculated to stultify the provisions of this Edict; or
 - (c) fails to comply with the requirements of any order made by a tribunal;

Shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred naira or imprisonment for three months or both."

(This edict was amended and gazetted in 1989 without alteration to the above provisions.)

51 UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria, 12-16 March*, p. 55.

52 The Dilemma of Urban Sprawl in Port Harcourt Metropolis, Aprioku, 2005, (unpublished). This is a conservative estimate, the Max Lock scoping study estimates 98,300 people live in Bundu waterfront.

53 Witness statements range from 10 to 30 vehicles.

54 Amnesty International delegates also saw their injuries, viewed their medical reports and X-rays and local medical personnel confirmed that they treated people for gunshot wounds that day.

55 Amnesty International interview with Rivers State governor, December 2009.

56 Amnesty International interview with Rivers State Commissioner for Urban Development, April 2010.

57 Principle 9 states: "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."

58 Principle 12 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states: "As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14."

Principle 13 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states: "In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary."

Principle 14 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states: "In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9."

59 Principle 5 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states:

"Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

Principle 6 states: "Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22."

Principle 7 states: "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law."

Principle 8 states: "Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles."

60 The Constitution of the Federal Republic of Nigeria (1999) recognizes the right to life (Section 33). The ICCPR, which Nigeria ratified in October 1993, provides that "every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life" (Article 6.1). Furthermore, as provided by Article 4 of the ICCPR, states cannot derogate from their obligations under this provision, even "in time of public emergency which threatens the life of the nation". Every person whose rights or freedoms are violated, has the right to a remedy (Article 2.3 a). The African Charter on Human and Peoples' Rights, ratified in June 1983, also includes the right to life (Article 4). In addition, the Charter

prohibits torture and other ill-treatment (Article 5) and provides the right to liberty and security of person (Article 6) as does the ICCPR.

61 ICCPR, Article 21: "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."

62 African Charter on Human and Peoples' Rights, Article 11: "Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others."

63 UN Committee on Economic, Social and Cultural Rights, General Comment 7, para. 13.

64 UN Committee on Economic, Social and Cultural Rights, General Comment 7, para. 15.

65 Constitution of the Federal Republic of Nigeria 1999, Chapter 2 (16) (2): "The State shall direct its policy towards ensuring (d) that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens."

66 Pastor Ubing Usoro & 3 Others V. Governor of Rivers State & 6 Others (PHC/1144/2009), was filed on 25 June 2009; and Mr Jim Tom George V. Governor of Rivers State & 6 Others (PHC/2286/2009), was filed on 25 November 2009, both by SERAC.

67 On 2 June 2010, the Federal High Court held that they did not have jurisdiction to determine the case. The community leaders filed an appeal in the Court of Appeal, Port Harcourt. It is yet to be heard.

68 Issued by the Urban Reorientation and Enforcement Department of the Ministry of Urban Development and addressed to the developer, they state: "we observed that you have contravened the provision of the Rivers State Physical Planning and Development Laws and Regulations. According to Rivers State Physical Planning and Development Law 2003, the notice should specify the provision of the Law that has been breached. Nor did the notice state the reasons for the demolition, also a requirement of the 2003 Law.

69 Most of the waterfront structures have been built with permanent material not permitted by the terms of the TOL.

However, as UN-HABITAT pointed out in their report, by regularly renewing the TOLs, the state government is "tacitly tolerating and recognizing these settlements." UN-HABITAT, *Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Port Harcourt City, Federal Republic of Nigeria*, 12-16 March, p. 25.

70 UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, The Right to Adequate Housing, para. 15.

71 Basic Principle 42, UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, 2007.

72 SERAC, 2009, *This is Port Harcourt, the Garden City of Rubbles*, p. 7.

73 SERAC, 2009, *This is Port Harcourt, the Garden City of Rubbles*, p. 3.

74 UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, The Right to Adequate Housing, para. 16.

75 General Comment No. 4, para. 7.

76 General Comment No. 4, para. 8.

77 General Comment No. 4, para. 8 (a).

78 UN Commission on Human Rights Resolution 1993/77, para. 1.

79 See Concluding Observations on Kenya, Report of the Human Rights Committee, UN Doc.



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'JUST MOVE THEM'

FORCED EVICTIONS IN PORT HARCOURT, NIGERIA

In Port Harcourt, Rivers State, Nigeria, thousands of people have been forcibly evicted from their homes in the city's waterfronts and adjoining districts as state authorities push through large-scale redevelopment plans.

Thousands of people, including children, women and the elderly, were made homeless and vulnerable to other human rights violations following the demolition of Njemanze street and Abonnema Wharf road settlements in 2009. If the authorities continue with planned demolitions of all remaining informal settlements in the waterfront areas, it is estimated that over 200,000 people will be at risk of forced eviction.

This short report documents the failures by the government of Rivers State to put in place legal protections and other safeguards against forced eviction for all affected communities, such as adequate prior consultation and notice on evictions, adequate alternative accommodation and compensation, and effective remedies. The report also highlights the excessive use of force employed by Nigerian security forces in the run-up to and during the evictions at Bundu waterfront.

Amnesty International is calling on the Rivers State authorities to immediately cease all forced evictions and to adopt a moratorium on all evictions from the waterfront areas in Port Harcourt. The moratorium must remain in place until all necessary safeguards are put in place to ensure that evictions are carried out in accordance with international and regional human rights standards.

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