

# Housing Rights in West Africa

## Report of Four Fact-Finding Missions

-- A Draft Report, for Consultation, Discussion and Networking Purposes --



Centre on Housing Rights and Evictions (COHRE)  
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## **GLOSSARY OF ACRONYMS**

ACDHRS	African Centre for Democracy and Human Rights Studies
ACHPR	African Charter on Human and People's Rights
ACHPR	African Commission on Human and People's Rights
AEPB	Abuja Environmental Protection Board
AFP	Alliance des Forces de Progrés
AMC	Abuja Municipal Council
APC	All People's Congress
CAN	Christian Association of Nigeria
CAP	Community Action Programme
CDA	Community Development Association
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CFA	Communauté Financière Africaine
CHUD	Committee on Housing and Urban Development
CMP	Community Monitoring Programmes
COCIN	Church of Christ in Nigeria
COHRE	Centre on Housing Rights and Evictions
CRC	Convention on the Rights of the Child
CRS	Catholic Relief Services
DFID	Department for International Development
DPP	Due Process Principle
ENDA	Environnement et Développement Action dans le Tiers-Monde
ECOMOG	Economic Community of WAS (Cease Fire Monitoring Group)
ECOWAS	Economic Community of West African States
ESC	Economic, social and cultural rights
FCDA	Federal Capital Development Authority
FCT	Federal Capital Territory
FEPP	Forced Evictions Prevention Project
FFM	Fact-finding mission
FOE	Federal-owned Enterprises
GDI	Gender-related Development Index
GDP	Gross Domestic Product

HDI	Human Development Index
ICCPR	International Covenant on Civil and Political Rights
ICEDAW	International Covenant on the Elimination of All Forms of Discrimination Against Women
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICERD	International Covenant on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Covenant on the Rights of the Child
IDPs	Internally Displaced Peoples
IHRDA	Institute of Human Rights and Development in Africa
IMF	International Monetary Fund
JNI	Jamatu Anasri Islam
KASUPDA	Kaduna State Urban Property and Development Authority
KSDPC	Kaduna State Development and Property Commission
LAP	Legal Action Program
LDSP	Lagos Drainage and Sanitation Project
LMDP	Lagos Metropolitan Development Project
LSDPC	Lagos State Development and Property Corporation
LSDP	Land and Settlement Development Policy
LSURB	Lagos State Urban Renewal Board
MAP	Monitoring and Advocacy Programme
MEC	Maroko Evictees Committee
MEPP	Ministry of Environment and Physical Planning
MFDC	Mouvement des Forces Démocratiques de Casamance
MOSOP	Movement for the Survival of the Ogoni People
MSF	Médecins Sans Frontières
MSP	Maroko Support Project
NAC	National Advisory Committee
NACRD	Nigerian Agricultural Co-operative and Rural Development Bank
NaCSA	National Commission for Social Action
NCDHR	National Committee for Democracy and Human Rights
NCRRR	National Commission for Reconstruction, Resettlement and Reintegration
NEC	National Electoral Commission

NGO	Non-governmental organisation
NHF	National Housing Fund
NHP	National Housing Policy
NNPC	Nigerian National Petroleum Company
NPCUH	National Programme to Combat Unhealthy Housing
NPFL	National Patriotic Front of Liberia
NPRC	National Provisional Ruling Council
NRC	Norwegian Refugee Council
PDS	Senegalese Democratic Party
PLDHU	Plan Local d’Habitat et de Development Urban
PS	Socialist Party
RSLHB	Rivers State Land and Housing Bureau
RTA	Rainbow Town Association
RUF	Revolutionary United Front
SALHOC	Sierra Leone Housing Corporation
SERAC	Social and Economic Rights Action Centre
SHARE	Save Heritage and Rehabilitate the Environment
SLPP	Sierra Leone People’s Party
SPDC	Shell Petroleum Development Corporation
SRRPD	Support Reinstatement and Resettlement Programme Department
SSHFC	Social Security and Housing Finance Corporation
UEMOA	West African Economic and Monetary Union
UNCESCR	United Nations Committee on Economic, Social and Cultural Rights
UNCHR	United Nations Commission on Human Rights
UN-HABITAT	United Nations Human Settlements Programme (formerly the United Nations Centre for Human Settlements, UNCHS)
UNCRC	United Nations Committee on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees
UNICESCR	United Nations International Covenant on Economic, Social and Cultural Rights
UNDP	United Nations Development Programme
USAID/OFDA	United States Foreign Disaster Assistance

# Table of Contents

<b>Introduction</b>	8
<b>Executive Summary</b>	10
<b>Chapter 1: Nigeria</b>	13
INTRODUCTION	14
Fact-Finding Mission Objectives	
Report Outline	
PERSPECTIVE ON NIGERIA	16
Historical and Geographical Overview	
Legal System	
Domestic Law	
International Law	
Economic Development	
HOUSING RIGHTS AND FORCED EVICTIONS IN NIGERIA	24
The Right to Adequate Housing	
Government Failures and Violations	
Lagos State (Lagos)	26
Overview	
Maroko Community	
Badiya Community	
Makoko Community	
Bearing the Brunt of Forced Evictions: the Housing Rights of Women	
Government Response to Concerns Raised by COHRE	
Rivers State (Port Harcourt)	43
Overview	
Rainbow Town Community	
Banogoi Community (the Case of the Ogoni People)	
Intervention by Non-Governmental Organisations	
Government Response to Concerns Raised by COHRE	
Federal Capital Territory (FCT), Abuja	48
Overview	
The Abuja Demolitions (Year 2000)	
Intervention by Non-Governmental Organisations	
Government Response to Concerns Raised by COHRE	
Kaduna State (Kaduna)	54
Overview	
Ethnic Rivalry, Religious and Communal Clashes	
Land Acquisition	
Intervention by Non-Governmental Organisations	
CONCLUSIONS	57
RECOMMENDATIONS	59

<b>Chapter 2: The Gambia</b>	61
INTRODUCTION	62
Objectives and Report Outline	
PERSPECTIVE ON THE GAMBIA	63
Geographical and Socio-Economic Overview	
Legal System	
National Legal Framework	
International Legal Obligations	
LAND AND HOUSING	66
Slums in The Gambia	
Kottu Sillo Community	
Bundung Community	
Policies and Programmes	
The Government	
Non-Governmental Organisations	
The Position of Gambian Women	
CONCLUSIONS	74
RECOMMENDATIONS	75
<b>Chapter 3: Senegal</b>	76
INTRODUCTION	77
Objectives	
Report Outline	
PERSPECTIVE ON SENEGAL	78
Geographical and Political Overview	
Physical and Social Geography	
Politics	
Dispute over Casamance	
Housing Rights Legal Framework	
Domestic Law	
International law	
Economic Development	
HOUSING RIGHTS VIOLATIONS	85
Forced Evictions	
Baraka Slum Community	
Capatage Slum Community	
The Current Housing Situation	

Government Housing Policies and Programmes	
Housing reconstruction and regularisation	
Access to adequate housing	
Access to land	
Access to credit	
Access to essential services	
CONCLUSIONS	90
RECOMMENDATIONS	92
<b>Chapter 4: Sierra Leone</b>	93
INTRODUCTION	94
Aftermath of Civil War	
Objectives and Report Outline	
PERSPECTIVE ON SIERRA LEONE	95
Geographical, Historical and Political Overview	
Physical and Social Geography	
Pre-War Political History	
The Civil War and its Causes	
Housing Rights Legal Framework	
Domestic Law and Policy	
International Law	
Economic Overview	
ADDRESSING THE POST-WAR HOUSING CRISIS	103
Slum Communities and IDP Camps	
Kroo Bay Slum Community	
Aberdeen Amputee Camp	
Cline Town National Workshop IDP Camp	
Waterloo IDP Camp	
Reconstruction and Repatriation Efforts	
Government Efforts	
Housing Demolitions and Evictions	
The Role of International NGOs	
The Norwegian Refugee Council (NRC)	
CAUSE Canada	
Catholic Relief Services (CRS)	
UN High Commissioner for Refugees (UNHCR)	
CONCLUSIONS	113
RECOMMENDATIONS	114
<b>Annex 1: References, Chapter 1</b>	116

# Introduction

Throughout the world today, governments are realising that the protection of human rights is of paramount importance, and that their responsibility to provide and safeguard these basic and elemental rights for their people must be among their highest priorities.

The right to adequate housing is fundamental, and is, in truth, essential for the enjoyment of all other recognised basic rights. People must have a decent, safe and secure place to live before they can be properly fed and educated. They must be adequately housed before they can be truly protected from violence or discrimination.

Over the last several decades the struggle for political independence and freedom from colonialism and military dictatorship consumed many African nations, and attracted much of the attention of the international community. The redress of old wrongs is certainly a step forward, and though violence and bloodshed are never justified, the move toward independence and enlightened leadership by many of these countries is to be commended.

Now, however, the individual Governments need to turn their resources to the provision of inalienable economic, social and cultural rights. At the forefront of these efforts must be a focus on adequately housing the people who comprise their respective nations. International attention has shifted as well, from the violent struggles of recent history, to providing support for the provision of basic and fundamental human rights.

Forced evictions, unfortunately a common practice in many of these countries, are not only morally reprehensible; they are a violation of international human rights law. The United Nations Commission on Human Rights (UNCHR) has affirmed that forced evictions are a “gross violation of human rights”. The United Nations International Covenant on Economic, Social and Cultural Rights (UNICESCR), in Article 11(1), obliges States which are Party to it to protect the right to adequate housing. A similar obligation arises under the African Charter on Human and People’s Rights (ACHPR). The United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), the body mandated by the international community to implement and enforce the Covenant, has expressly stated in its General Comment No. 4 (1991) that “forced evictions are *prima facie* incompatible with the provisions of the Covenant, and can only be carried out under exceptional circumstances.”

Although most African countries are party to the Covenant and the Charter – both of which consider all human rights to be indivisible and of equal value – few States have taken significant measures to translate these rights, including the right to adequate housing, into reality.

In the world today, over one billion people are suffering the consequences of homelessness or inadequate housing. As is so often the case, Africa’s share of the misery is disproportionately large. The right to adequate housing is desperately far from realised in the countless impoverished and underdeveloped rural areas, slums and informal settlements to be found in Africa. And forced evictions are a disturbingly commonplace occurrence. Of the 6.7 million evictions around the world, counted by COHRE between 2000 and 2002, over 4 million took place in Africa.<sup>1</sup>

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<sup>1</sup> See COHRE: Global Survey on Forced Evictions: Violations of Human Rights No. 9, COHRE April 2003 (<http://www.cohre.org/downloads/survey9.pdf>).

In response to this grim situation, the Centre on Housing Rights and Evictions (COHRE) has launched a special project aimed at raising the international community's awareness of the acute housing problems in Africa. COHRE hopes to bring together as many concerned organisations and institutions as possible to develop a remedial strategy. Another objective is to help affected communities organise so that they may protect themselves from the arbitrary forced evictions for which African Governments are too often responsible. And finally, the project aims to educate human rights activists and lawyers on the legal avenues open to them for protecting and promoting the right to adequate housing in Africa.

The project, carried out by the COHRE Africa Programme, has recently investigated four West African countries: Nigeria, The Gambia, Senegal and Sierra Leone.<sup>2</sup> This first draft report of the investigation<sup>3</sup> is intended for use during a consultation process with relevant role players, in order to develop a common understanding of the problems and challenges facing the respective countries, and to develop joint strategies to counter them. Comment, criticism and further contributions to this document are therefore most welcome.

Given the size of the problems faced and the complexity of the local situation in that country, the Nigeria Chapter of this report is the most comprehensive. While less detailed, the ensuing chapters on The Gambia, Senegal and Sierra Leone provide important information and should also serve well for the purpose of regional comparison and strategic discussion between organisations and networks.

The report presents a brief perspective on the geography, the history, and the political make-up, as well as the political legacy, of each nation, in order to help understand the events which have shaped, and which continue to shape, the respective housing policies of these four different countries.

We will examine the relationship of governmental policies to both national and international law, and provide an economic overview. In some cases, individual accounts of forced evictions will be described, as the methods and efforts of COHRE's fact-finding mission teams are explained, and as their investigations into particular neighbourhoods are reported.

The report will also touch on which organisations, both governmental and non-governmental, are working in the respective countries, and what programs are underway. We will discuss women's rights in particular situations and if, or to what extent, these are being addressed by the relevant governments.<sup>4</sup>

Finally, COHRE will present its conclusions and its recommendations for future policies, and for actions that will be most effective in recognising, honouring, and ensuring the fulfilment of the basic human right of adequate housing, for everyone, everywhere. It is no exaggeration to say that the lives of millions and millions of people are affected by this issue. Adequate housing is

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<sup>2</sup> The housing rights situations in Morocco and in Accra, Ghana have also been investigated, and will be reported in separate documents in March and April 2004 respectively. Beyond West Africa, missions to Johannesburg, South Africa and Nairobi, Kenya are also planned. Also see "Land, Housing and Property Rights in Zimbabwe", published by COHRE in September 2001 (<http://www.cohre.org/downloads/zimbabwe%20report.pdf>).

<sup>3</sup> COHRE would like to express its thanks to Yousif Ahmed, Ndidi Bowei and Birte Scholz, as authors; to Rob Stuart, Jean du Plessis and Dan Strickland, as editors; to Gift Duru for fieldwork assistance; and to Noumi Oosterwijk for research assistance. All maps in the report obtained from: <http://www.lib.utexas.edu/maps/>

<sup>4</sup> Note that COHRE is busy with a detailed investigation into the land and housing inheritance rights of women in ten Sub-Saharan African countries, including Senegal and Nigeria. The report of this investigation will be available in April 2004.

the foundation upon which other human rights must be protected and nurtured. Without this building block as its firm and stable base, the pursuit of human rights cannot hope to be strong or effective. This report is intended as a small but important contribution to the process of realising the right to adequate housing in West Africa.

## Executive Summary

In response to credible reports that housing rights violations and forced evictions were taking place in several West African countries, the Centre on Housing Rights and Evictions (COHRE) initiated an investigation to establish the nature and extent of the violations, to understand them in the context of the respective laws and policies, and to consult with affected communities and the institutions assisting those communities. The intention was to use the gathered information to draft recommendations to governmental and non-governmental, as well as national and international, organisations so that alternative solutions could be found.

COHRE's Africa Programme carried out this project, and focused its initial efforts on Nigeria, The Gambia, Senegal and Sierra Leone. Conclusions drawn for each country are presented below, followed by a list of general recommendations. More specific recommendations, and a more in-depth analysis of the conclusions drawn for each separate country, can then be found in the subsequent chapters.

### **NIGERIA**

Unfortunately, Nigeria has one of the worst housing situations in the world. Urban drift, or movement of the population from rural areas to urban centres, has created severely congested cities, and a crushing demand for land and housing, which the Government has been simply unable to cope with.

Successive regimes, both military and civilian, have resorted to ruthless forced evictions, to the extent that between 1990 and 2002 over 3,000,000 Nigerians were brutally evicted from their homes. Often this was without prior notice or efforts at resettlement, and was accompanied by looting, rape, and even murder.

Residents of three representative communities, Maroko, Badiya and Rainbow Town, have been displaced from their homes, with less than two percent resettled. Housing conditions and a supporting infrastructure are either dismal or non-existent. In February 2002 COHRE called upon the Lagos State Government to accept its responsibilities and engage in dialogue about the crisis, but the Government responded that the evictees had been illegally occupying the land. Yet records show the Government had levied sanitation and environmental taxes on these same residents, thus implicitly recognising their occupation of the land.

The housing crisis presents an admittedly difficult challenge, but the Nigerian Government has done very little to assist its poor by offering land, housing, or even long-term affordable loans or subsidies. The National Housing Fund has not achieved significant results, and economic mismanagement has been rife throughout Governmental actions.

A focus on developing oil reserves, at the cost of neglecting agriculture and the farming community, has exacerbated the plight of rural residents and further fuelled urban drift. It is said that during every hour that passes, three more people move into Lagos.

Not only has the Nigerian Government earned harsh criticism for political and economic shortcomings, its legal protection for landowners and the poor is also close to non-existent. Security of tenure is in disarray, and protections are necessary for tenants against unscrupulous landlords.

The situation in Nigeria warrants input from the international community and civil groups as well. Ideas, energy and financial resources are critically needed, but the first efforts must come from those ultimately responsible, the Nigerian Government itself.

## **THE GAMBIA**

The capital city of Banjul is facing a serious housing crisis, in that the available accommodation is often grossly inadequate for human habitation. Congestion within the city is severe. The people are largely unaware of their right to adequate housing, or to any of their basic economic, social or cultural rights. This is true of more than 60 percent of the population. Though the Government is attempting to bolster and build infrastructure, the provision of adequate housing to the poorer segments of society is non-existent. Slum communities are neither demolished nor upgraded, and the people are left to their own resources. The Government of The Gambia needs to understand its own legal and moral obligations more clearly, and to act swiftly to improve the prevailing situation.

## **SENEGAL**

In many ways Senegal compares well overall with other African countries. Since its independence in 1960, Senegal has been an open and democratic regime and has generally respected its citizens' human rights. However, it has recently resorted to harsh forced evictions, in violation of its international legal and moral obligations.

Urban drift has beset Senegal as well as its West African neighbours, and the Government's subsequent efforts to alleviate the problem focused on the urban centres and neglected the rural population... the main source of food and agricultural products. Climatic factors have also caused hardship, with unreliable rain and encroaching desertification. Urban drift has increased as conditions outside the cities worsen. Both urban and rural reforms are necessary to stop massive overcrowding of the cities.

Here, as in other African countries, poor economic planning and an uneven distribution of wealth add to the Government's woes. Also notable was the lack of awareness by the people, in some cases well-educated people, of their right to adequate housing, and the implications of this right.

## **SIERRA LEONE**

The situation in Sierra Leone has been irretrievably shaped by its devastating decade-long civil war. Over a million of its citizens were displaced and over 350,000 turned into refugees living out of the country. The capital, Freetown, swelled with over 60 percent of the country's population. Crime is rampant. There is massive unemployment and severe overcrowding. Current tenancy

laws do not provide adequate protection, and the poor are forced to fall back on their own resources, building when and where they can.

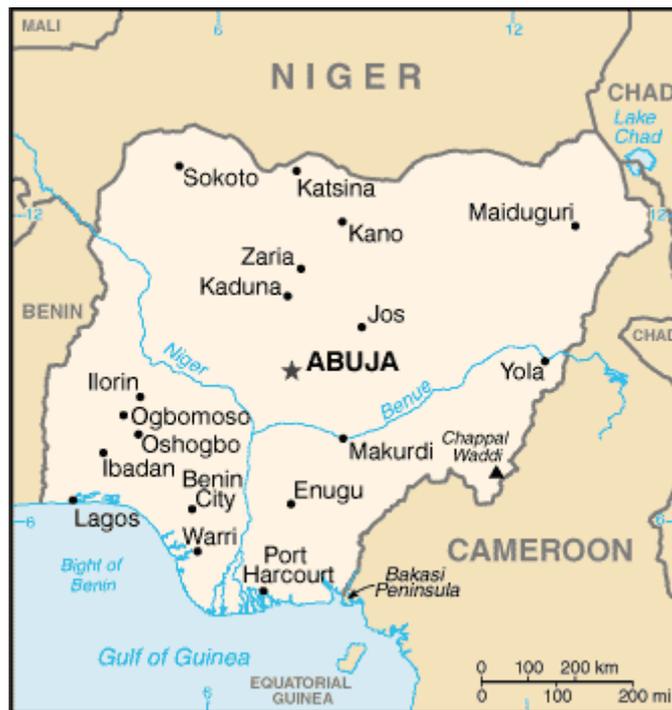
The Government of Sierra Leone has been focusing energy on reconciling the people in the aftermath of the ferocious conflict they endured. While commendable, as a consequence housing issues have been sadly neglected. Existing housing legislation is outdated and irrelevant. The organisation responsible for housing provision, the Sierra Leone Housing Corporation (SALHOC), has proven ineffective for two decades.

Sierra Leone presently lacks the political will to effectively address its land and housing challenges. International legal obligations are neither being incorporated into the domestic legal framework, nor implemented in any pragmatic manner. International sympathy is strongly with Sierra Leone at the moment, as a result of the sensationalistic and lamentable trauma of the recent civil war. If actions are not taken now to involve the international community in aid and reconstruction, this attention may wane.

## **GENERAL RECOMMENDATIONS**

- The respective Governments should review all land and housing legislation, to ensure that such legislation is both effective, and in full compliance with all international legal and moral obligations. Where the existing legislation is *not* effective, new policies and laws should be developed and enacted.
- The respective Governments should examine their laws and policies to ensure that they provide equal protection for men and women, in all matters, and that these laws are implemented in a realistic and effective manner.
- The respective Governments should examine the financial circumstances that affect land and housing issues, and take effective measures to shape the economic climate so that it is conducive to affordable and adequate housing. This may require financial incentives, the encouragement of public and private investments, the establishment of a Government Bureau, and other innovative approaches.
- Both the respective Governments and appropriate NGOs should work to educate the people about their economic, social and cultural rights, and in particular about their right to adequate housing.
- The respective Governments should ensure that security of tenure is provided for all citizens, as this is essential to creating a stable land and housing climate.
- The respective Governments should wholeheartedly embrace the responsibility to provide adequate housing for their people, including the basic services of clean water, electricity, and waste and sewage disposal systems.
- The respective Governments should cease forced evictions. When absolutely necessary, forced evictions should be carried out with full adherence to the international obligations for prior consultation and provision of alternative accommodations.

# Chapter 1: Nigeria



# INTRODUCTION

“Many died on the way, on the streets, died anywhere, anyhow. Nobody cared for another. Everybody was trying to save his life and nobody ever cared, I mean, just a big struggle against the police, against robbers, against looters, against anything, against the elements, I mean against nature. We were fighting against darkness, fighting against disease. Fighting against whatever sickness that will befall us because of the heavy rain, because of the heavy cold, thinking of our lost property, lost, I mean scattered family. Thinking of everything at the same time with the effect that many people actually died thinking and thinking, died of hopelessness, of everything.” (Mr Aiyeyemi Samuel, leader of the Maroko Evictees Community, testifying on the forced eviction of his community)

When the fact-finding mission (FFM) team from COHRE first heard Mr Aiyeyemi Samuel’s harrowing account of the Maroko eviction, it was as if he was recalling his experiences of war. But the events that he described took place in July 1990 in Maroko, a quiet and peaceful slum community in Lagos, Nigeria’s economic capital. There is, however, one similarity with war... it was the Nigerian army that forcibly evicted the slum-dwellers. Maroko is just one of many slum communities in Nigeria that have endured a ferocious campaign of forced eviction, actively pursued by the Government of Nigeria.

Though the violation of housing rights is a world-wide phenomenon, the situation is particularly critical in many African countries. Nigeria is one of the most notorious examples, where a housing crisis has resulted from the effects of a weak economy, soaring unemployment, rapid urbanisation, decrepit infrastructure and poor or disarticulated urban planning. Despite Nigeria’s voluntarily assumed legal obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other international human rights instruments to respect, promote, protect and fulfil the right to housing, the scale of homelessness and wholly inadequate housing conditions in the country remains staggering. Even more ominously, it is evident that housing and living conditions are worsening.

In July 2002, the COHRE Africa Programme sent a team of three people to investigate just how bad the situation is, and to discuss with local partners and communities what the ingredients of a solution would have to be.<sup>5</sup>

## Fact-Finding Mission Objectives

The objectives of the COHRE FFM to Nigeria were:

1. To study the widespread practice of forced eviction.
2. To determine and assess the Government’s response to COHRE’s concerns regarding forced eviction.
3. To assess the Government’s compliance with its international obligations in terms of ensuring full enjoyment of the right to adequate housing.

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<sup>5</sup> The team consisted of Yousif Ahmed of the COHRE Africa Programme and Ndidi Bowei of the Social and Economic Rights Action Center (SERAC), with Gift Duru, a volunteer. COHRE wishes to thank SERAC for hosting the mission and making Ndidi Bowei available to join the team.

4. To determine how COHRE can better contribute to efforts aimed at promoting and protecting the right to adequate housing in Nigeria in particular, and in the West Africa region generally.

The COHRE FFM team visited three Nigerian states – Lagos, Rivers and Kaduna – as well as the Federal Capital Territory (FCT), Abuja. These were chosen because they are characterised by a prevalence of forced evictions, a serious shortage of housing accommodation, and generally poor housing conditions. It is COHRE's understanding that they are indicative of the situation in other Nigerian States. During the FFM, the team met with victims of forced evictions and listened to their accounts and grievances. The team saw first-hand what conditions are like in slum communities around major Nigerian cities. They also met with Government officials, community members and their leaders, and representatives of local NGOs.

## **Report Outline**

This report provides a perspective on Nigeria, with an historical and geographical overview. Nigeria's legal system, and its obligations under international law, is next examined, and then a brief look is taken at the country's economic development since the 1970s.

The main body of this report is an in-depth examination of housing rights and forced evictions. By way of introduction, the right to adequate housing is defined, and COHRE looks at how few Nigerians enjoy this fundamental right. The next section examines, firstly, the Government failure to deliver adequate housing to the majority of Nigerians and the consequences of this failure and, secondly, the Government's failure to prevent a dramatic escalation in the frequency and severity of forced evictions.

Following sections provide details of specific cases of forced eviction in Nigeria, including first-hand accounts of these human rights violations and the response of the Government and other key actors. A summary is given of the results of specific COHRE case-studies carried out in various communities in, respectively: Lagos State; Rivers State; the FCT, Abuja; and Kaduna State.

COHRE Africa Programme draws its conclusions from the FFM to Nigeria, and finally it makes recommendations to the Government of Nigeria, and other key actors.

# PERSPECTIVE ON NIGERIA

## Historical and Geographical Overview

The Federal Republic of Nigeria is Africa's most populous nation, though accurate population figures are not available. Estimates for the year 2002 range from approximately 120 million (United Nations) to around 130 million (Population Reference Bureau).<sup>6</sup> Nigeria has borders with the Republic of Benin to the west, Niger to the north, Chad to the northeast and Cameroon to the east and southeast. The country has a land area of 923,768 square kilometres (356,669 square miles).<sup>7</sup> Geographically and demographically, Nigeria is to a large extent demarcated by its two great rivers, the Niger and the Benue, which form a Y-shape and have their confluence at the town of Lokoja. This point is also the meeting place of the three major cultural and ethnic groups that dominate Nigerian life: those of the north, the southeast and the southwest.

More than 250 ethnic groups make up the Nigerian population, each with their own language and customs, though the three largest ones are the Hausa-Fulani, the Yoruba and the Ibo, or Igbo. The Hausa-Fulani, found in the predominantly Islamic north, live primarily in the smaller towns and villages and engage mostly in agriculture. In the major urban centres they are also involved in trading and small-scale industry.<sup>8</sup> The region's history is embodied in the walled old-city quarters of Zaria, Katsina and the large metropolis of Kano.

The towns and rural areas of the southwest, known as Yoruba Land, have an exceptional wealth of cultural interest. The Yoruba created one of the most powerful empires on the West African coast, with ruling Obas, or kings, who wielded great political power. The city of Lagos was originally founded by the Yoruba people.

The southern population is predominantly Christian. To the southeast – beyond the geographical and cultural divide that is the Niger River – stretch the forests and plantations of Igbo country. This region has made a remarkable recovery since the disastrous civil war of the late 1960s, which was triggered by its attempted secession. The towns of Onitsha, Warri and Port Harcourt have achieved prosperity as a result of their newly-discovered oil reserves. This region is regarded as a trade base for the nation, partly because of its heavy industry and oil riches, yet mostly because of its thriving smaller-scale industries, which seem to be capable of repairing and replicating any product known to humankind.

Other minority ethnic groups include the Tiv, Edo, Nupe, Ibibio, Urhobo, Ijaw, Efik, Ibibio, and Kanuri. The latter group can trace their roots back to the ancient Kanem empire, which began during the A.D. 700's.

Nigeria became a Colony and Protectorate of the British Empire on 1 January 1914, as the British government assumed control of the Royal Niger Company's territories. They employed the principal of "indirect rule" where local chiefs and leaders were largely left to their own affairs, but ultimately answered to British authorities. This tended to soften and diffuse potential conflicts with the locals.

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<sup>6</sup> UN Statistics Division: Nigeria Estimated Population 2002: 120,046,000  
Population Reference Bureau (PRB): Nigeria Population Estimate Mid-2002: 129,900,000.

<sup>7</sup> Osuntokun & Olukoju, (1997: 275).

<sup>8</sup> Nigerian Nation, Research and Learning: Ethnic Groups, © 2001 - 2003 Nigerian Nation, Inc.

Through British influence the economy turned to one of cash crops, with cocoa and peanuts being most important. A growing disparity between those placed advantageously for this trade, and those who could not benefit, began to create tensions. The British authorities, however, shrewdly kept dissidents isolated and nurtured relationships with the locals who were helpful to them. It was the tried and true policy of “divide and conquer”, and had served the British well elsewhere. It would do so again in Nigeria.

The region to the north was mostly Muslim, and the resistance to change was strongest here. To the south, on the other hand, missionaries were welcomed, and as a consequence, education progressed more rapidly. The resulting differences between the northern and southern regions grew more obvious, and resentment increased. When pressures heightened, the British used another proven tactic, that of parcelling out authority in small doses to pacify unrest.

In 1914 the Nigerian Legislative Council came into existence, and in 1923 the first official Nigerian political party emerged in the form of the Nigerian Democratic Party. It wasn't until 1946, however, that each geographic province could point to its own House of Assembly. In 1954 three areas were officially named; the Northern, Western and Eastern regions, as the country was restructured and divided into a Federal State.

Three years later self-government was granted to the Western and Eastern regions. A Yoruba lawyer, Chief Obafemi Awolowo, assumed control of the Western area. He had founded the Action Group in 1950, with demands for immediate self-government. Those to the north opposed his aggressiveness, however, as they feared that their region was behind the educationally advanced south and might not share equally in the opportunities opening up in the federal government. They felt that they needed time to catch up with their southern neighbors.

This fear of discrimination was a major concern and topic of discussion when full independence was debated. The Willink Commission reported specifically on this issue in 1958, and independence was finally granted Nigeria on 1 October 1960.<sup>9</sup>

The inter-regional strife finally erupted in January 1966, and the military toppled the Government. In 1967 civil war broke out and military rule followed for the next two decades. Corruption, mismanagement and disregard for the law predominated. Presently the Nigerian nation is composed of a federation of 36 States (including the FCT, Abuja). Each has its own capital and State Government.

## **Legal System**

### **Domestic Law**

#### **The Constitution**

The development of human rights legislation in Nigeria dates back to 1960, the year of independence. The draft Constitution sought to provide a basis for the emergence of a stable democratic system of government, as well as a framework for the promotion of unity in the

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<sup>9</sup> "Nigeria." Encyclopædia Britannica. 2004. Encyclopædia Britannica Premium Service. 22 Feb. 2004 <http://www.britannica.com/eb/article?eu=120191>.

country. The draft, which later became the 1960 Constitution, featured human rights provisions. These were replicated in the 1963, 1979 and 1983 Constitutions.

The text of the fundamental rights chapter of the 1960 Constitution was itself substantially similar to that of the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>10</sup>

In the Constitution of 1979, and also in the present Constitution of 1999, the existing provisions on basic fundamental rights are supplemented in Chapter Two by the Fundamental Objectives and Directive Principles to State Policy, which in essence describe economic, social and cultural rights.

The rights guaranteed under the Constitution include the fundamental rights to: life, personal liberty, fair hearing, private and family life; freedom from inhuman treatment, slavery and forced labour; freedom of conscience, religion and expression; freedom to peaceful assembly and association of movement and residence; freedom from discrimination; and freedom from deprivation of property without compensation.<sup>11</sup>

As regards the right to adequate housing, under economic, social and cultural rights, the current Nigerian Constitution provides:

“The State shall direct its policy towards ensuring that suitable and adequate shelter, food, reasonable national minimum wage, old age care and pensions, and employment, sick benefits and Welfare of the disabled are provided for all citizens.”<sup>12</sup>

However, in Section 6 (6)(c)(d), the Constitution states:

The judicial powers vested in accordance with the foregoing provisions of this section ---  
(c) shall not, except as otherwise provided by this Constitution, extend to any issue or question as to ... whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter 2 of this Constitution; and  
(d) shall not, as from the date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15 January 1966, for determining any issue or question as to the competence of any authority or person to make any such law.

In other words, the provisions of Section 17 do not safeguard these rights as far as the Constitution is concerned, and therefore no one can approach the court to seek redress based on this section.<sup>13</sup> Rather, the Constitution guarantees only freedom from compulsory acquisition of property without the due process of law or for a reason other than that provided by the law.<sup>14</sup> The Constitution is the supreme law of Nigeria and if any other law is inconsistent with the Constitution, that other law shall, to the extent of the inconsistency, be void.<sup>15</sup> After the Constitution, legislation passed by the National Assembly has supremacy, followed by law enacted by the State House of Assembly.

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<sup>10</sup> NIALS Research Series No. 1 (1991: 36).

<sup>11</sup> The Constitution of the Federal Republic of Nigeria, 1999, Chapter IV.

<sup>12</sup> Supra note 11, Chapter II, Section 16 (2) (d).

<sup>13</sup> Supra note 11, Chapter I, Section 6 (6)(c).

<sup>14</sup> Supra note 11, Chapter IV, Section 44.

<sup>15</sup> Supra note 11, Chapter I, Section 1.

## **The Land Use Act**

The Land Use Act (the Act) was promulgated under a military regime and was formally known as the Land Use Decree No. 6 of 1978. It was passed to reduce land speculation and, therefore, the cost of acquiring interest in land, to make land more accessible to users, and to ensure security of tenure by the granting of a certificate of occupancy. However, the Act deprived individuals, families, villages and whole ethnic groups of their ancestral lands, and vested all lands wholly with the Governors (except for land vested in the Federal Government).

Theoretically, the Governor of the State would hold such land in trust for the people and would be responsible for land allocation in all urban areas, for residential, agricultural, commercial and other purposes. Similar powers with respect to non-urban areas are conferred on local governments.<sup>16</sup>

The Government became solely responsible for allocating all land in urban areas to individuals and organisations for whatever purpose:

“And no person in an urban area shall without the consent of the government of a State erect any building, walls, fence or other structures, cultivate, endorse or do any act in respect of any land without a prior certificate of occupancy or licence.”<sup>17</sup>

This implies that even if a family had owned land prior to 1978, they would be committing an offence if found on the land without obtaining the consent of the Governor or certificate of occupancy to be able to utilise the land. As a result of the Act, many Nigerians were forced out of their inherited lands.

The Act's failure to set up a yardstick for determining the compensation payable to those deprived of land caused huge problems: delay and non-payment of compensation; cumbersome procedures for obtaining certificate of occupancy and letter of consent; and lack of follow-up legislation for effective implementation. Subsequently, the objectives of the Act were not realised and the availability of land for housing purposes was drastically limited, which invariably worsened the housing problem.

## **The National Housing Policy and The National Housing Fund**

The National Housing Policy (NHP) was born out of the need to provide a solution to the deteriorating housing situation in the country. By the year 2000, the magnitude of the housing problem was such that roughly 8 million new housing units, in both urban and rural areas, were needed if existing and future needs were to be met. This was the ultimate goal of the NHP: to ensure that all Nigerians owned or had access to decent housing accommodation at affordable rates by the year 2000. The NHP made provision for a Land and Settlement Development Policy (LSDP), to ensure easy access to, and efficient utilisation of, land for low-income housing, and to mobilise private-sector participation.<sup>18</sup>

The National Housing Fund (NHF) was set up to “facilitate the continuous flow of low-cost funds for long-term investment in housing for the benefit of all Nigerians.” The fund, managed by the Federal Mortgage Bank, is subscribed by mandatory contribution by all Nigerians earning

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<sup>16</sup> Land Use Act Part 1, Section 1.

<sup>17</sup> Supra note 16, Part VIII, Section 43.

<sup>18</sup> National Housing Policy, revised edition, 2000, Chapters IV, VII & VIII.

an annual income of 3,000 naira (the Nigerian unit of currency)<sup>19</sup> and above; they are required to contribute 2.5 percent of their basic salary to the fund. Self-employed persons, traders, artisans or professionals in both private and public sectors are also expected to contribute. Other contributions include investment by commercial and merchant banks, as well as insurance companies, and funding by the Federal Government.<sup>20</sup>

### **Composition of the Judiciary**<sup>21</sup>

The Nigerian court is comprised of:

1. The Supreme Court
2. The Court of Appeal
3. The Federal High Court
4. The Federal High Court of the FCT, Abuja
5. The High Court
6. The Sharia Court of Appeal of the FCT, Abuja
7. The Sharia Court of Appeal of a State
8. Customary Court of Appeal of the FCT, Abuja
9. Customary Court of Appeal of a State
10. The Customary Court
11. The Magistrate Court
12. The Area Court

The Supreme Court has original jurisdiction in any dispute, involving any question of law or fact on which the existence or extent of a legal right depends, between the Federation and a State or between States; it also has an appellate jurisdiction to hear and determine appeals from the Court of Appeal. The Supreme Court consists of the chief Justice of Nigeria, and a number of Justices, not exceeding twenty-one. It is duly constituted if it consists of not less than five Justices.

The Court of Appeal has original jurisdiction to hear and determine any question as to the election, cessation and vacancy of the office of the President or Vice-President of Nigeria under the Constitution. The Court of Appeal also has an appellate jurisdiction, in both civil and criminal matters, to hear appeals from: the Federal High Court; the High Court of the FCT, Abuja; the High Court of a State; the Sharia Court of Appeal of the FCT, Abuja; the Sharia Court of Appeal of a State; the Customary Court of Appeal of the FCT, Abuja; and the Customary Court of Appeal of a State.

The Federal High Court deals with matters relating to the revenue of the Federal Government, taxation, customs, excise and export duties, banking, company, patent, copyright, design, trademark, admiralty, diplomatic representation, citizenship, insolvency, aviation, arms and ammunition, drugs and poison, mines and mineral, weights and measures, and the administration of Federal Government Agencies.

The High Court of the FCT, Abuja, and the High Court of a State hear civil matters in which the existence of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue; or criminal proceedings involving penalty, punishment or liability in respect of offences committed. The Sharia Court of Appeal of the FCT, Abuja, and the Sharia Court of Appeal of a

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<sup>19</sup> The naira (NGN) was worth 22 to 1 US dollar (USD) in January 1995, 100 to 1 USD in January 2000, and 137 to 1 USD in January 2004.

<sup>20</sup> National Housing Fund Gazette, Sections 1, 2, 3, & 4.

<sup>21</sup> Supra note 11, Chapter VII.

State exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic Personal Law. The Customary Court of Appeal of the FCT, Abuja, and the Customary Court of Appeal of a State exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of customary law.

The Customary Courts hear matters on customary law. The Magistrate Court deals with civil matters of claims not exceeding 50,000 naira, where monetary claims are involved, and also certain criminal matters. Appeals from the Magistrate Courts are heard in the High Court. The Area Courts have original jurisdiction to deal with issues of Islamic law.

Beyond the courts, there is the National Human Rights Commission in Abuja, which is responsible for the protection, enforcement and monitoring of human rights status in Nigeria. There are quite a large number of trained State counsels with the office of the Director of Public Prosecution in the Federal Ministry of Justice, Abuja, as well as in the Judiciary.

## **International Law**

In addition to these provisions, Nigeria is signatory to several regional and international instruments on economic, social, and cultural rights, including those that endorse the right to adequate housing. These include:

1. The ICESCR (ratified by Nigeria in October 1993);
2. The International Covenant on the Elimination of All Forms of Discrimination Against Women (CEDAW) (ratified by Nigeria in June 1985);
3. The International Covenant on the Rights of the Child (ICRC) (ratified by Nigeria in April 1991);
4. The African Charter on Human and People's Rights (ACHPR) (ratified by Nigeria on 22 July 1983 and domesticated under the Ratification and Enforcement Act, Cap 10, Laws of the Federation 1990);
5. The Universal Declaration of Human Rights.

The Federal Ministry of Justice, headed by the Minister of Justice and Attorney-General of the Federation, is responsible for the Government's obligations with respect to International Treaties such as the ICESCR.

The entrenchment of economic, social and cultural rights in the Nigerian Constitution, even in conjunction with the provisions for housing in the NHP and the NHF, and the ratification of the various regional and international laws, does not guarantee adequate enjoyment of these rights under the Nigerian legal system.

In Nigeria, the Social and Economic Rights Action Centre (SERAC) informed the COHRE FFM team that it is difficult to make the Constitutional provisions on economic, social and cultural rights a basis for legal complaints before a court of law, and the situation with ratified international legislation is even worse. The Nigerian courts are reluctant to hear cases on the above-mentioned grounds, and even in cases of admissibility the judges have been unfavourable. An example is the Maroko case, which has been in court for the past 12 years (discussed in detail below). The courts appear to be apprehensive about economic, social and cultural rights-related cases, and comply strictly with Section 6(6)(c) of the Constitution. It appears that the Government makes policies and establishes funds it cannot strategically implement for good governance and the benefit of the people of Nigeria.

## Economic Development

Before 1970, agriculture contributed 68 percent of Nigeria's Gross Domestic Product (GDP).<sup>22</sup> However, in the following three decades this sector – still dominated by peasant agriculture – steadily declined to only 29.5 percent. In the same year, the industrial sector accounted for 46 percent and the service sector for 24.5 percent of the GDP.<sup>23</sup> The decline of Nigerian agriculture is generally attributed to a combination of factors including drought, disease and Government neglect.<sup>24</sup> Nigeria's oil reserves, and the country's reliance on them since the 1960s, has also caused the downturn in agricultural revenues. In 1973 a rise in oil prices caused a fortuitous increase in revenues in the manufacturing, transportation and service sectors. Attention was drawn away yet again from farming, but in spite of this, agriculture continues to play a major role in the Nigerian economy.

In the 1980s and 1990s the State intervened in a bid to boost farming output and make Nigeria self-sufficient (since 1975 Nigeria had been forced to import rice and cassava, two of its own basic crops, for domestic consumption!). The attempt failed and the agricultural sector became characterised by very low productivity rates, a structural imbalance of the economy, and heavy dependence on foreign goods and services. The economic factors contributing to this included: raging inflation (12-15 percent) in the national economy; mismanagement; the high risk of investing in agriculture and the consequential diversion of investment elsewhere; unstable prices on the world market; and the inevitable recourse to even more imports.<sup>25</sup>

By 1970, the petroleum sector had superseded cocoa and all other export products as the principal foreign exchange earner. Apart from oil and cocoa, Nigeria also exports limited quantities of palm products, groundnuts, rubber, timber, tin, hides and skin. In the past few decades, Nigeria's economic activities have become increasingly oil-centred. Nigeria now depends on its oil sector for over 90 percent of its export earnings and a significant fraction of its Government revenue.<sup>26</sup>

With world oil prices fluctuating and the agricultural output diminishing, the Nigerian government experienced a series of economic crises, and increasingly resorted to securing loans from outside sources. Exacerbated by internal corruption, the economic situation worsened to the point where Nigeria is now heavily indebted to the International Monetary Fund (IMF) and the World Bank.

Government revenue has failed to keep pace with the increase in recurrent expenditure. Foreign debt is now on the order of USD 32 billion – twice the value of Nigeria's annual exports of goods and services – and strikingly high when compared to the relatively small sums owed by most African nations.<sup>27</sup> While few would dispute that there is an urgent need to address the debt, the real root of the economic problems lies elsewhere.

The COHRE Africa Programme is convinced that the current poor status of economic, social and cultural rights in Nigeria, particularly the right to adequate housing, is not solely due to a lack of resources, but is linked to Governmental corruption, mismanagement and incompetence with

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<sup>22</sup> Adebayo (1989:10).

<sup>23</sup> The World Bank Group: Data & Statistics: Data by Country, (GDP figures from 2000).

<sup>24</sup> Microsoft Encarta Online Encyclopedia 2002, Nigeria.

<sup>25</sup> Osuntokun & Olukoju (1997:197).

<sup>26</sup> Supra note 24.

<sup>27</sup> COHRE FFM interview with officials of the Federal Ministry of Finance, Abuja, 25 July 2002.

respect to implementing development projects such as, in the case of the right to adequate housing, the Federal Mortgage Bank House delivery projects.

To redress the economic instability, the Government plans to target a balanced budget, the completion of ongoing projects, a reasonable degree of policy consistency, and macro-economic stability. It intends to attain these goals by:

1. Adopting strict monetary policy to achieve policy targets in the medium term, and giving top priority to a single-digit inflation rate and foreign exchange stability.
2. Achieving a high economic growth rate through better mobilisation and prudent use of economic resources, and through institutionalising the 'Due Process Principle' (DPP) whereby expenditure is linked to resources on the basis of identified priorities of economy, efficiency and effectiveness.
3. Implementing economic reform programmes and encouraging private sector participation and direct foreign investment.
4. Privatising Federal-Owned Enterprises (FOE) to achieve a GDP growth rate of 5 percent.
5. Reducing the budget deficit to an absolute minimum and eliminating extra-budgetary expenditure.
6. Implementing poverty-alleviation programmes to ensure increased capacity-utilisation and reduced unemployment.
7. Operating a foreign exchange liberalisation policy, improving revenue collection and taxation, and ensuring debt-servicing.
8. Improving the agricultural sector: empowering the Nigerian Agricultural Co-operative and Rural Development Bank (NACRD) through minimum subsidies; and giving loans to farmers to encourage agricultural inputs into the country's economy. In addition, undertaking policy reforms, tariff adjustments for imports, and credit financing.

To accomplish all these objectives, the Government has identified three sectors in which such reforms should take place:

1. Human Resource Development: education, health, women, youth, labour and productivity;
2. Physical Infrastructure: science and technology, housing, water supply, energy and transport;
3. Natural Resource Development: agriculture and minerals.<sup>28</sup>

As they stand, these reforms, policies and strategies do not fulfil the Government's obligations under Article 11(1) of the ICESCR on the right to an adequate standard of living, including housing. Though public works and housing have been identified as areas needing reform, the policies do not include any specific reference to housing rights as objectives or as guiding principles of this reform and development.

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<sup>28</sup> Nigerian 2002 Budget Proposal Report.

# HOUSING RIGHTS AND FORCED EVICTIONS IN NIGERIA

## The Right to Adequate Housing

According to Article 11(1) of the ICESCR: “The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”.

The right to adequate housing means that everyone should be provided with sufficient shelter, space, privacy, security, sanitation and ventilation, the basic infrastructure and a suitable location. This right has assumed more importance in recent years and is now regarded as one of the most basic of all human rights. The right to adequate housing is also essential in that it is inseparably linked to other human rights: inadequate housing provision usually involves lack of access to vital amenities such as clean drinking water, a healthy environment and proper sanitation facilities. The human implications of adequate housing are evident in the need to have a secure place to live for one’s human dignity, physical and mental health and overall quality of life.

In many of Nigeria’s urban neighbourhoods, adequate housing – characterised by security, peace and dignity – has clearly become a very scarce commodity. Even though Africa’s most populous nation, with over 120 million people, has immense natural wealth, over half of its people still live below the poverty line.<sup>29</sup> Essential public utilities remain in a state of serious decay. Shantytowns and squatter settlements are a common feature of Nigerian cities, and living conditions continue to deteriorate. The underlying factor in the proliferation of slums on both public and private lands is the inability of most Governments (Federal and State) to provide adequate housing.

## Government Failures and Violations

According to a Lagos lawyer, the current living conditions of poor urban families can reasonably be described as threatening to life and health, due to continuous economic decline and deepening poverty. This grave situation is the direct result of: failed economic and development policies; the negative impact of the Structural Adjustment Programme; the lack of transparency and public accountability; and the corruption and misappropriation of public funds by Government officials.<sup>30</sup>

In 1991 the Government launched the nation’s comprehensive National Housing Policy (NHP), the ultimate goal of which was to ensure that all Nigerians would own or otherwise have access to affordable and decent housing accommodation by the year 2000.<sup>31</sup> The policy required Nigeria to provide a minimum of 8 million new housing units within ten years. From 1991 onwards, a total of 720,000 housing units were expected to be constructed annually. Actual delivery fell dismally short of this target, and even by 1994 it was clear that the Government was not seriously committed to its own policy, which unfortunately illustrates the Nigerian Government’s general attitude towards the provision of housing for the growing population.

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<sup>29</sup> UN Statistics Division: Nigeria Estimated Percentage of Population below Poverty Line (PPP of \$1 per day): 70.2 percent (1997).

<sup>30</sup> COHRE FFM interview with Mr Ebenezer a human rights lawyer, 17 July 2002.

<sup>31</sup> Supra note 18.

Another official response to the growing housing problems was the setting up of the Committee on Housing and Urban Development (CHUD) by the Ministry of Works and Housing. CHUD was to provide basic infrastructures including housing and utilities such as electricity and water. Yet the actual delivery of housing through this mechanism has only benefited the rich; there has been no adequate provision of low-cost housing.<sup>32</sup>

In 2001, CHUD submitted a report to the Federal Government, urging it to tackle the growing housing crisis. The main recommendations were that the Government should:

1. Construct far greater numbers of houses;
2. Provide assistance to local governments and housing agencies;
3. Establish a national agency for housing and urban development.

Having accepted this report, the Government indicated that it “would do its utmost best to ensure that all Nigerians have access to affordable housing because shelter must now be considered a fundamental human right along with education and employment”.<sup>33</sup>

Despite its pledges, the Government has failed to provide adequate housing for the growing populace and this has led to the proliferation of slum communities in and around most major Nigerian cities. These communities are primarily made up of poor quality structures with low safety standards.

Indeed, living conditions in communities designated as slums have worsened due to Government neglect, compounded by a drastic reduction in Government spending on social services, resulting from the implementation of the Structural Adjustment Programme. It should not be forgotten that the members of these communities are hardworking and law-abiding citizens, most of whom possess valid legal titles to the lands on which they live. They have consistently paid taxes and other tenement rates to appropriate local governments.<sup>34</sup>

Despite this, the Government has failed either to provide, or to ensure the maintenance of, basic social and economic services such as roads, electricity, water, schools, waste disposal and hospitals. Moreover, rather than directing resources to the search for sustainable solutions to development dilemmas, the Government has consistently chosen to engage in flagrant human rights violations, such as demolishing people’s homes and businesses and displacing them from their homes and other properties in the name of ‘urban development’ and the ‘restoration of master plans’.

In summary, Nigeria has the following serious housing problems:

1. Forced evictions and displacements;
2. High cost of housing accommodation;
3. Poor housing conditions;
4. Lack of investment in housing.

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<sup>32</sup> Supra note 30.

<sup>33</sup> *Thisday* newspaper report 27 July 2001.

<sup>34</sup> Supra note 30.

These housing problems are caused and/or compounded by the following factors:

1. Economic mismanagement;
2. Corruption;
3. Population drift into urban areas;
4. Political instability;
5. Ethnic rivalry.

Further worsening the plight of the poor, Government attempts to undertake beautification and urbanisation projects have led to the destruction of such informal communities and the forceful eviction of their inhabitants.<sup>35</sup>

While such forced evictions are hardly a new phenomenon in Nigeria, in the last ten years they have become more widespread, massive and brutal. Individual homes, markets, even entire communities are frequently demolished on the orders of officials at various Government levels. This results in partial or total property loss, and large-scale displacement of populations.

It is common practice for the security officers who actually conduct such demolitions to harass, beat, rape, injure and even kill some of the residents who attempt to defend their properties and families. On every occasion, the Government has justified its actions by referring to the “public interest”, often describing the targeted areas as “uninhabitable”.

Given the extent of the problem, it is not possible for this report to catalogue the innumerable forced evictions that have taken place in Nigeria in the past decade or more. Instead, the report highlights some key examples, as illustrations of a disturbingly broad trend of housing rights violations in Nigeria, which continue to this day.<sup>36</sup>

## Lagos State (Lagos)

### Overview

Lagos, Nigeria’s largest city with an estimated twelve million inhabitants (UN, 2001),<sup>37</sup> is the country’s economic and cultural centre. It was the political capital until 1991, when the administration was transferred to the FCT, Abuja. In recent decades, the overcrowding in Lagos has spread to the surrounding areas, and the urban sprawl on the mainland has dramatically worsened.<sup>38</sup>

The standard of housing accommodation in Lagos State varies widely, from high-class housing in the Government residential areas of Ikoyi and Victoria Island to low-cost housing in squatter areas such as Badiya and Makoko. Although there are communities of medium-class housing between these extremes, the overall picture is one of grossly inadequate housing accommodation.

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<sup>35</sup> COHRE FFM interview with Samuel Aiyeyemi, MEC community leader, 17 July 2002.

<sup>36</sup> See for example “Nigeria: Mass forced evictions in Lagos must stop”, Amnesty International, 31 October 2003 <http://www.amnesty.ie/user/content/view/full/1332>.

<sup>37</sup> Country at a Glance, United Nations Publications 2001.

<sup>38</sup> Hudgen & Trillo (1999: 994).

Urban drift is officially cited as the main reason for the high degree of overcrowding in the city of Lagos. Roughly speaking, every hour three people move into Lagos to stay, while 60 percent of the city's population are in dire need of accommodation.<sup>39</sup> This enormous housing shortage has led to the proliferation of slum communities in which people live without basic infrastructure and under highly unsanitary conditions. The Lagos State Government has adopted a strict policy of forced evictions in the face of deteriorating housing standards.

The Lagos State Government has stated that in order to clean up housing and implement development projects, it had no option but to take firm measures to demolish these slums, which, in its view, housed illegal occupants who refused to leave peacefully.<sup>40</sup> Seeking a better understanding of the situation, the COHRE FFM team visited three communities where forced evictions had taken place: Maroko, Badiya and Makoko.

## **Maroko Community**

### **Introduction**

Situated to the east of Victoria Island and adjacent to Ikoyi, the former settlement of Maroko was within the boundaries of the Eti-Osa local government area. Lying just above sea level, the flat, relatively swampy land of Maroko was prone to frequent flooding in periods of heavy rainfall. Progressive land-filling with sand in the neighbouring areas of Victoria Island and Ilado had significantly increased the likelihood of flooding. Maroko first came into existence in 1955, when the residents of 23 villages in the Victoria Island and Ikoyi areas were displaced to Maroko, Orile and Ilado. This mass displacement was part of a slum-clearance scheme in central Lagos. The Maroko, Orile and Ilado villages later came to be known simply as Maroko.<sup>41</sup>

With an estimated 300,000 people living in roughly 10,000 dwellings, Maroko used to be one of Nigeria's largest and most densely-populated slum communities. Eight or more people sharing one room was the rule rather than the exception. There was a mix of backgrounds and religions, mainly Christianity and Islam, and traditional practices including polygamy were upheld.<sup>42</sup>

During his interview, Mr Aiyeyemi, leader of the Maroko Evictees Committee (MEC), told the COHRE FFM team that in 1972 the Lagos State Government, headed by Brigadier Mobolaji Johnson, had acquired Maroko as a fully settled community – not as empty land. In exchange, the original owners, the Oniru chieftaincy family, received 6.8 million naira.<sup>43</sup> A decade later, the civilian Lagos State Government, under Al-Haji Lateef Jakande, had carried out a partial demolition of Maroko, which was followed by another demolition in 1985 by the military Lagos State Government under Air Commodore Gbolahan Mudashiru.

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<sup>39</sup> COHRE FFM interview with Mrs Okuboyejo, Assistant General Manager, Lagos State Development and Property Corporation (LSDPC), 17 July 2002.

<sup>40</sup> COHRE FFM interview with Mr Aribidesi, Public Relations Officer, Lagos State Ministry of Physical Planning (LSMPP), 16 July 2002.

<sup>41</sup> Maroko Research Report issued by The Social and Economic Rights Action Centre (SERAC).

<sup>42</sup> Supra note 35.

<sup>43</sup> Supra note 41.



**The COHRE team interviewing a Maroko leader, Lagos, Nigeria**

In 1990, the Lagos State Government demolished the Maroko community without notice on the grounds of “illegal occupation”. This reasoning was implausible, however, since “the Government responsible for its demolition had previously issued certificates of occupancy to the Maroko residents, thus legitimising their presence”.<sup>44</sup>

The leader of the MEC stated that the victims of the 1982 and 1985 evictions have not been resettled nor offered compensation. In 1987, the then Governor of Lagos State, Michael Akhigbe, announced a Government plan to build 2,000 housing units in Ikota to resettle Maroko people, but this was never carried out.

The site of the former Maroko settlement now has Lagos Island’s most exclusive houses, owned by the social elite. Only 2,000 of the original 10,000 Maroko home-owners have been resettled by the State Government – to dilapidated and unfinished Government buildings. The remaining 8,000 ‘landlords’ are still agitating for resettlement or compensation through SERAC. Only a few of the former community’s tenants have found dwellings elsewhere; the rest have taken to living in the streets of Lagos.

### **Economic Conditions in Maroko**

The MEC leader informed the COHRE FFM team that most of the former Maroko dwellers were low-income earners in trading, farming and fishing. Some worked in the community’s ‘cottage industries’, which included bakeries, cassava production and handicrafts. In Maroko’s ‘service industries’ were mechanics, carpenters, welders and tailors. In addition, there were ‘casual workers’ such as housekeepers, maids, drivers and gardeners, providing domestic services to the upper classes in Victoria Island and Ikoyi, less than 5 kilometres from Maroko.

According to an MEC executive, there was an open market in Maroko, in which various goods were sold. Some of the people travelled from the nearby towns to shop at the market. Maroko also had a number of retail and wholesale outlets selling a wide selection of items including clothes, provisions, medicines and building materials.<sup>45</sup>

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<sup>44</sup> Agbola & Jinadu (1997: 288)

<sup>45</sup> COHRE FFM conversation with an executive of MEC, 17 July 2002.

Within the former Maroko community there were also many office buildings, including estate agents offices, the area office for the Eti-Osa local government, and the New Town Development Authority Office. The local government had also built a library and a postal agency there.

### **Local Administration**

The Lagos State Government administered the former Maroko community. The *Baales* (clan chieftains) were responsible for governing Maroko under the *Oba Oniru*. They were in charge of rural administrations and often assumed judicial roles, such as resolving conflicts among the people. The Community Development Association was in charge of security and other relevant issues.

The leader of the Maroko Women Association informed the COHRE FFM team that land purchases were made through the local government with the approval of the Lagos State Government. Landowners paid stamp duties and tenement rates to the local government. They also paid water rates, even though this utility was grossly inadequate. The Government, in turn, provided some basic services, such as a library, a health centre, and public toilets. Under Al-Haji Shehu Shagari, the Government also drilled a borehole for water supplies.<sup>46</sup>

### **Infrastructure, Public Services and Utilities**

The former Maroko community lacked basic infrastructures and utilities, such as proper drainage systems and running water (see *Water and Waste Disposal*). Neither was there electricity: Maroko was not connected to the national power grid and its people had to rely on paraffin lanterns, candles and torches instead. The community also lacked telephone lines and fire-fighting stations.

Transportation was grossly inadequate: although Maroko was located beside the Lagos-Epe Expressway, the intra-community access roads were very poor. The Government indicated that it had provided two tarred roads, Teriba and Araromi, but the community itself was responsible for their maintenance. This consisted of grading and sand-filling. Before roads were constructed in Maroko, canoes were the only means of transportation. All the other roads in the community had been constructed by the residents themselves. However, these were poorly drained dirt roads, which made transportation very difficult, especially during times of heavy rain.

Even though there were public services, including health facilities, a public library, some schools, banks and office buildings, as well as a number of private-sector services, these were insufficient to meet the basic needs of the inhabitants. For example, the COHRE FFM team was informed by evictees that of the nine schools in Maroko, only one was a public primary school: Ansur-ud-Deen primary. There was a private secondary school, but no public secondary school. With such a poor school system, many children were forced into hawking and trading to supplement their families' incomes. To make matters worse, the private and public health facilities and traditional healing homes were also inadequate.

In other areas, the Maroko residents were strikingly self-reliant, especially as far as community security was concerned. The community was quite well protected against crime. It had organised

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<sup>46</sup> COHRE FFM interview with the Maroko Women Association, 17 July 2002.

street-to-street patrols, which managed to ensure a safe environment for the inhabitants. There were few cases of theft, armed robbery or violence in Maroko. Similarly, social vices such as prostitution and drug or alcohol abuse were rare. An adult male evictee described the situation:

“In this country you cannot dispute that there is generally a high crime rate. In every area there is a [similar] sort of thing. But in Maroko we curbed that; it was much less because we had night watchmen. Every street had a night watchman... In Maroko we didn’t have armed robbers and other things. All of us were very serious in our work... We didn’t have riff-raff and rogues, because at night you couldn’t come out any time from midnight till 6 o’clock [in areas] where we had a night guard and a night watchman.”<sup>47</sup>

### **Water and Waste Disposal**

As Lagos Lagoon, the body of water surrounding the former Maroko settlement, contains salt water it was of little use to the inhabitants, except for transportation. Furthermore, Maroko had no system of running water. According to the leader of the Maroko Women Association, residents were forced to adopt the outdated method of digging wells as the main source of water. This water was drawn manually, using plastic buckets. The water was neither treated nor filtered before use, as there were no water-treatment facilities in the community. A second source of water was rainfall, though this was unreliable.

As the COHRE FFM team learned from interviews with evictees in the present resettlement location, the former Maroko community lacked a drainage and sewage-disposal system. Landlords dug open drainage ditches around their homes, but these were often clogged with refuse, which resulted in flooding. Waste-water flowed from these ditches into Lagos Lagoon, polluting the water and endangering aquatic life and the health of the people.

One evictee stated that some residents could afford to have septic tanks, while others had to use pit-latrines for sanitation. Others grew so desperate that they used buckets, though this was illegal.

Other frequently-used methods of waste-disposal included shallow burial, open dumping on undeveloped land and in waterways, and burning. Not only were these methods highly inefficient, they also created a stench and further endangered the health of the residents.

### **The 1990 Demolition and Forced Eviction**

The MEC leader reported that on 7 July 1990 the Governor of Lagos State, Colonel Raji Rasaki, announced on radio that the Maroko community was to be disbanded and its facilities demolished. The residents were given seven days notice of the eviction.

When asked if the residents had taken any action immediately following this announcement, a male evictee recalls:

“Of course we protested! We protested even up to the presidency and some people suffered arbitrary arrest and detention, like myself, and even my mother – who was then 79 – was arrested, taken to [Ward 25] Alausa, tied down ... for a whole day, then released. We protested strongly. We even went to court. I was in court, Court 10 Lagos where [Civil

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<sup>47</sup> COHRE FFM interview with John Ogunyemi, Maroko evictee, 17 July 2002.

Rights activist] Femi Falana led the team of lawyers. I was in the court. We protested seriously about it. But the thing fell on deaf ears.”<sup>48</sup>

A retired Lieutenant-Colonel of the Nigerian army (who wished to remain anonymous), whose property was affected by the demolition, said:

“I was surprised by this action. Any military man knows that you cannot move an army division in seven days, because it encompasses their families, hardware and so on, not to talk of a community of over 300,000 people.”

The wife of the MEC leader informed the COHRE FFM team that the demolition, which occurred on 14 July 1990, was carried out by soldiers armed with AK-47s, with bulldozers and caterpillars behind them, followed by trucks loaded with coffins for those who were to die in the destruction.

An evictee, Mr Rufai, informed the COHRE FFM team that the facilities destroyed during the demolition included 15,000 residential buildings, including, nine schools, a number of religious centres an open market and even down to the smallest of flats. He recalled how this destruction was accompanied by the screams and protests of Maroko’s men, women and children, many of whom were beaten with rifle butts. Some died as a result of the physical violence.<sup>49</sup> The community was crushed by this brutal military action unleashed by their own Government.

The evictees were scattered throughout Lagos State since no alternative housing had been arranged. A small number took up residence in abandoned Federal and State-owned buildings – uncompleted and dilapidated – in the Ilasan, Epe and Ikota communities, about 8 kilometres from the former Maroko.

According to the MEC leader, the Lagos State Government attempted once again to forcibly remove these evictees. This time, the public outcry and condemnation was so intense that the Government had no alternative but to officially allocate these deplorable buildings to about 2,000 property owners – a tiny fraction of the total number of Maroko evictees. No consideration was given to the remaining 298,000 evictees, who had no way of proving that they owned or had owned property.<sup>50</sup>

The first few years of life in the new locations, in conditions far below acceptable standards of healthy living, were very trying and turbulent for the evictees. The roads were often unusable due to heavy flooding and there was a lack of clean drinking water and electricity. As the COHRE FFM team observed in Ilasan, the present housing of the few resettled property owners is characterised by unfinished and uninhabitable accommodation in an environment lacking basic social amenities, and often flooded.<sup>51</sup> Twelve years after the Maroko demolition, many people remain homeless and jobless, and cannot afford schooling. The Government has failed to take responsibility for its actions by fully compensating and resettling them.<sup>52</sup>

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<sup>48</sup> COHRE FFM interview with Mr Suaibu, Maroko evictee, 17 July 2002.

<sup>49</sup> COHRE FFM interview with Mr Rufai, evictee, 17 July 2002.

<sup>50</sup> Supra note 35.

<sup>51</sup> COHRE FFM visit to Ilasan, 17 July 2002.

<sup>52</sup> For more details on the conditions of the relocated Maroko evictees, see Agbola & Jinadu (1997). Their study shows that “in terms of housing quality, overcrowding, rents, basic services and over-all satisfaction with their new neighborhood ... most of those evicted were worse housed than before the eviction”.

The Government justified the demolitions by claiming that there was a need for urban renewal and development,<sup>53</sup> as the Maroko area experienced repeated flooding and unsanitary conditions. While the inhabitants agreed that the flooding had always been a problem, they were quick to add that it was in large part due to Government neglect. They pointed out that the adjoining suburbs of Ikoyi and Victoria Island were also prone to flooding, but the Government had taken adequate preventive measures there.

The Government also claimed that 95 percent of the people in Maroko had erected shanties in the area without official authorisation. Evictees pointed out to the COHRE FFM team that, prior to demolition, Maroko had a number of modern houses built by landowners who legally obtained their lands directly from the Oniru or Elegushi families, the original titleholders.

An investigation by the COHRE FFM team revealed that some evictees are actually titleholders in possession of valid documents, incontestably proving their right to Maroko land.<sup>54</sup>

### **The Maroko Eviction Measured against International Standards**

The ICESCR, which has been ratified by Nigeria:

“... recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions.”<sup>55</sup>

UN General Comment No. 7 defines the term ‘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.”

Under these standards, the destruction of Maroko was an act of forced eviction that contravened international law. The whole process, from the eviction to the refusal to provide adequate compensation or re-housing, constitutes a gross violation of human rights; in particular, the right to adequate housing. The Maroko evictees now live in squalor imposed on them by the State. In ignorance of their housing rights, these people have also been deprived of associated fundamental rights including the right to education, the right to health, and the right to development.

### **Intervention by NGOs in the case of Maroko**

Following initial efforts by the Civil Liberties Organisation, SERAC has been trying to assist the Maroko evictees in seeking redress for violations of their rights. Under its Maroko Support Project (MSP), SERAC has provided support to Maroko evictees in order that they may sustain their struggle to secure resettlement and just compensation for the properties destroyed by the Lagos State Government. The activities undertaken by SERAC include those under its Community Action Programme (CAP), the Monitoring and Advocacy Programme (MAP), and the Legal Action Programme (LAP).

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<sup>53</sup> COHRE FFM interview with Mr Emdin, Director of Development Matters, LSMPP, 16 July 2002.

<sup>54</sup> Evictees Lease Agreements.

<sup>55</sup> ICESCR, Article 11.

### ***Community Action Programme (CAP)***

Under this programme, series of meetings are held with evictees to raise their awareness of: (1) their economic, social and cultural rights; (2) the Nigerian Government's obligations to its citizens regarding the right to adequate housing; and (3) the legal implications of forced evictions under international, regional and local laws.

The first awareness-raising programme took place in 1997; follow-up programmes are organised annually on the anniversary of the 1990 forced eviction. In 1998, a joint programme on housing rights was provided for the evicted communities of Maroko and Badiya. The tangible result of these programmes is that the people are better equipped to take initiatives and carry out programmes towards the realisation of their aims.

SERAC makes short video documentaries portraying the conditions in communities where the Maroko evictees are currently resettled. These videos are used in national and international advocacy campaigns against forced evictions that occur without due process.

In 1999, SERAC built an Information Centre at Ilasan in order to give the Maroko evictees greater access to information. SERAC has furnished the centre with television and daily national newspapers for the evictees. The TV is regularly viewed by at least 50 percent of the evictees living in the resettlement area, and this helps them stay abreast of national and regional issues. It was decided to set up the Information Centre because the evictees had no access to information on current affairs in and outside Lagos. They were unaware even that issues relevant to their eviction were being discussed in the media.

In May 1999 SERAC introduced a Micro-Credit Project for Maroko women evictees, as many of the evicted families were headed by females. The project aimed to sustain the women's participation in the struggle for compensation, as well as to provide economic assistance to the evicted families. The sum of 2,000 naira was disbursed to women who were already active as small traders. Subsequently, a temporary stop was put to the programme so that SERAC could start up its new National Micro-Credit scheme, targeted at women in all regions of Nigeria. The Micro-Credit programme proved successful, repayment was prompt, and beneficiaries reported that the scheme encouraged them to continue to participate in their struggle for compensation.

SERAC also organises press conferences and issues press releases on behalf of the Maroko evictees, addressing outstanding resettlement and/or compensation issues.

### ***Legal Action Programme (LAP)***

This is one of SERAC's thematic programmes, providing free legal assistance to individuals and groups seeking to assert their economic and social rights and entitlements. It campaigns for the reform or repeal of anachronistic laws and the passage of new laws that facilitate the realisation of social and economic rights. The LAP also provides education and training aimed at boosting the judiciary's awareness and enforcement of social and economic rights. Under this programme, cases have been filed on behalf of Maroko evictees, raising issues of various human rights violations that occurred during and after the eviction process.<sup>56</sup> Free legal assistance is also offered to evictees.

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<sup>56</sup> Maroko High Court Suits nos. M/328/98 & M/310/98.

### ***Monitoring and Advocacy Programme (MAP)***

This programme is part of SERAC's efforts to research, monitor and document economic and social rights practices in Nigeria. Under this programme, SERAC has conducted two major research projects on the former Maroko community: (1) to determine and compare the standard of living of evictees in Maroko and in their present locations; and (2) to determine the extent of the impact of forced evictions on women.

SERAC has also aided in the establishment of collaborative relationships between Maroko evictees and international organisations working on eviction and housing rights issues. On 8 February 2002 SERAC convened a workshop entitled *Maroko, Steps to Resettlement and Resolution*.

The workshop brought together Government officials from the Ministries of Housing, Physical Planning, and Justice, as well as lawyers, human rights activists, the media, academia and the evictees, to develop practical strategies for a realistic Lagos State Government resettlement plan.<sup>57</sup> Strategies currently implemented include:

1. The setting up of a working committee comprised of architects, town planners, evictees, academics, activists and SERAC staff, to meet with the Government and develop resettlement plans;
2. Analysing and advocating budgetary and policy options to enhance the resettlement process;
3. Developing fund-raising techniques in order that the project can be properly financed.

As a follow-up to this workshop, SERAC is establishing a Maroko Resettlement Committee with a mandate to develop a model resettlement plan. The aim is to present this plan to the Lagos State Government as a guide for effective resettlement of the Maroko people. The committee is comprised of a town planner, an architect, a sociologist, a human rights activist, a media correspondent, the MEC leader and SERAC staff.

### ***Impact of NGO intervention***

The work of organisations such as SERAC illustrates the importance of community action, assisted by progressive service organisations, in trying to realise the right to adequate housing. SERAC strove to raise the awareness of Maroko evictees, and to mobilise them to take actions to defend their rights. This work resulted in the formation of the MEC. Activities carried out under the banner of the MEC include holding meetings with the Lagos State Governor and the Commissioners for Justice, and Housing and Land, as well as working with officials of international organisations. The MEC also uses the Information Centre built by SERAC as a meeting venue, and as a nursery and primary school for evictees' children. Prior to SERAC's intervention on behalf of the Maroko evictions, they were unable to co-ordinate and effectively organise activities relating to their forced removals. Meetings were poorly attended and women little represented in the struggle.

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<sup>57</sup> SERAC Maroko Workshop Report, 8 February 2002.

## **Badiya Community**

### **Introduction**

Badiya is a slum community now located at Ijora in the Apapa local government area of Lagos State. Originally Badiya grew out of farming and fishing villages that gradually transformed into six neighbourhoods: Oguntayo, Apata, Oridilu, Olojowon, Badiya and Cardoso, formally located on a different site called Oluwole, an area covering the present location of the National Theatre. Despite this urbanisation process, the inhabitants upheld many of their traditional customs, such as being governed by village chiefs. Between 1966 and 1985 the population of Badiya more than doubled, from an estimated 60,000 to around 150,000.<sup>58</sup> Much of this growth was due to immigration from different parts of Nigeria, though some people also came from neighbouring countries, including Benin and Ghana. “To accommodate the new [house] constructions, swamps were hurriedly and partially reclaimed”.<sup>59</sup>

As the Government took no interest in the community, individuals and families had to ‘develop’ their own constructions as best they could. The vast majority of immigrants were too poor to purchase good construction materials or to carry out proper maintenance (especially as they knew that eviction was a likely possibility). As a result of the rapid population growth and the lack of resources, the area was “unplanned and hazardous, devoid of many basic urban amenities”.<sup>60</sup>

### **Demolitions and Forced Evictions, 1982-1996**

The Badiya community has suffered a series of forced evictions, one of which resulted from a project supported by the World Bank. Remarkably, however, the people keep coming back and rebuilding after being evicted, and many even remain while demolition is going on around them. At the time of writing, the community is located where previous demolitions took place, on a site bisected by a railway line. It is important to note that these people have actually been given legal title to dwell in this area by the Federal Government.

In a meeting with the COHRE FFM team, Chief Ogunyemi, leader of the Badiya Community, described Badiya as a sprawling slum in the Lagos Mainland metropolis. He said that the community was particularly located in the area of Lagos State that now houses the National Theatre, where cultural events, operas and dramas take place. When the State Government needed the area to construct the theatre, the settlers were legally apportioned the current Ijora settlement area by the Federal Government and were given accompanying title documents under the Nigerian Railway Corporation and the Lagos State Ministry of Works and Housing.<sup>61</sup>

The COHRE FFM team visited Badiya on a rainy day and could see first-hand what the residents maintain; that the community remains vulnerable to flooding, which seriously hampers their economic activities.<sup>62</sup>

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<sup>58</sup> Makinwa-Adebusoye (1987: 149-151).

<sup>59</sup> Supra note 58.

<sup>60</sup> Supra note 58.

<sup>61</sup> COHRE FFM interview with Chief Ogunyemi, leader of Badiya Community, 18 July 2002.

<sup>62</sup> COHRE FFM visit to Badiya 18 July 2002.



**An acute and dangerous lack of drainage and sanitation:  
Badiya slum, in the heart of Lagos**

Originally, the main source of income was fishing, however now there is greater diversity. The community also suffers from the lack of basic infrastructure such as drainage systems, safe drinking water and electricity, and the absence of proper healthcare or other basic services. Chief Ogunyemi told the COHRE FFM team that the Government has never thought it necessary to look into the living conditions of the Badiya people.

The first of the series of evictions that the community suffered occurred in 1982, when, as part of a misguided 'environmental clean-up exercise', Navy officials started fires at strategic locations in order to force the residents out. No warning was given and no compensation was provided in the aftermath. As the fires raged, community members were prevented from retrieving their belongings and stern warnings were issued that they should not erect housing in the area again.

In addition, the COHRE FFM team learned from community members that the victims of this forced eviction were not provided with alternative accommodation. The evictees therefore proceeded to rebuild Badiya, with no assistance from the Lagos State Government. In subsequent years there were further forced evictions, including a major violation in 1986, when some 3,000 people were ejected, 2,000 of whom were women. It should be noted that 80 percent of these evictees were legal occupants who had resettled in the area after being moved from their original abodes in the National Theatre area, where their parents had lived since 1919. The rest did not have legal status.<sup>63</sup>

When the COHRE FFM team asked a Badiya evictee whether the residents had been consulted or notified prior to the evictions, he replied that they had not, though rumours had circulated. He added that no resettlement was offered following the evictions and for ten years the evictees had slept among the debris of their demolished homes before being allowed to rebuild. In spite of the successive demolitions and evictions, the Government did nothing with the land.

In 1996, the Lagos State Government demolished large portions of the slum under the Lagos Drainage and Sanitation Project (LDSP), which was sponsored by the World Bank, and included the construction of the Drainage Channel. Human rights activists accused the World Bank of, among other things, neglecting its responsibilities as co-sponsor of the project by: (1) not consulting with the host communities, (2) not following through on how its money was being

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<sup>63</sup> Supra note 62.

used, and (3) leaving responsibility for compensation to local authorities. Even though the plan included provisions for the resettlement and compensation of the people affected, no such resettlement or compensation has been forthcoming.<sup>64</sup>

As a result of the 1996 demolition an estimated 2,000 persons in Badiya and Ijora Oloye lost their homes, shops and schools, as well as healthcare and childcare centres.<sup>65</sup> The demolition was carried out by security officials who intimidated, harassed and physically assaulted residents, as well as extorted money from those who attempted to salvage their property and possessions. Furthermore, the Drainage Channel, originally designed to reduce flooding, actually resulted in the blockage of an existing natural waterway, and made the flooding worse, further damaging the community's economic activities.<sup>66</sup> The residents are convinced that the Government has no specific economic or health plans for them.<sup>67</sup> As the COHRE FFM team discovered during their visit, there are still no basic services or amenities. As there is no waste-disposal system, residents continue to dump their domestic waste beside their homes. The Government has never made it a priority to improve their living conditions.

### **Intervention by NGOs**

As an international organisation was involved in the forced eviction of the Badiya community, SERAC adapted its intervention strategy in order to reach the different actors in the eviction process. As in the case of the Maroko community, SERAC's activities were undertaken in the main programmes of: CAP, MAP, and LAP.

#### ***Community Action Programme (CAP)***

SERAC organised regular meetings with leaders of the Badiya community, with the aim of establishing a network within the community to raise peoples' awareness and to mobilise them so that they might actively participate on issues and policies relating to adequate housing and forced evictions. For Badiya evictees, SERAC also organised community workshops on the right to adequate housing, in which over 500 dwellers participated.

On SERAC's own assessment, 6,000 people were affected by the eviction, and property worth three million naira was destroyed. A Micro-Credit Project was introduced to assist Badiya evictees, particularly women, and sustain their participation in the struggle for just compensation and resettlement.

#### ***Monitoring and Advocacy Programme (MAP)***

SERAC held several meetings with the Lagos Ministry of Environment and Physical Planning (MEPP) and the World Bank. However, communications broke down in June 1998 over the World Bank's Drainage Project. Having exhausted all other available channels in its attempt to communicate effectively with World Bank officials and the MEPP, SERAC filed a Request for Inspection based on substantive breaches of the World Bank's own operational directives on monitoring and complying with human rights laws.

SERAC research conducted among women evictees of Badiya revealed that women suffer more than their male counterparts during forced evictions. Evictions destroy critical services for

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<sup>64</sup> *IPS News*, 19 June 1998.

<sup>65</sup> Social and Economic Rights Action Centre (SERAC).

<sup>66</sup> COHRE FFM visit to Badiya, 18 July 2002.

<sup>67</sup> COHRE FFM conversation with Badiya residents, 18 July 2002,

women, such as sanitary facilities during pregnancy. Among the other factors that affect women are overcrowding and pollution, which may give rise to serious mental and physical problems.

### ***Legal Action Programme (LAP)***

Under this programme, SERAC continues to provide free legal assistance to Badiya evictees. SERAC also handles legal cases on behalf of the evictees; in this respect, the organisation was very active in connection with World Bank involvement in the 1996 forced eviction of the Badiya community. Letters of enquiry and protest were sent to the World Bank Country Director, the Commissioner of the MEPP, the World Bank Group President and a number of other parties involved. This communication did not prove to be effective, however, as recipients of the letters did not provide key information on the eviction, especially as regards World Bank Operational Directive 4.30, which recommends adequate resettlement and compensation for all people adversely affected by World Bank projects.

### ***Impact of NGO Intervention***

According to the community leader, SERAC's programmes have made members of the Badiya-Ijora community more aware of key issues and strategies: they now initiate and undertake advocacy and campaign activities against further evictions and demolitions in Badiya. In July 2001, they successfully halted demolitions planned by the Railway Corporation of Nigeria. They managed to do so by organising and holding a series of meetings with Railway Corporation officials, as well as with elected members of their Local Government council.

## **The Makoko Community**

### **Introduction**

In contrast to Maroko and Badiya, Makoko is a mixed-income community. Besides slum areas, it has sections with housing for the lower class and for the lower-middle class. Despite several warnings of eviction from the Government, this community has never actually been evicted. It is located in Lagos Mainland local government area, and has an estimated 50,000 inhabitants.

The COHRE FFM team visited Makoko on a pleasant, sunny afternoon. They found that the community is made up of housing of varying quality. There are four sub-communities, each under its own community development association. The land on which Makoko is built is generally considered to be below sea level and has a very ineffective drainage system, which makes it highly prone to flooding. Indeed, some parts of Makoko are referred to as "house on lagoon" because the houses there are either on the water or surrounded by it. The community lacks basic amenities, particularly safe drinking water. The roads are in various stages of disrepair and are barely usable.<sup>68</sup>

### **Demolition Threats**

Seventy percent of the houses in Makoko are owned by community members themselves. Many of them have been urged to obtain official documentation, such as approved building plans (planning permission), in order to prevent the Government taking action against them. So far, no actual demolitions or evictions have taken place, though there have been regular reports that the community is under threat.

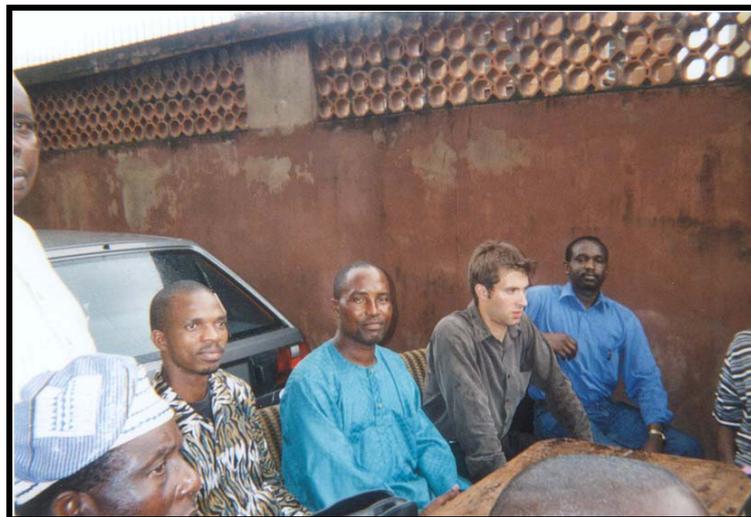
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<sup>68</sup> COHRE FFM visit to Makoko, 19 July 2002.

According to the chairman of the Makoko joint Community Development Association (CDA), the Government awarded drainage contracts under the two-phase Makoko Drainage Channel Project, designed to prevent flooding. The first phase has been completed but the second has not yet commenced. One part of the project, said to have been paid for by the Government, was abandoned by the contractor. Efforts to locate this contractor have proved unsuccessful. Furthermore, no maintenance is done on the few infrastructures that were provided.<sup>69</sup> The COHRE FFM team learned from one CDA leader that the main canal, which had never been dredged, could not cope with the increase of floodwater during the rainy season.

Houses built on Makoko's natural waterway continue to exacerbate the problem of flooding, as they impede the flow of water. In all parts of the community, many of the houses are in very poor – often uninhabitable – states. Some houses have even become partially submerged, though people go on living in the dangerous parts that remain above the waterline.<sup>70</sup>

The CDA chairman told the COHRE FFM team that the community's local government had neglected them, and that the responsible legislator of the Lagos State House of Assembly never consulted with them.



**The COHRE team attends a community meeting  
in Makoko, Lagos, Nigeria**

### **Intervention by NGOs**

NGO activity in this community has been limited, although SERAC has held preliminary meetings with the Makoko joint CDA, with a view to raising awareness of issues affecting the community, as well as carrying out training programmes. The training programmes covered issues of health, housing, environment, community mobilisation and participation, and women's issues.

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<sup>69</sup> COHRE FFM interview with chairman of Makoko CDA, 19 July 2002.

<sup>70</sup> COHRE FFM visit to Makoko, 19 July 2002.

## Bearing the Brunt of Forced Evictions: the Housing Rights of Women

On a follow-up visit to the Makoko community with SERAC staff, COHRE learned that, in Nigeria's disadvantaged communities, households headed by females account for 40 percent of those living in accommodation which is below acceptable housing rights standards.<sup>71</sup> As the harrowing accounts in this section reveal, in Lagos and around the country women suffer most during and after forced evictions. In the international community, rape and violence against women during periods of armed conflict are increasingly recognised as war crimes. Forced evictions occur in a violent climate similar in many ways to that of war, with female victims suffering similar kinds of abuse.

One female Maroko evictee recounted her experience to the COHRE FFM team:

“On the day of the demolitions we were caught unawares. The caterpillars [bulldozers] and soldiers just arrived and started breaking houses. I rushed out to try to get a vehicle to pack my things. It was difficult because of the heavy rains that day. When I got back, I couldn't see my house anymore. It had been demolished. We moved to a room in a house belonging to a friend of mine. It was a terrible place and had a leaky roof. We were sleeping in water. We stayed there for four years. One of my daughters was abducted by some men, and for many days we couldn't find her. When we did find her, she was pregnant. Someone had tried to perform an abortion on her using a lethal injection, but it was not successful. My husband threatened to kill her for dishonouring the family name. I intervened, and he became angry and left. He hasn't been back since. Now I do a little farming and sometimes I get enough to sell, so by the grace of God, I manage to support myself and my four children and one grandchild.”<sup>72</sup>

Another female evictee told the COHRE FFM team:

“I was ill before the evictions, so when Maroko was demolished, I was only able to salvage a few things. I used to sell beer at Maroko. My bottles, one of my refrigerators, and most of my other properties were lost. I went to see the things. The shock made me ill again. I returned to the hospital for three weeks. Shortly after, my husband also became ill. I did my best, but I couldn't support the family and pay his hospital bill at the same time. He died eventually. Now I live with my two children in the house the Government gave me. It is a terrible place, and leaks badly. I depend on people to help to raise my children. They are both girls. One cries that she wants to go to school, but there's no money. The other one wants to learn a trade, but I cannot afford it.”<sup>73</sup>

Violations of women's rights also occur in forms other than physical violence. Women are abused psychologically, threatened in their personal integrity and relationships, and denied means of livelihood such as access to education, nutrition and adequate health care. For those women who lost their husbands during or as a result of demolitions and/or forced evictions, there is the added burden of having to support an entire household – often a very large one by western standards – on an ever-dwindling economic base.

CEDAW has been ratified by Nigeria (1985). In Article 14(2) it states that:

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<sup>71</sup> COHRE FFM discussion with SERAC.

<sup>72</sup> COHRE FFM interviews with female evictees, 17 July 2002.

<sup>73</sup> Supra note 72.

“States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right... (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”

Most poor families depend on their women for sustenance. Once this source of income is disrupted by eviction, the family is dislocated and the woman bears most of the burden. A high proportion of women suffer poor housing and living conditions including overcrowding, severe pollution, unsafe drinking water and inadequate sanitation. All these factors give rise to serious mental and physical health problems and cause the death of thousands of women. Women are also denied access to their own or inherited housing, land and property or economic resources. These are some of the ways in which female-led households are adversely affected; women and their children suffer disproportionately from the practice of forced eviction. In Nigeria, this is often the result of gender-biased laws and customs operating throughout the entire fabric of society.<sup>74</sup>

## **Government Response to Concerns Raised by COHRE**

The COHRE FFM team visited Lagos State Government departments concerned with housing, in order to enquire whether sufficient official efforts have been made to curb the enormous housing problems in the State. Mr V. O. Emdin, Director of Development Matters of the Lagos State Ministry of Physical Planning, and Mrs O. Okuboyejo, Assistant General Manager of Architectural Services of the Lagos State Development and Property Corporation (LSDPC), provided some insights into the Government’s response to the problems of poor housing, lack of housing rights and issues of forced eviction in the State. Mr Emdin said that the Government was concerned about the housing problems in Lagos State, and is willing to provide shelter for the growing populace. However, he went on to say that the State Government faces a huge problem due to lack of availability of land for building houses; frequently, when the Government succeeds in buying or acquiring land, owners still hold on to it even after being compensated. This, according to Mr Emdin, is a major problem for the Government in meeting its obligation to provide adequate and sufficient housing for the Lagos populace.

The Lagos State Office of Physical Planning is one of several departments responsible for housing. The department formulates and initiates housing development plans and policies in accordance with Regional Laws on housing. Under the Urban Renewal and Control of Property Edict, the ministry gives approval to any purchase of land and the type of house to be built on it within Lagos State.<sup>75</sup>

The COHRE FFM team learned from the Director of Development Matters that the Lagos State Government had earlier established the Lagos Executive Development Board with responsibilities such as land allocation, reclamation and resettlement. One of the projects that was initiated by the Development Board was targeted at helping employers acquire land to build houses for their workers, on the condition that no employee pay more than a quarter of his

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<sup>74</sup> Nigeria Customary Laws - *oli-ekpe* custom (*Mojekwu v Mojekwu* 1997 7 NWLR PT 152), Women, Law & Development in Africa: Series Women, Law & Development No. 4, Inheritance Rights of Women in Africa - (CIRDDOC) Nigeria.

<sup>75</sup> *Supra* note 40.

income for the house. The project failed because the employers/landlords hired, fired and evicted at will.<sup>76</sup>

Another attempt to provide housing is the Private Estate Developers Scheme, where the Government makes land available to private individuals for a 99-year term on the condition that the leaseholder agrees to provide infrastructure and build houses for sale to those in need. The reduction of the contract duration to 55 years and improper distribution are major problems facing the scheme.

On the subject of the Maroko eviction, the COHRE FFM team asked the Director why the Government had not adhered to international guidelines on eviction. He insisted that the Government had followed appropriate procedures for the evictions and that the irregularities had occurred thereafter. For example, a committee had been set up for resettlement and apportioning of parcels of land to the evicted landlords, but these landlords later sold off the lands.

The COHRE FFM team inquired as to the Government's plans concerning slum communities and cases of forced evictions in the State. The official responded that as a result of rural-urban drift, the housing shortage is getting worse. People resort to building illegal structures on unapproved property, creating slum communities. The houses in these slums are built of wooden planks and galvanised steel sheets, which are prohibited building materials, and as the structures are not built in accordance with an approved building plan, they are illegal and liable to demolition. Such slums are extremely hazardous. They pose health problems and are unsightly. Beautification, urbanisation and development projects cannot be carried out without eviction. The eviction has to be forced, according to the official, because people living in illegal structures stubbornly refuse to leave them.

As far as the Maroko community is concerned, the LSDPC faces the problem of finding adequate funds to carry out maintenance and renovation in the present settlement. The Government plans to improve living conditions for the Maroko people as soon as funds become available. As regards those Maroko evictees who were not property owners and have not yet been resettled, the Government has no immediate plans.

The COHRE FFM team was informed by an official of the Lagos State Urban Renewal Board (LSURB) that the Government has set up the Lagos State Urban Forum under the Lagos Metropolitan Development Project (LMDP), identifying nine areas in the State that are in need of development under a World Bank-assisted project. These areas include: Agege, Ajegunle, Amukoko, Iwaya, Badiya, Makoko, Ijeshatedo, Ilaje and Bariga.<sup>77</sup> The Project is to cover:

Urban Slum Upgrading, to be managed by the Ministries of Environment and Physical Planning and Lagos State Urban Renewal Board;  
Housing Finance, to be managed by the Government Housing department, but financed by the private sector;  
Infrastructure components, to be implemented by the relevant agencies responsible for their provision and maintenance.

A special account is to be opened into which funds from the World Bank will be remitted. Funds will then be directed into the project account, managed by the Ministry of Finance, from which

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<sup>76</sup> Supra note 53.

<sup>77</sup> Lagos State Urban Forum Planning Report on the World Bank Project.

funds will be distributed to the local governments. The Government and other agencies are to manage the project. The World Bank is making efforts to ensure that no family is displaced and no house demolished under this project.

It is welcome news that the Government has begun to recognise and accept its obligation to provide housing and better living conditions for the people of Lagos State. If the Government sustains these projects with the provision of adequate funds, and ensures transparency and accountability, it would have a positive impact on housing and living standards in Lagos State. However, given the government's poor track record in meeting its obligations in the area of housing rights, this project should be closely monitored by Nigerian and International NGOs and other watchdog bodies.

## **Rivers State (Port Harcourt)**

### **Overview**

The population of Rivers State, more than three million people, is of very diverse ethnic composition. The communities can be regarded as belonging to six major linguistic groups, including: 'Ijoid, lower Niger (Igboid), Ogoni, Central Delta, Delta Edoid, and Lower Cross.'<sup>78</sup> The communities include: the Kalabari and Bile (Ijoid); the Ekpeye, Ikwerre and Igbo (lower Niger); and the Khana, Gokana and Eleme (Ogoni), to name but a few. Fishing is the traditional occupation of the Rivers State people, though many of them also engage in farming. Despite the natural limitations of the extensive swampy areas, valuable agricultural products are produced in this area, including palm oil, rubber, cassava, fruits and vegetables. The industrial potential of these raw materials has been realised and has led to 'economic development via industrialisation'. This 'industrialisation', along with other factors such as the 'neglect of the rural sector', has led to accelerated urban growth in Rivers State, especially Port Harcourt.<sup>79</sup>

Port Harcourt, also known as 'The Garden City', is the capital of Rivers State. It has aspirations to be a modern city, characterised by highways, wide avenues and high-rise blocks. However, it also has numerous poorer areas and slums. In recent decades, the fortunes of this city improved mainly as a result of the oil wells that sprouted throughout the region following the discovery of commercially exploitable oil reserves at Oloibiri in 1956. The first shipload of Nigerian crude was exported from Port Harcourt in 1958, launching the country on a new economic course that seemingly promised rapid industrial development and prosperity.<sup>80</sup>

Port Harcourt is one of Nigeria's main oil-producing cities and a base for leading oil companies including Shell, Mobil and Chevron. This has attracted an influx of people from the hinterland and housing accommodation has become grossly inadequate for the growing population. The city's housing situation has also been worsened by the proliferation of slums and forced evictions. The State Government has recently demolished several slum communities, including Rainbow Town and Banogoi.

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<sup>78</sup> NAPEP, <http://www.napep.com>

<sup>79</sup> Supra note 78.

<sup>80</sup> Hudgen & Trillo (1999: 981).

## Rainbow Town Community

### Introduction

Rainbow Town was originally home to about 1.2 million people, significant numbers of whom were from outside Rivers State. It was one of Nigeria's largest slums. Some parcels of land were under the control of military personnel whose barracks formed part of the community. The State Government collected taxes from Rainbow Town inhabitants; however, the community was evicted without proper resettlement arrangements. The land is virtually empty now, with only a few of the evictees having returned to the area.

According to the Permanent Secretary of Rivers State Land and Housing Bureau (RSLHB), the land later to be called Rainbow Town was acquired in 1964 by the then Eastern Government of Nigeria through the region's Housing Co-operation. The Government originally acquired the land to build low-cost houses. According to some of the community elders, the area was given the name 'Rainbow Town' because it was regarded as one of the most beautiful parts of the city. It later expanded to become the largest town in Port Harcourt.<sup>81</sup>

In 1967, when the Nigerian civil war over Biafran secession began, the community became a hiding place for Biafran soldiers. In 1969 it was occupied by Federal troops following the suppression of Biafran armed resistance. This was the first step towards army occupation of the entire community. In the years following its military occupation, Rainbow Town grew both in size and in population as military personnel continued to acquire more land in the area.

The soldiers became landlords, renting parcels of land to poor people who were drawn to the area by the relatively low cost of accommodation: they were allowed to erect makeshift homes of wooden planks and galvanised steel sheets. The majority of people in Rainbow Town had their tribal origins outside of Rivers State, particularly the Ibibio/Efik, Igbo, Yoruba and Hausa.

The Rainbow Town Association's (RTA's) Public Relations Officer, Mr Owosho Jude Kayode, describes the town as a 'Centre of National Unity'. Until recently, previous State Governments had expressed their intention to demolish the community but had always stopped short of acting on their intention because the issue of resettlement and compensation for residents remained unresolved.

During their visit, the COHRE FFM team discovered that Rainbow Town community members had paid several forms of tax to the State Government, including development tax, sanitation fees, health fees and monthly electricity bills.

Rainbow Town was comprised of sub-communities including those known as Small London, New York 'A', New York 'B', Miami Market and Texas Quarters. Each of these was densely populated: in many cases, up to eight adults lived in one room measuring less than 8 x 10 m.<sup>82</sup>

The Chairman of the RTA informed the COHRE FFM team that Rainbow Town land could be acquired by meeting a landlord (soldier) and paying a token amount of money, plus gifts such as soft drinks, alcohol and, in some cases, a live goat. The landlord would then permit the resident

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<sup>81</sup> COHRE FFM interview with Chief Ihunwo, Permanent Secretary of Rivers State Land and Housing Bureau, 22 July 2002.

<sup>82</sup> COHRE FFM interview with Mr Danladi, Secretary of Rainbow Town Association (RTA), 22 July 2002.

to build on any part of the area under his control that suited the resident. Some of these landlords owned as many as 40 wood and galvanised steel houses and collected significant sums of money from tenants annually. The community was well-equipped, with facilities such as private nursery schools and other private schools of various sizes, as well as health clinics.<sup>83</sup>

### **The July 2000 Demolition**

Evictees claim that the crisis that led to their community's demolition started in March 2000, when youths from neighbouring Mkpogu community issued Rainbow Town residents a verbal notice to quit, claiming ownership of the land. Other reports show that the events preceding the demolition were far more complicated, involving many actors – including the military, the City Council and residents of neighbouring communities – all of whom claimed ownership.<sup>84</sup>

On the 24 April 2000 Mkpogu youths attacked Rainbow Town, setting fire to several houses and beating residents with a variety of weapons. The Government responded to this attack by announcing on radio and television that all residents of Rainbow Town were to vacate their homes within one month of the day of the attack.

The Chairman of the RTA told the COHRE FFM team that the residents had appealed to the Government to provide alternative accommodation. The Government's only concession was to extend the period of notice to quit by one month. When the extended period expired, the residents filed a High Court suit against the Government to prevent the demolition, and were able to obtain an injunction.<sup>85</sup> The RTA Chairman further explained that the Government of neighbouring Bayelsa State subsequently challenged the Rivers State Government in court over its ownership of Rainbow Town land. On 20 July 2000 the matter was struck out of the court register due to lack of jurisdiction.

The next day bulldozers sent by River State's Ministry of Works demolished the community. The demolition went ahead even as a notice to appeal the court's decision was being simultaneously handed to the State's Attorney-General and its Police Commissioner.

A number of people were killed in the ensuing violence; some pregnant women were reported to have gone into labour and delivered prematurely, which led to the death of their babies. An estimated 1.2 million people were forcibly displaced without alternative housing arrangements or compensation. Many evictees resorted to sleeping in open fields, exposing themselves to numerous risks. Since this mass eviction, the cost of housing accommodation in the area has doubled, compelling a number of evictees to move their families back to their home villages.

The RTA's elected executives co-ordinate their activities from the regimental Police Office, where a large number of the affected military personnel currently reside. According to RTA executives, the residents have unsuccessfully sought Government intervention on the resettlement and compensation issues. It is reported that police officers regularly enter Rainbow Town to chase people away from the area.

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<sup>83</sup> COHRE FFM interview with Al-Haji Musa Baba, RTA Chairman, 22 July 2002.

<sup>84</sup> *The News*, 9 May 2000.

<sup>85</sup> *Supra* note 83.

## **Banogoi Community (the Case of the Ogoni People)**

The Ogoni are one of Nigeria's smallest minority groups, numbering approximately half a million, and inhabit a strip of land measuring about 25 km by 40 km to the southeast of Port Harcourt. The area has ten oilfields, over a hundred oil wells, a petrochemical complex, two oil refineries and seven flares burning off gas day and night. The people's main source of income is farming and fishing.

The President of the Movement for the Survival of the Ogoni People (MOSOP) informed the COHRE FFM team that oil exploration had brought unwanted gas flares and the indiscriminate laying of pipelines to Ogoni-land. The associated spillage and evaporation of crude oil caused serious pollution, which spread over vast swathes of land and rendered most of them infertile. As a result, many Ogoni villagers lost their livelihoods and were forced to move to the Port Harcourt waterfront.<sup>86</sup> Even though many of them obtained licenses to build from the Rivers State Government, they were later driven out when the State Government demolished their properties. One such demolished Ogoni community in Port Harcourt is Banogoi, which was demolished in 1994. The spate of evictions has worsened the housing situation, not only in the city of Port Harcourt but also in the Ogoni villages.

According to the MOSOP President, the housing shortage in Port Harcourt has forced many Ogoni to commute from their villages to Port Harcourt to work. This places an extra financial burden on people in low-paid menial jobs. The situation has become especially tough for Ogoni women.

According to a few women evictees interviewed by COHRE, several women have been raped by youths from neighbouring communities, while others have resorted to prostitution to provide their basic needs and shelter. As a result, sexually transmitted diseases – almost certainly including HIV/AIDS – are becoming rampant in the community. Several of the women interviewed were seen sleeping, cooking and eating with their children in the open, with no shelter whatsoever.

## **Intervention by NGOs**

On the Rainbow Town issue, SERAC first established contact with members of the RTA. The Association gave them information on the organisation's work and how it could co-operate with evictees to start advocacy and campaigning. The aim is to pressure the Rivers State Government to provide the evictees with adequate resettlement and/or compensation.

On 7 July 2001 SERAC organised a workshop in Rainbow Town entitled *Education and Training on The Practice of Forced Eviction*. Ninety-five percent of the workshop participants were Rainbow Town evictees. The workshop was aimed at training the evictees in community mobilisation and advocacy on policies and issues that affect them. The evictees were also informed about the Government's obligations under local, regional and international laws to provide adequate housing for its people.<sup>87</sup>

On the Ogoni issue, SERAC submitted a communication to the ACHPR. The communication alleged that the military Government of Nigeria had condoned and facilitated violations of the

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<sup>86</sup> COHRE FFM interview with Ledum Mitee, President of MOSOP, 22 July 2002.

<sup>87</sup> SERAC Workshop.

economic and social rights of the Ogoni people by the state-run Nigerian National Petroleum Company (NNPC) and the Shell Petroleum Development Corporation (SPDC).<sup>88</sup>

The ACHPR found that the Government of Nigeria was responsible for or complicit in the violation of its obligations to respect, protect and fulfil: the right to be free from discrimination; the right to life; the right to protection of the integrity of the person; the right to property; the right to enjoy the best attainable state of physical and mental health; the right to protection of the family; the right to freely dispose of wealth and natural resources; and the right to a general satisfactory environment favourable to development. Notably, the ACHPR also held that the African Charter on Human and Peoples' Rights (also signified by ACHPR) implicitly guaranteed the right to adequate housing and the right to be free from forced eviction.

Consequently, the ACHPR returned a decision holding that the Government of Nigeria had indeed violated several provisions of the African Charter, including the implicit rights to adequate housing and to be free from forced eviction. The Commission went on to recommend that the Government ensure protection of the environment, health and livelihood of the people of Ogoni-land. SERAC has begun follow up activities to ensure that the Government of Nigeria complies with the recommendations of the African Commission.

The Catholic Church Secretariat of Rivers State also offered modest funds for evictees who were willing to return and resettle in their villages, but the response was not encouraging, as the evictees were concerned about the difficulty of finding means of livelihood in the villages.

## **Government Response to Concerns Raised by COHRE**

According to officials at the Lands and Housing Bureau, the process that culminated in the demolition of Rainbow Town started in 1998 under the military State Government. The latter sought to retrieve all the lands previously acquired by the Government in order to re-establish a system of developing low-cost houses for civil servants. Rainbow Town had been earmarked for such an urban development project.<sup>89</sup> The COHRE FFM team was informed by the Permanent Secretary of the Lands and Housing Bureau in Port Harcourt that the Bureau is responsible for housing delivery in Rivers State; the Government issues housing policies while the Bureau implements them.

The then State Government requested the Federal Ministry of Defence to arrange that the military personnel living in Rainbow Town be moved to army barracks. The Defence Minister approved this request and authorised the Rivers State Government to go ahead with its development project in Rainbow Town. Despite having obtained ministerial approval, the State military authorities did not demolish the town as planned. Eventually, the State Government's response was to take action itself since, as the Permanent Secretary said: "It is the policy of Rivers State Government to acquire any land under dispute and later compensate legitimate owners on presentation of Certificates of Ownership".<sup>90</sup>

Other reasons given by the Government for the demolition of Rainbow Town include: (1) that the community had become infiltrated by criminals; (2) that there was a risk of communal clashes with other neighbouring communities also claiming ownership of the town; and (3) that

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<sup>88</sup> *SERAC and CESR v. Nigeria*, Communication No. 155/96, ACHPR/COMM/A044/1 (27 May 2002), in Fifteenth Annual Activity Report of the African Commission on Human and Peoples' Rights, 2001-2002, Done at the 31<sup>st</sup> Ordinary Session of the African Commission held from 2 to 16 May 2002 in Pretoria, South Africa.

<sup>89</sup> *Supra* note 81.

<sup>90</sup> *Supra* note 81.

better houses were needed in the area to reduce overcrowding.<sup>91</sup> The presence of military personnel, the most powerful illegal landlords in the community, also raised some problems, especially regarding compensation. However, it is claimed that legitimate owners of land and property affected by the demolition of Rainbow Town are now being compensated by the Government on presentation of Certificates of Ownership.<sup>92</sup>

The COHRE FFM team also found out, from an official of the Rivers State Land and Housing Bureau, that as an oil city with significant opportunity, the rate of urban drift from other States into Port Harcourt is very high. The pressure on housing accommodation has become uncontrollable and, therefore, people live in unacceptable conditions. The Government has embarked on various strategies to combat the huge housing problem. One of these is a project called the Site and Services Scheme, through which the Government has started the construction of 3,000 housing units each year.<sup>93</sup> The State Government's latest housing project is the construction of satellite towns in the State. One such town is already in place at Iriebe, some 20 km from Port Harcourt city.

## Federal Capital Territory (FCT), Abuja

### Overview

The FCT, in which the city of Abuja lies, was created by Decree (now Act) No. 6 of 1976. The city of Abuja officially became Nigeria's federal capital in 1991. The Government had concluded that the former capital, Lagos, had outgrown its capacities. Furthermore, the large Yoruba presence (75 percent of the city's population) created ethnic tensions. Abuja was originally inhabited by the indigenous Gwari, a semi-nomadic people who were unceremoniously evicted from their ancestral lands so that the new capital could be constructed. Now populated by people from all parts of Nigeria, Abuja is estimated to have a population of over half a million.<sup>94</sup> The city is developing into a real political capital, with an increasing number of foreign embassies, international hotels and office buildings.

The need to have a central federal capital was one of the main reasons proffered for removal to the present location.<sup>95</sup> Abuja is located at Nigeria's geographical centre, making it easier for people to travel there from every part of the country. The FCT was carved out of three central Nigerian states: Niger State to the west, which contributed the most territory, Kogi State to the south and Nassarawa State to the west. There is also a short border with Kaduna State to the north.

The FCT was originally envisaged as a way of forging national unity by building a new capital city for all Nigerians, which would exemplify the opportunity to live in parity with each other. Other reasons cited were the need to build a model city of international status and to find a departure from the chaotic, unwholesome development of larger cities like Lagos. An infrastructure network would have to be developed to match the population of the FCT. Thus the authorities embarked upon a master plan for the development of the area as the FCT.

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<sup>91</sup> *Vanguard*, 29 August 2000.

<sup>92</sup> *Supra* note 81.

<sup>93</sup> *Supra* note 81.

<sup>94</sup> NAPEP, 2000 estimate, <http://www.napep.com>.

<sup>95</sup> FCT Act 1976.

According to one of the local chiefs with whom the COHRE FFM team spoke, the FCT has six area councils: Abaji, Bwari, Kuye, Gwagwalada, Kwali and Abuja (Municipal). The master plan placed greater emphasis on the development of Abuja city, in preference to the other council areas. The city's administration falls under the Ministry of the FCT.<sup>96</sup>

Though some have described the FCT as 'virgin land' or 'no-man's land', indigenous peoples still dominate rural parts of the territory. These groups include the Gwari/Gbagyi, Koro, Gade, Gangara, Egbura, Gwandara, Bassa and several others. In their language, tradition and culture all these groups have a deep relationship with traditional rulers or ruling families; the FCT has no emirate of its own. Other ethnic groups that live in large numbers within the FCT are: the Hausas, found mainly in the townships; the Ibos, who live mostly in the commercial districts of the Abuja satellite towns of Yanyan, Dei Dei, Gwangwa, and Karmo; and the Yoruba.<sup>97</sup>

The COHRE FFM team was informed by a civil servant that the Federal Government had ordered federal civil service employees to move to Abuja even though there was no adequate accommodation for them. Most of these civil servants had no alternative but to convert their offices to permanent residences, since Abuja city rents were exorbitant: a single-bedroom flat went for close to 120,000 naira per annum (USD 870).

Because of these high rents, emerging satellite towns including Gwagwa, Karmo, Karmo Jiji, Mabushi, Durumi I, II & III, Jabi I & II, Jiwa, Lugbe, Kuchigoro, Aleyita, Kado, Nyanya, Kabusa, Mpape, Deidei, Pykassa, Shagari village, Gwarinpa, Piwoyi, Kuruduwa, Jahi I & II, Gishin Village, Dakibiu and Sabo Lugbe became convenient alternatives for an ever-expanding FCT population that could not afford to live in the modern city of Abuja.

The drift to the satellite towns led to the building of residential apartments of mud blocks and brick. Many people also bought land from leaders of indigenous communities and eventually erected their own buildings. Most of these towns lacked basic infrastructure, as there was no real Government presence. Scattered development, typical of areas generally called 'slums', became a common feature of most of the FCT satellite towns.<sup>98</sup>

The creation of the new capital in Abuja necessitated moving important offices from Lagos, including those of all Federal Ministries, leading Banks and headquarters of large corporations as well as foreign embassies. This led to an enormous housing shortage in Abuja, further compounded by the problem of urban drift. It is almost impossible to obtain adequate and affordable housing in Abuja. Beside the Federal Ministry of Housing, the Government established the Federal Capital Development Authority (FCDA) to directly deal with housing issues in the capital. In a bid to provide housing and, at the same time, create a fitting capital city, the FCDA has embarked on a spate of demolitions that have deprived some citizens of their rights to adequate and affordable housing.

## **The Abuja Demolitions (Year 2000)**

### **Introduction**

According to the FCDA's Assistant Director, the FCT Ministry of Housing had a different view on development in the satellite towns, and wished to restore the Abuja master plan. The Ministry

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<sup>96</sup> COHRE FFM interview with a local chief, 23 July 2002.

<sup>97</sup> Supra note 96.

<sup>98</sup> COHRE FFM interview with a reporter for *The Anchor Newspaper*, 23 July 2002.

made it clear that it planned to demolish illegal structures, though an exception was made for Abuja's indigenous peoples, chiefdoms and emirates. However, there was no mention of compensation for the majority of those who would be affected by the demolitions. In fact, no one knew for certain what the agenda was; its details were concealed from the general population, and the Government was said to be basing its decisions on a document that they had not shared with other interested parties.<sup>99</sup>

The COHRE FFM team learned that the FCT Ministry of Housing had set up a Committee for the Appraisal of Physical Planning and Development Issues. This Committee was to identify areas that had been developed contrary to the Abuja master plan. Wrongly allocated lands were to be recovered and restored to their original uses, and it was recommended that five resettlement centres be set up for affected persons.

The COHRE FFM team also learned, from an FCDA official, that the Committee's report, submitted in December of 1999, noted the haphazard spread of residential areas in the Abuja suburbs. It had been discovered that residents desperately in need of accommodation had managed to convince local chiefs to allocate plots illegally.<sup>100</sup> The Committee recommended these areas for demolition and the FCT Ministry of Housing vowed to reduce all illegal structures to rubble. However, the Minister chose to start the demolition campaign with the destruction of 30 so-called 'squatter settlements' on the outskirts of Abuja. Prominent among the settlements earmarked for demolition were the following: Gwangwa, Karmo, Mabushi, Durumi, Jabi, Jiwa, Lugbe, Kuchigiro, Aleyita, Kado, Dutse and Idu.<sup>101</sup>



Living in appalling housing conditions, yet threatened with eviction in Durumi, Abuja

### **Kado Community**

In July and August 2000, an FCDA squad demolished parts of Kado village, about 10 kilometres from Abuja. More than 200 houses were demolished, rendering hundreds of people homeless and causing the death of six. Property valued at about 10 million naira was reported to have been lost. According to a former Kado resident, a questionable notice served two days before the

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<sup>99</sup> *Thisday*, 26 February 2002.

<sup>100</sup> COHRE FFM interview with Mr Sabo, Assistant Director of FCDA, 24 July 2002.

<sup>101</sup> COHRE FFM interview with the Chief of Durumi, 23 July 2002.

demolition was the only indication of impending demolition. The COHRE FFM team discovered that this notice, dated 30 June 2000 but with no official signatories, warned residents to move off their lands if they wanted to avoid unpleasant consequences. Kado leaders said they had done everything possible to ascertain the origin of the notice, but were repeatedly rebuffed by reluctant officials who claimed ignorance.<sup>102</sup>

Some evictees returned to the sites of demolition and are presently occupying the lands. However, there is still a threat of further unanticipated demolitions. For example, in July 2002 thousands of Kado residents were threatened. The *Daily Trust* reported that “residents of Angwa cement, Kado, along Kado-Karmo road [about 50,000 people] have been given 31 days to vacate their residences to enable Krogger Investment to demolish the structures for the commencement of the construction of 5,000 housing units under Government/private housing initiative.”<sup>103</sup> Such threats, whether or not they are carried out, mean that the people live in constant fear.

### **Durumi Community**

In September and October 2000 the FCDA demolition squad moved into Durumi I & II, Church village, Dagba and parts of Garki area 1, where it wreaked the greatest havoc. The Waziri (community leader) of Durumi I informed the COHRE FFM team that, in his community, demolitions had been carried out three times a week for four weeks, with over 200 armed policemen involved. A news report portrayed the scene as follows: “The policemen, loaded into two trucks and moving in a convoy, including vehicles carrying officials of the Abuja Environmental Task force, stormed the village with their guns. The assault, which looked like a military operation, caught the villagers unawares as they scampered about for safety.”<sup>104</sup> The police used dangerous methods to scare away the residents, such as shooting teargas canisters into the air. They gave the residents little or no time to retrieve their properties. At Durumi, at least six children died after inhaling tear gas, while police ‘shoot-on-sight’ tactics left 10 adults dead.

Most structures – mainly the mud-block buildings – were razed to the ground; the other houses, though still standing, were badly damaged. The demolished structures included mud-block shops along Durumi main street, church buildings, residential homes, guest houses, a housing estate, and hospitals. Of the many people rendered homeless, some sought shelter at a popular church compound nearby, which was untouched by the demolitions; others stayed with friends within Durumi, or moved elsewhere.

According to the Chief of Durumi, the ethnic identity of the community was Gwari, along with people from other tribes in all regions of Nigeria. However, the demolitions followed a clear pattern, targeting only the homes of non-natives. An official order had stipulated that no Gwari property was to be touched. Other homes left untouched by the demolition squad were allegedly owned by top Government officials and police officers.<sup>105</sup>

Neighbouring Church Village (so named because Christian groups had built worship and fellowship centres there) was also severely damaged. Virtually all the buildings were destroyed; only those of the Church of Christ in Nigeria (COCIN) and the Dominion International Church remained.

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<sup>102</sup> COHRE FFM interview with Kado Chief, 23 July 2002.

<sup>103</sup> *Daily Trust*, 16 July 2002.

<sup>104</sup> *P.M. News*, 14 September 2000.

<sup>105</sup> *Supra* note 104.

The Chief of Durumi also told the COHRE FFM team that the people of Durumi had instituted a court action against the Government, but after a series of adjournments it was obvious that this was not going to yield any tangible results.

In the context of the Government's plans to make the FCT a place for all Nigerians, meetings are still going on between the indigenous Gwari and the Permanent Secretary of the FCT on the relocation of the indigenous people to other areas.

### **Yanyan Community**

Yanyan was originally inhabited by the indigenous Gwari under the administration of local chiefs. The arrival of other tribes created the need for extra land to build houses on, especially because of the mounting housing crisis in Abuja city. The COHRE FFM team was informed by a former resident that the local chief apportioned lands to non-indigenous people, who paid and were subsequently given a receipt. However, when these non-indigenous people went to the Abuja Municipal Council (AMC) for legalisation of the land transaction, they were refused.<sup>106</sup>

In April 2002 the Government started construction of the Yanyan-Keffi dual carriageway. In that month, the FCDA squad moved into Yanyan and demolished a number of houses and shops. In this case, three months notice had initially been given to the residents via radio and television.

### **Other Areas**

At the time of COHRE'S FFM, in July 2002, the FCT Government, through the Abuja Environmental Protection Board (AEPB), was combating unauthorised trading and makeshift shops in the metropolis. The AEPB demolished the so-called 'makeshift supermarkets and boutiques' as residents and small business operators watched helplessly. Property with an estimated value of over 500 million naira was bulldozed.<sup>107</sup> This sparked rioting by traders, who started a number of fires and attacked the demolition officials.

COHRE is concerned that the lives and livelihoods of many Nigerians are being squandered in the name of the restoration and development of the Abuja master plan. It is highly unfortunate that – primarily due to Government inertia – the provision of adequate and affordable housing for the growing populace has increasingly become a mirage over the years. Instead of adopting realistic policies to ameliorate the situation, exorbitant housing schemes are embarked upon for the benefit of the wealthy few.

However, the Federal Government's endorsement, announced in November 2000, of a 426 million naira plan by the FCT Housing Ministry to develop Abuja satellite towns, is welcome news. The Ministry of Information and Orientation stated that the demolition of illegal structures in Abuja had stopped to enable the FCT to provide alternative accommodation for displaced people.

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<sup>106</sup> COHRE FFM interview with Caroline, Yanyan resident, 23 July 2002.

<sup>107</sup> COHRE FFM visit, 23 & 24 July 2002.

## Intervention by NGOs

### Habitat for Humanity (Nigeria)

While in Abuja, the COHRE FFM team visited Habitat for Humanity to learn more about the organisation's activities with regard to issues of housing and forced eviction. They were told that Habitat for Humanity mainly focuses on providing housing assistance in rural areas. For example, the organisation trains members of rural communities in house construction. It provides low-income farmers with brick-making machines and trains them in their use.<sup>108</sup>

Habitat also provides long-term affordable loans to poor farmers. Instalments paid by the beneficiaries go into a revolving fund, which is used to finance similar projects. Habitat, however, does not provide such assistance to urban and slum-dwellers and does not intervene in cases of forced evictions.

### SERAC

The COHRE FFM team learned that SERAC had visited some of the targeted communities in the FCT and established preliminary contacts with community-based organisations. SERAC's aim was to establish CAPs and Community Monitoring Programmes (CMPs) as a means to raising the people's awareness of economic, social and cultural rights.

In addition, SERAC has undertaken the following activities to halt the continued violation of economic, social and cultural rights in general, and the right to housing in particular:

In 1997, SERAC introduced the Forced Evictions Prevention Project (FEPP), which is designed to study the pattern of forced evictions and to seek ways of protecting individuals and communities from such violations. Through the FEPP, SERAC works in collaboration with affected communities to seek means of preventing demolitions, devising alternative plans and pursuing remedies on behalf of victims.

Under this project, SERAC gives special attention to the particular needs of women, children, the aged, the disabled, and other vulnerable groups. The FEPP is also designed to ensure that the affected groups and communities are represented in various stages of the project, which are listed under the title *Resisting Forced Eviction*.

## **Government's Response to Concerns Raised by COHRE**

The Assistant Director of the FCDA, Mr Amos Saba, informed the COHRE FFM team that the FCDA is responsible for:

1. Approving, monitoring and controlling development in the FCT, which is basically a housing issue;
2. Removing developments that do not match the standard approved for the FCT;
3. Removing structures in the FCT that are constructed without an approved building plan;
4. Removing property to which there is neither an authentic title of ownership nor allocation documents.

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<sup>108</sup> COHRE FFM interview with Mr S. Odiá, member of Habitat for Humanity's Advisory Council, 23 July 2002.

According to Mr. Saba, the FCT land belongs to the Government; Decree (now Act) No. 6 of 1976 vests all FCT land in the President of Nigeria to hold in trust for the people. The FCDA does not work outside its mandate; any structure to be demolished must definitely fall into the category of FCDA-prohibited property as specified above. For each demolition to be carried out, the Government gives sufficient notice to the illegal occupants, and no indigenous person is usually affected.

This official also informed the COHRE FFM team that the Government intends to relocate and compensate all indigenous persons living in the FCT, for it is the Government's plan to remove all indigenous tribes from Abuja and make the capital a place for every Nigerian. He also said that the Government had drawn up massive housing-delivery plans, for the relocation of affected tribes. Many of these houses have been constructed and some communities have already been moved. Tribes would be moved one at a time to enable the Government to operate within its financial constraints.<sup>109</sup>

Some of these houses are in Kubwa and Jibi towns. The indigenous people of Durumi community are certain to be moved; the Government is unapologetic about relocating them from their homelands because it believes that the FCT must develop in accordance with the master plan. The Government is currently engaged in dialogue with the affected indigenous tribes of the FCT.<sup>110</sup> The Government regards those non-natives, whose properties were demolished, as illegal occupants and sees no obligation to provide them with resettlement or compensation.

## **Kaduna State (Kaduna)**

### **Overview**

The indigenous tribes of Kaduna State are highly heterogeneous and include the Chawai, Kataf, Bajju, Hausa-Fulani, Kaje, Kurama, Jaba, Kagoma, Kagoro and Ikulu. Before the arrival of Muslim and Christian colonisers, the area had neither a unifying religion nor a uniform system of government. Subsequently, however, large numbers of people were converted to Islam or Christianity. Before the amalgamation into British colonial Nigeria, the area now known as Kaduna State was part of Zaria Province, governed by the predominantly Muslim Emirate of Zaria, which wielded great political power.

Apart from the Zaria administration, there was also the Birnin Gwari and the Southern Independent District of Kagoro, with the Moroa and the Jaba, which had no political powers. Agitation for reform led to the creation of a group of councils; southern Zaria, which was predominantly Christian, managed to take political power and handle its own affairs.<sup>111</sup>

Originally conceived of as the new capital of Nigeria's northern region, Kaduna is an example of a town created to be the seat of power. The original northern capital was at Zungeru, on the Kaduna river southwest of Kaduna, but in 1912 Sir F. Lugard, Governor of the amalgamated colonial federation, shifted the capital to the small town of Kaduna. It lost its role as capital when the States were created in 1967, but continued to thrive as a centre for the armed forces, with the Nigerian Military School, the Nigerian Defence Academy and the War College at Jaji.

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<sup>109</sup> Supra note 100.

<sup>110</sup> Supra note 100.

<sup>111</sup> Okoye (1998: 103, 104, 105).

The growing metropolis also continued to thrive economically; the commercial, industrial and financial sectors have maintained the city's strong position. Kaduna is the venue for the popular International Trade Fair; it has several textile mills, a vast oil refinery, a Peugeot assembly plant and numerous other industries. Despite the economic progress, however, the city has developed a significant number of housing problems. In particular, tribal and/or religious clashes over the years have led to the destruction of many houses and the displacement of many families. Generally, adequate housing is inaccessible and unaffordable.

## **Ethnic Rivalry, Religious and Communal Clashes**

Kaduna is home to over 20 ethnic groups, each with its own language and distinctive traditions. Wherever a traditional ruler from one ethnic group governs others, ethnic rivalry tends to set in and there is a bid for self-determination and the advancement of the governed people and their environment. Some members of the community are convinced that certain positions are the exclusive right of their religion and ethnic group. The result is tribalism and its attendant troubles.

According to the Human Rights Monitor in Kaduna, ethnic conflicts have occurred there for a variety of reasons ranging from mere domestic misunderstandings, through land acquisition, to religious and tribal issues. The *kasuma magani* riots of 1980 were born out of a land dispute between the Hausas and the Kadaras. The Lere and Zangon Kataf crises over the right to farmlands were also originally land disputes, but were fought along ethnic and religious lines.<sup>112</sup>

Similar riots broke out in 1987, this time on purely religious grounds: Muslims accused the Christians of misinterpreting the Quran, while the Christians claimed that the Muslims referred to them as "Arne", a word found offensive by the Christians. In the ensuing riots, there were several deaths and many arrests: "More than a dozen were killed ... reportedly after a Muslim woman slapped a Christian preacher at an open-air revival whom she accused of insulting the [Quran] ... About 1,000 people were arrested."<sup>113</sup>

## **Land Acquisition**

A staff-member of the Human Rights Monitor in Kaduna told the COHRE FFM team that the inhabitants of Kaduna had migrated from lands at various distances from the city; they had travelled, settled and moved on again until they settled in their present locations. Wherever they settle, such people regard the land as being of utmost importance, as it is a basic necessity for human existence and a major source of livelihood. Land is a major factor of harmonious co-existence in the State.<sup>114</sup>

The population explosion in the modern era has created a need for more fertile lands. Human migrations and the struggle for land in a limited environment have fuelled many deadly clashes. The battle between the Hausas and the Kadaras is an example: the Kadaras claimed that they were the original settlers and that they had leased some land to the Hausas before migrating into the hinterland.

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<sup>112</sup> Human Rights Monitor, Kaduna

<sup>113</sup> CNN, 22 November 2002.

<sup>114</sup> Supra note 112.

On returning, they attempted to reclaim their land, but the Hausas refused, stating that they had cleared the land thirty years earlier, and that it was now theirs. This led to the burning of houses and violent clashes that spilled into the Kaduna metropolis and left thousands of the city's inhabitants displaced. There is always claim and counter-claim as to which people were the original settlers or holders of the land. Traditional titleholders have also complicated the issue by acquiring lands and apportioning them to whomever they desire, in return for money or favours.

According to the Human Rights Monitor, several disputes on land matters have been due to interference by traditional rulers and State Governors acting outside the limitations of their status as trustees. Kaduna State has become litigious, with a high percentage of land-dispute cases. Those who have lost faith in the law courts tend to take the law into their own hands. Nomadic Fulanis clash with farmers over access to grazing land. Some pathways in the city that are intended for cattle access are being sold off by land speculators, wards or village heads.<sup>115</sup>

These land-dispute problems have been exacerbated by the introduction of Islamic Sharia law to Kaduna State in the year 2000. Although one much-vaunted reason for introducing the Sharia was to ease these land issues, the result has been the most deadly communal/religious clashes Kaduna has ever seen. The infamous Sharia riots of the year 2000 broke out because people were angered by the Government decision to introduce the Sharia to Kaduna State. The people of the southern area of Zaria, who are predominantly Christians and are not governed by Islamic law, were particularly vociferous in their opposition to this State plan.

A series of battles across the State left over 5,000 people dead, about two-thirds of commercial and residential structures destroyed, and over 80,000 inhabitants displaced. The impact was even felt outside Kaduna State and in the south of the country. The Red Cross estimated that a further 40,000 people were displaced as a result of reprisal attacks in the south.<sup>116</sup> Displaced people sought shelter in refugee camps; 75 percent of families in the refugee camps were made up of women and children. As thousands of people fled from Kaduna, the State's socio-economic activities began to dwindle at an alarming rate. Many lost their homes and the prices of the few houses that are now available have become astronomical, despite the existence of Rent Tribunals and the Rent Control Edict.

## **Intervention by NGOs**

According to the Human Rights Monitor in Kaduna, following these communal clashes the State Government set up a Commission of Enquiry charged with:

1. Looking into the remote and immediate causes of the clashes;
2. Identifying the perpetrators;
3. Certifying the extent of the destruction and displacement;
4. Making recommendations.

The Commission's five members were: a High Court Judge, a member of the Christian Association of Nigeria (CAN), a member of the Jamatu Anasri Islam (JNI), a police official and a State Government official. The Commission submitted its report in November 2001; the Government has subsequently issued a White Paper in relation to the report.<sup>117</sup>

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<sup>115</sup> Supra note 112.

<sup>116</sup> IRIN, 7 September 2001.

<sup>117</sup> Supra note 112.

The COHRE FFM team learned that the State Government, through the two religious bodies of CAN and JNI, paid monetary compensation to people – both Christian and Muslim – whose homes were destroyed during the clashes.<sup>118</sup>

Anyone claiming that their home was destroyed and their family displaced would go to the appropriate religious body, depending on their religion, and fill in a form to collect the approved compensation due. The Government did not actually carry out resettlements.

COHRE was informed by an official of the Human Rights Monitor that the Kaduna State Development and Property Corporation (KSDPC) and the Kaduna State Urban Property and Development Authority (KASUPDA) are bodies that were set up to monitor and approve property development in the State. They do not construct houses or develop estates for the people of Kaduna State.

The Government has divided the State into Sharia and non-Sharia areas: northern parts of Kaduna, which have no federal presence and are peopled by Muslim groups such as the Rigasa and Unguwar Muazu, have become Sharia areas. The Area Courts have been transformed into Sharia Courts.<sup>119</sup> Southern parts of Kaduna, such as Sabo, which are mainly inhabited by Christians, have become non-Sharia areas. The Area Courts here have been transformed into Customary Courts.

## CONCLUSIONS

It is evident from the investigations carried out by COHRE's FFM team that the housing situation in Nigeria is among the worst in the world. This is a direct result of factors including poverty, economic mismanagement and internal migration from rural areas to urban centres. The situation is further compounded by an active official policy of forced eviction and a general lack of investment in infrastructure and basic services. This has resulted in disastrous living conditions, especially in the housing domain.

Successive Nigerian governments, civilian and military alike, have implemented ruthless policies of forced eviction in different parts of the country. Although Nigeria is party to the ICESCR and the ACHPR, which clearly prohibit forced evictions, it has repeatedly ignored its obligations under these instruments and has not taken any practical measures to fulfil them.

Between 1990 and 2002, over three million Nigerians were forcefully evicted from their homes without proper notice or consultation, compensation, or provision of alternative accommodation. Furthermore, these evictions were carried out in a way that can only be described as criminal. Members of the armed forces who carried out the evictions in the Maroko community, for example, not only bulldozed houses and other property, but looted, raped and killed, as witnesses and victims of that tragic event testified to the COHRE FFM team.

Evictees of Maroko, Badiya and Rainbow Town are scattered all over the country. Less than two percent of Maroko evictees have been resettled – and those who have, now live in an unfinished and unhealthy housing project. They lack safe drinking water, drainage, waste-disposal systems,

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<sup>118</sup> COHRE FFM interview with a Kaduna State Government official at the State House Kawo, Kaduna, 24 July 2002.

<sup>119</sup> COHRE FFM interview with a lawyer in Kaduna, 25 July 2002.

roads, and other basic amenities. Recently, a 14-year-old girl from the community died when the roof of the house fell on her as she was sleeping. Such a project can by no means be called adequate resettlement.

In February 2002, COHRE called upon the Lagos State Government to accept its responsibilities as a first step towards establishing a meaningful dialogue aimed at achieving resettlement and compensation for Maroko evictees. However, the State Government and local authorities rejected pleas from COHRE and other NGOs, arguing that the evictees had been illegally occupying land that did not belong to them. If that was the case, however, why did the Government levy sanitation and environmental taxes? Documents proving that this took place can be provided by COHRE.

Governments are not only required by law to refrain from the practice of forced eviction, they are also obliged to ensure that their citizens fully enjoy the right to adequate housing. That includes: (1) the provision of adequate and affordable housing; (2) the adoption and enforcement of legislation that guarantees security of tenure; and (3) the implementation of sound housing policies aimed at creating an environment which is conducive for both public and private sector investment in this vital area. Furthermore, governments have the responsibility to build and maintain the basic infrastructure without which any housing project becomes meaningless. In all these respects, the Government of Nigeria has comprehensively failed to deliver.

Provision of housing is neither a simple nor an easy task. Governments can not always provide every citizen with a house, but they can, and should, intervene for the benefit of the lowest-income earners. They can do this by making land available for housing; guaranteeing secure tenure to the poor on suitable land; offering or facilitating affordable long-term loans; or by providing subsidies to mitigate the effects of high rents for poor tenants. Here too, the Nigerian Government has done little. The National Housing Fund, created to help poor civil servants to access credit for housing, has not achieved any significant results; the rates and costs of borrowing money are still beyond the reach of many Nigerians. Moreover, the Government's mismanagement of the economy sabotaged conditions essential for the involvement of the private sector and others in the housing sector.

The state of the infrastructure is dismal. Nigerian cities suffer poor drainage and waste-disposal systems and rough intra-city roads. Air quality is poor, and in a city such as Lagos damages the health of thousands of people every year.

Poor economic planning, urban drift and the absence of political will to tackle these issues are the major causes of the current housing crisis. During the 1950s and 1960s Nigeria was able to feed itself and export surplus food products; now Nigeria imports vast amounts of food from abroad. Lack of investment in the agrarian economy and the failure to provide health and educational services has resulted in a continuous decline in farmers' incomes, forcing them to leave their homes and seek other opportunities in urban areas. This has added pressure to an already weak and ailing infrastructure. According to an official of the Lagos Development Authority, every hour three people move into Lagos.

The housing problems in Nigeria are further complicated by the instability that has characterised political life in the post-independence era. Shortly after it gained independence in 1960, Nigeria plunged into despotic military rule. In order to maintain their grip on power, successive military rulers squandered a huge proportion of the national wealth on security, neglecting to provide vital public services such as education and health, and creating unfavourable environments for economic development. Moreover, military rule produced a culture of corruption, nepotism and

general disrespect for the law. Against such a background, housing concerns have all but disappeared from the Government's agenda.

Legal inadequacies have also played a significant role. The Constitution of Nigeria provides for the economic, social and cultural rights of its people – including housing rights – yet that very Constitution renders these rights ineffective in their own court system.

Security of tenure clearly illustrates these legal inadequacies. Until 1978, Nigerians were able to possess land and pass it on to their children. The Land Use Act of 1978 put an end to that by vesting urban land in the hands of the respective State Governor. According to this law, any Nigerian who seeks land for building purposes must obtain authorisation from the State Government. The authorisation is valid for 99 years, or less in some cases. As to the land in rural areas, the Land Use Act of 1978 vests it in the hands of municipalities. Farmers seeking land in such areas must first obtain authorisation, which is also valid for 99 years. The power to renew the authorisation remains with the State Governors. Though this may seem an adequate length of time, in reality this limitation undermines any sense of security.

Tenants are not protected against landlords, who often increase rent beyond the financial capacity of their tenants. Although the law does provide for protection against such, the Government has not established a proper system of enforceability, leaving tenants at the mercy of inexperienced tribunals, which have always sided with the landlords.

It is COHRE's view, therefore, that the housing situation in Nigeria is in a deep and serious crisis. If the situation is left to deteriorate further, it may not be long before it reaches an incurable state. The Nigerian Government has a grave responsibility, and given its current economic difficulties, the Government may not be able to address this problem alone. The international community and civil society are strongly urged to contribute ideas, solutions and financial aid. However, it is critical that Nigeria takes some practical measures first, before the international community can help.

## RECOMMENDATIONS

On the basis of its fact-finding mission to Nigeria, COHRE proposes the following recommendations:

1. The Government should review the economic, social and cultural rights provisions (particularly housing rights provisions) in the Constitution and laws of Nigeria, with a view to making them enforceable.
2. The Government should review, *inter alia*; the Land Use Act, to ensure the flexibility of land allocation/acquisition procedures; the National Housing Policy, to ensure adequate provision of housing to all; and the Constitutional provisions on housing, to make such provisions justifiable and enforceable.
3. The Government should accept responsibility for the housing of its people. A first step would be to guarantee security of tenure and protection from evictions for all, particularly the poor. Where the Government cannot provide direct housing services, it should monitor non-governmental providers, and ensure that their services are consistent with the Government's obligations under international housing rights legislation.

4. The Government should ratify the protocol to the ACHPR, which has established the African Court on Human and Peoples' Rights. Such ratification will help to provide an urgently needed mechanism of enforceability for the right to adequate housing at the regional level.
5. The Government should ensure that all basic services, including potable water, electricity, sanitation, drainage and sewer facilities, be provided to all households in urban and rural areas. In particular, the Government is encouraged to pursue infrastructure plans including landfills for the disposal of urban waste. In addition, the Government should ensure that existing infrastructure be maintained and further developed.
6. The Government should ensure that the overcrowded and overpriced housing conditions in its major cities of Lagos, Port Harcourt, Abuja and Kaduna, as well as other urban areas, be addressed. For example: by introducing mechanisms which will ensure effective implementation of the Rent Control Edicts; by empowering the Rent Tribunals; and by curbing urban migration through providing amenities that will encourage people to remain in the rural areas.
7. The Government should desist from directly or indirectly approving forced eviction of Nigerian citizens from their homes without resort to international guidelines on forced evictions.
8. The Government should ensure that law enforcement agents are provided with training and education to make them aware that violence against the citizens of Nigeria, especially women and children and other vulnerable groups, is unacceptable behaviour that violates the law. Offenders should be prosecuted.
9. The Government, churches, aid agencies, NGOs and community-based organisations should continue to carry out awareness-raising and educational campaigns, workshops and seminars on social, economic and cultural rights, in particular housing rights, and communicate ideas and strategies for preventing forced evictions.
10. The Government should include and meaningfully involve actors such as NGOs, community development associations and community groups in its policymaking and implementation process, to ensure social, economic and cultural rights, in particular the right to adequate housing.
11. The Government should take immediate steps to adequately address the root causes of communal/religious tensions in various parts of the country; by creating or augmenting existing institutions to address these issues.
12. The Government should carry out a nationwide judicial and legal training programme for judges, lawyers and Rent Tribunal officials, with a view to promoting the right to adequate housing.
13. The Government should ensure that judicial or other effective remedies, which will secure respect for housing rights, as established by the ICESCR, are in place for all Nigerians.
14. The Government should make it a deliberate policy to provide secure tenure and housing, to continue to embark on estate development, and to encourage mortgage institutions, the private sector, building societies and unit trusts with incentives such as low tariffs on tax.

## Chapter 2: The Gambia



# INTRODUCTION

In September 2002, a fact-finding mission team from the Africa Programme of COHRE visited The Gambia to gather information on housing rights.<sup>120</sup> In particular, the mission was aimed at assessing to what extent the Government complies with its human rights obligations under international law, specifically the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The IHRDA, based in the Gambian capital Banjul, is a non-governmental organisation that works for the development of human rights in Africa. It is active in human studies and provides assistance and training to other human rights NGOs in Africa, particularly those concerned with the operations of the African Commission on Human and People's Rights (ACHPR). The ACDHRS, also based in Banjul, is an NGO active in promoting human rights through publications, seminars, conferences and training.

## Mission Objectives

The objectives of the COHRE Africa Programme FFM, which also had a training component, were as follows:

1. To examine the housing situation in relation to laws, policies and programmes pertaining to land and housing;
2. To assess the Government's adherence to its national, regional and international legal commitments, as regards the right to adequate housing;
3. To identify and investigate any cases of housing rights violations, and to determine the underlying causes of these violations.

The COHRE FFM team focused on the most densely populated province, Banjul, but also visited rural and urban people living in poor housing conditions and engaged in subsistence farming, fishing or wood carving, as well as in paid employment. The team met with community leaders and representatives of organisations working within the communities, local councillors, lawyers, and representatives of NGOs including women's rights organisations. They also met with officials of the Ministry of Lands, the Social Security and Housing Finance Corporation, and local government authorities, as well as with the former Judicial Secretary and Master of the Supreme Court of The Gambia.

## Report Outline

This report reflects the conversations and discussions conducted during the COHRE FFM. It also provides an overview of the status of housing rights and land issues in The Gambia; in particular:

1. An overview of national and international laws relating to land and housing;

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<sup>120</sup> The COHRE FFM team of Yousif Ahmed, Ndidi Bowei and Gift Duru was hosted in The Gambia by Julia Harrington, Executive Director of the Institute of Human Rights and Development in Africa (IHRDA), and Joseph Amable, Training Officer at the African Centre for Democracy and Human Rights Studies (ACDHRS). IHRDA and ACDHRS are thanked for their kind assistance.

2. An account of the current situation of slum communities and other disadvantaged groups;
3. Details of recent housing rights violations that have been documented;
4. A description of Government policies and programmes relating to land and housing;
5. A description of the policies and programmes of NGOs in the area of economic, social and cultural rights, especially the right to adequate housing;
6. A brief look at the gender dimension of The Gambia's housing problems;
7. The general conclusions drawn by the COHRE FFM team;
8. Specific recommendations on how the right to adequate housing in The Gambia can best be respected, promoted, protected and fulfilled.

## PERSPECTIVE ON THE GAMBIA

### Geographical and Socio-Economic Overview

The Republic of The Gambia is one of Africa's smallest states, with a land area of 11,300 km<sup>2</sup> (4,361 square miles) supporting a population of 1.3 million. The country has a very short Atlantic coastline and is essentially a narrow tongue of land 25 to 50 kilometres (15 to 30 miles) from north to south, which stretches 765 km (295 miles) inland on both banks of the Gambia River. The Gambia is surrounded on three sides by Senegal.<sup>121</sup>

The main ethnic groups are the Malinke (Mandingo), Fulani (Peul or Fulbe), Wolof, Diola (Jola) and Soninke (Sarakole), which represent 42 percent, 18 percent, 16 percent, 10 percent, and 9 percent of the population respectively. Each ethnic group has its own language, although the official language is English. The Gambia's population consists mainly of subsistence farmers growing rice and groundnuts, with the latter constituting the country's primary export crop. Although The Gambia is a secular state, its population is predominantly Muslim and rural, with 85 percent living in the villages.<sup>122</sup>

In 2001, with its *per capita* gross national income at USD 330, The Gambia ranked 160<sup>th</sup> out of 173 countries on the Human Development Index (HDI) of the United Nations Development Programme (UNDP).<sup>123</sup> On the UNDP's Gender-related Development (GDI), The Gambia ranked 136<sup>th</sup> of 146 countries.<sup>124</sup> Other relevant social indicators on The Gambia are as follows:

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<sup>121</sup> Harrison Church, R. J., *Africa South of the Sahara* (The Gambia) 21st edition.

<sup>122</sup> The Gambian Ministry of Foreign Affairs Fact Sheet 1997.

<sup>123</sup> The Human Development Index (HDI) measures human development by combining three dimensions of development: longevity (life expectancy at birth), knowledge (adult literacy and mean years of schooling), and income.

<sup>124</sup> The gender-related development index (GDI) combines the same three dimensions of development as the HDI. It also takes into account the sociological inequalities between men and women, such as differences in income and education.

<b>Adult literacy rate (2000)</b>	
• Overall	37%
• Men	44%
• Women	29%
<b>Population using improved drinking water sources (2000)</b>	
• Overall	62%
• Urban	80%
• Rural	53%
<b>Life expectancy at birth (years)</b>	33 (1960), 46 (2000)
<b>Mortality rate, under fives (per 1,000)</b>	364 (1960), 128 (2000)

In 2001, the United Nations Committee on the Rights of the Child (UNCRC) expressed concern about widespread poverty in The Gambia. In particular, they were concerned with the increasingly high numbers of children who do not enjoy the right to an adequate standard of living, including children belonging to poor families, street children, refugee and asylum-seeking children, and those children living in remote rural communities.<sup>125</sup>

## Legal System

### National Legal Framework

The Government of The Gambia has made some efforts to promote observance of human rights. Civil and political rights are recognised by the Government and are legislatively guaranteed.

Chapter IV of the Gambian Constitution (1996) upholds and enshrines various human rights and fundamental freedoms: the right to life, personal liberty and property; freedom of speech, association, assembly and movement; equality before the law and freedom of the press. It also prohibits discrimination against persons on any grounds. Chapter XX of the Constitution also provides for political, economic, social and educational objectives under Directive Principles to State Policy.<sup>126</sup>

However, the Constitution neither directly provides for nor guarantees economic, social and cultural (ESC) rights, nor the right to adequate housing. According to the former Judicial Secretary and Master of the Supreme Court of The Gambia, legislation addressing housing concerns in The Gambia is more political rhetoric than substantive legal obligation. Save for the Social Security and Housing Finance Corporation Act.<sup>127</sup>, there are no specific policies on housing.

<sup>125</sup> Concluding Observations of the Committee on the Rights of the Child: Gambia (6 November 2001). UN Doc. CRC/C/15/Add.165.

<sup>126</sup> The Constitution of The Gambia, 1996.

<sup>127</sup> COHRE FFM interview with the former Judicial Secretary and Master of the Supreme Court of The Gambia, Mr. Ousman Jammeh.

The Gambian Constitution provides for an independent Judiciary with a judicial system based on English Law, Islamic *Sharia*, Customary Law and legislative enactments. The Gambian judicial system is comprised of the following:

1. The Judicial Committee of the Privy Council, now superseded by the Supreme Court;
2. The Court of Appeal or Superior Court of Record, consisting of a President, Justices of Appeal and other judges of the Supreme Court *ex-officio*;
3. The High Courts;
4. The Banjul Magistrate Court, Kanifing Magistrate Court, and the Divisional Courts. The Magistrates have limited civil and criminal jurisdiction;
5. The Islamic Courts dealing with matters exclusively affecting Gambian Muslims, and issues of civil status. These courts are presided over by a Cadi (or judge) and two Assessors;
6. The District Tribunals, which are appeal courts that deal with cases touching on customs and traditions; and
7. The Local Courts presided over by the Chiefs at village level.

## International Legal Obligations

After investigation by the COHRE Africa Programme FFM team, it has been determined that numerous international housing rights have been violated. Several relevant international human rights treaties have been ratified by the Government of The Gambia, highlighting the Government's international legal obligation to respect, protect and fulfil the right to adequate housing.

The Gambia is a State Party to the ICESCR, which, under Article 11, recognises the right to adequate housing:

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself [or herself] and his [or her] family, including adequate food, clothing and *housing* and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”<sup>128</sup>

Under its General Comment No. 4 on the right to adequate housing, the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR) maintains that this right should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided merely by having a roof over one's head, or with defining shelter exclusively as a commodity.<sup>129</sup> Rather, the Committee notes that the right to adequate housing should be seen holistically, encompassing the right to live in security, peace and dignity.

In addition, the African Commission has also noted that the African [Banjul] Charter on Human and Peoples' Rights (ACHPR) addresses the right to housing in Articles 14, 16, and 18(1). The Government of The Gambia is also a State Party to the Charter.<sup>130</sup>

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<sup>128</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976. ICESCR Article 11 [emphasis added].

<sup>129</sup> United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), 13 December 1991, General Comment 4: The Right to Adequate Housing (Art.11 (1)).

<sup>130</sup> *SERAC and CESR vs. Nigeria*, 155/96.

The Gambia has also ratified the following international treaties, each of which recognises relevant aspects of the right to adequate housing:

1. The International Covenant on Civil and Political Rights (ICCPR);
2. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
3. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
4. The Convention on the Rights of the Child (CRC).

According to the Julia Harrington, the Executive Director of the IHRDA, the application of international treaties in The Gambia is weak. The Constitution does not make specific provisions, and the courts are quite conservative on the issue. There has been little effort made to adequately implement the provisions of the ICESCR by all appropriate means, including, in particular, the adoption of legislative measures.<sup>131</sup>

## LAND AND HOUSING

In the past, the Government of The Gambia provided a plot of land at no cost to any citizen in need of one. This situation, however, has changed over the past few decades. According to a Councillor of Bakkau District, in order to acquire land under the present system, one has to purchase it either through a private land-owner, usually a Malinke, or through the *Alkalo*, the traditional custodian of the community. Either way, approval by the *Alkalo* is usually required before proper title deeds can be applied for at the Land Registry.<sup>132</sup>

It should be noted that the Gambia is a State Party both to the ACHPR, which enshrines various economic, social and cultural rights, and to the ICESCR, which specifically recognises the right to adequate housing. The actual provision for housing in The Gambia, however, falls far short of these international obligations. While tradition and custom play a prominent and highly recognised role with respect to land and housing, there is little real guarantee or security in this domain.

Banjul, the administrative centre and capital city of The Gambia, has a population of about 70,000. The city's housing is characterised by a general state of dilapidation, crumbling walls, peeling paint and the use of low-grade building materials, including corrugated iron. Banjul is largely urban, with a very small percentage used for semi-rural agriculture. The city faces formidable housing problems, largely due to limited resources, urban drift, and high land prices. Most of the city's housing dates back to the British colonial period. The available housing has become grossly inadequate for the growing populace.

Most private households in the middle-class bracket live in Banjul's poor housing conditions, as legal tenants with inadequate infrastructure. For this reason, the Government has for some time been encouraging dwellers to move to other urban areas, including Serekunda, the largest coastal community in The Gambia.

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<sup>131</sup> COHRE FFM interview with Julia Harrington, Executive Director, Institute for Human Rights and Development in Africa (IHRDA).

<sup>132</sup> COHRE FFM interview with Hon. Bakary Darboe, Bakkau District Councillor.

## Slums in The Gambia

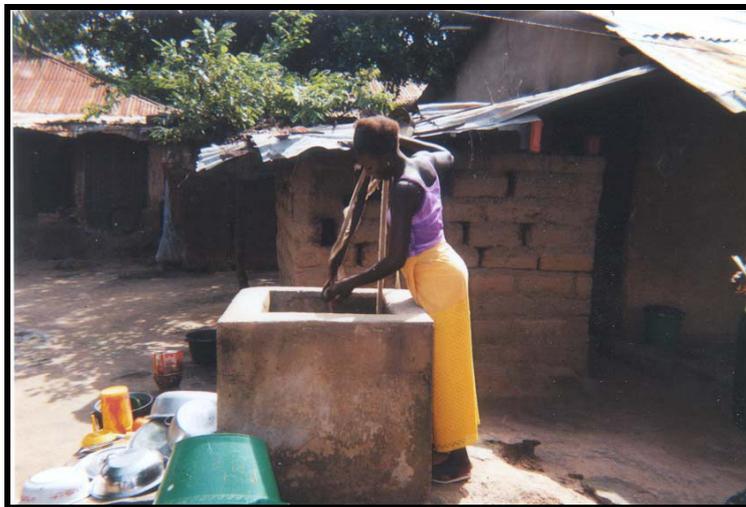
Poor housing conditions, as well as the lack of adequate and affordable housing, has led to the development of slum communities. The COHRE FFM team visited two representative settlements; Kottu Sillo and Bundung.

### Kottu Sillo Community

Kottu Sillo is located next to the main electrical plant of The Gambia Power Corporation. Some 2,500 people live there, housed in structures built from corrugated iron sheets and bamboo poles. Many of these dwellings have cement walls, though these are generally in a very poor state of repair.<sup>133</sup>

The Kottu Sillo community is largely made up of farmers, wood carvers and independent traders. There are no schools, no health centres, and no waste-disposal or sanitary systems within the community.<sup>134</sup> The people dispose of all their household waste in a large, open ditch containing stagnant water. The stench and the contamination of the water and the surrounding area poses a major health hazard to the community.

Social amenities are woefully inadequate and in some cases are not available. The only toilets are pit latrines, which were constructed by the dwellers and are in poor condition. The access roads into the community are unpaved and dusty. The residents have no access to safe drinking water, and use wells instead.



**A woman draws water from a well in  
Kottu Sillo Slum, The Gambia**

According to the community leader interviewed by the COHRE Africa Programme FFM team, the community formed several years ago due to a lack of adequate housing. On several occasions, the Government has warned residents about the danger of settling next to the power

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<sup>133</sup> COHRE FFM interview with the Community Leader of Kottu Sillo.

<sup>134</sup> Ibid.

station, but has made no significant effort to resettle the residents. Most of them have no place of their own to which they would be able to relocate.<sup>135</sup>

In this community, the COHRE FFM team found several violations of the right to adequate housing. Specifically, in relation to:

1. Availability of services, materials, facilities and infrastructures, in particular a lack of safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;
2. Habitability, due to structural hazards and preventable disease vectors;
3. Location, specifically due to poor access to employment opportunities, health-care services, schools, child-care centres and other social facilities. The COHRE FFM team understands that this situation is exacerbated by a lack of affordable, adequate housing within the country in general.

## **Bundung Community**

The COHRE FFM team also visited the much larger slum community of Bundung, which has about 10,000 residents living in small houses built of brick and sheet metal. The overcrowding is severe, with typically 10 or more people per household.<sup>136</sup>

The residents are mostly poor urban farmers and small traders, with a few paid employees. The people obtain their drinking water from wells they have dug. The toilets are pit latrines. Waste is dumped in an open pit quite a distance from the houses. Bundung has its own market, and a few schools.



**Grossly inadequate toilet, shower and washing facilities  
in a Bundung compound, The Gambia**

According to the community spokesperson, on several occasions the Government has attempted to evict the people and demolish their houses, arguing that the structures are below the officially approved housing standard. Recently, however, the residents have heard rumours that instead of

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<sup>135</sup> Ibid.

<sup>136</sup> COHRE FFM interview with Bundung residents.

demolition, the Government, in collaboration with international institutions, is to embark on a development project to upgrade the area.<sup>137</sup>

The residents informed the COHRE FFM team that there had been no direct communication between the Government and the community on these issues. The people yearn for improved living conditions and are understandably eager to know which line of action the Government will take.

In Bundung, as in Kottu Sillo, the COHRE FFM team found several violations of the right to adequate housing. Specifically, in relation to:

1. Availability of services, materials, facilities and infrastructure;
2. A lack of safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;
3. Habitability, due to structural hazards, overcrowding and preventable disease vectors.

## **Policies and Programmes**

### **The Government**

The Government of The Gambia has no explicit policies on urbanisation or housing for low-income earners, despite the high concentration of the population in urban areas and the high rate of urban drift. However, the Government has begun to address these issues by establishing a variety of programmes aimed at encouraging private investors to increase housing delivery. These programmes include the Social Security and Housing Finance Corporation (SSHFC) and the Private Developers' Scheme. It is hoped that proper implementation of these programmes will lead to improvements in the housing situation throughout The Gambia.<sup>138</sup>

In urban areas, the Government has participated in land and housing delivery in the following three ways:

1. By engaging private investors to build houses for all social classes;
2. By developing site-and-service areas, including plot allotment; that is, designating plots of land and preparing them for building works by prospective owners, as well as providing basic infrastructures, including water and electricity supplies;
3. By providing land-owning families and Government employees with loans to finance house-building.

COHRE knows of no documented cases of forced evictions in The Gambia. To its credit, the Government is engaging in a Slum Improvement Project supported by UN-HABITAT, who advised the Government not to demolish slums but to upgrade them, as this is a more sustainable approach to community development. Key areas of this project are housing, water,

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<sup>137</sup> Ibid.

<sup>138</sup> COHRE FFM interview with Mr. Tumbul K. Danso, Director of Housing at the Social Security and Housing Finance Corporation (SSHFC).

sanitation, and access roads. The Department of Physical Planning is responsible for the provision of technical support.<sup>139</sup>

Kottu Sillo, one of the slum communities visited by the COHRE FFM team, has been earmarked for the Slum Improvement Project. According to the Director of Physical Planning, once dwellers have had their slums upgraded, they would be granted legal title and security of tenure. However, the Ministry has been waiting for about two years to receive financial assistance from UN-HABITAT to enable the Government to implement this project properly.

The Department of Physical Planning, under the Ministry of Lands and Local government, is also responsible for housing delivery to low-income earners. The Department designs layout policies – the physical planning – for residential homes. In the first quarter of 2002, it planned three such residential layouts, in Tanja, Bruffut and Bifil.<sup>140</sup>

Individuals can also apply to this Department for provision of land, which is subject to Cabinet approval. Once approved, the Survey Department undertakes plot demarcation. Applicants are required to pay the sum of 2,000 Gambian dalasi.<sup>141</sup> The Director of the Department of Physical Planning informed the COHRE FFM team that this scheme had been quite beneficial to many families.

The COHRE team was informed by the Director of Housing in the SSHFC, that the Corporation has a mandate to use the state pension fund to finance Government housing projects.<sup>142</sup> The Corporation has two sections: the Social Security Section and the Housing Section. The Housing Section obtains pension-fund loans from the Social Security Section in order to build houses for low-income earners.

The Housing Section undertook its first project in 1983-1984, building 40 houses in the Bakoth District for civil servants with low incomes. These home-owners have a 25-year mortgage, paid by monthly deductions from their salaries.<sup>143</sup>

The second project was in the community of Kanifing East, where, under a site-and-services scheme, only land and infrastructures were provided to low-income earners. They were expected to build their own homes without further assistance.

The Housing Section is currently undertaking a project in Brusbi, where each beneficiary is provided with a plot measuring 15 x 25 m. As in Bakoth District, this is an integral housing project and the residents are eligible for a long-term repayment plan.

The Housing Section, however, has experienced some major setbacks. It has had difficulties obtaining capital, as the funds available from the Social Security Section are very limited. The Director of the Housing Section informed the COHRE FFM team that pension-fund managers generally prefer to invest in sectors with greater short-term profitability than housing offers. In

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<sup>139</sup> COHRE FFM interview with Mr. PA Sainey Manneh, Director of Physical Planning, Ministry of Lands, Housing and Local Government.

<sup>140</sup> Ibid.

<sup>141</sup> The Gambian dalasi (GMD) was worth 10 to 1 USD in January 1995, 12 to 1 USD in January 2000 and 30 to 1 USD in January 2004.

<sup>142</sup> SSHFC Act no. 13 (1981), Sect. 5 (3) (c).

<sup>143</sup> COHRE FFM interview with Mr. Tumbul K. Danso, Director of Housing at the Social Security and Housing Finance Corporation (SSHFC).

addition, the Social Security Section only lends money to the Housing Section at high interest rates, sometimes as much as 20 percent.

The lack of funds poses a great challenge to the Housing Section's plan to provide affordable housing. Even when mortgage rates are kept as low as possible, 70 percent of Gambians – earning as little as USD 30 per month – cannot benefit from such projects. One of the many problems is that while the Housing Section prefers to give priority to families, they often cannot meet the costs.<sup>144</sup> Another issue is that unmarried women do not benefit from such projects as, generally, only married couples and families are considered eligible.

Despite these obstacles, the Director of the Housing Section believes that if low-interest loans can be secured from foreign lending institutions, the widespread provision of affordable and adequate housing to Gambians, particularly low-income earners, may become a reality.

Nonetheless, the COHRE Africa Programme is concerned that, given Gambia's poor economic performance, international lenders may be reluctant to invest in the country, particularly in the housing sector.

The Government of The Gambia has also set up a Private Developers' Scheme, through which interested property developers are provided with large parcels of land and the necessary infrastructure. The developers are responsible for the housing construction itself.<sup>145</sup> The developer is required to build housing of various categories for people in different income brackets, with particular emphasis on low-income earners.

One such private developer, TAF Construction, has undertaken a massive housing project in Yundum and Bruffut. There is, however, a significant problem: the smallest apartments – which are supposedly reserved for 'low-income earners' – cost more than 300,000 dalasi.<sup>146</sup> This is an astronomical price for the ordinary Gambian, who may earn just over 9,000 dalasi per year.

TAF Construction, as part of its 'Operation House the Nation', also has a special promotion where an individual can buy a 20 dalasi raffle ticket with a chance to win a home.<sup>147</sup>

According to a Bakkau District Councillor, even though the Government is busy building infrastructure, its plans are not sustainable. The Government no longer provides land for free, as it did 30 years ago. Furthermore, the SSHFC does business for the Government, building houses on its land and selling them for 300,000 to 1,000,000 dalasi, house prices which only middle and upper-class Gambians can afford.<sup>148</sup>

People in the lower-income bracket – the majority of the Gambian population, who commonly live in households of 10 people or more – are excluded from benefiting from these housing projects. The Bakkau District Councillor interviewed by the COHRE FFM team believes that under the local government Act of 2002, the local government Autonomy and Finance Bill could be made law. This would give local governments the autonomy they need to finance housing projects. With a 25 percent grant from the central Government, they could raise the remaining

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<sup>144</sup> Ibid.

<sup>145</sup> COHRE FFM interview with Mr PA Sainey Manneh, Director of Physical Planning, Ministry of Lands, Housing and Local Government.

<sup>146</sup> COHRE FFM interview with Hon. Bakary Darboe, Bakkau District Councillor.

<sup>147</sup> COHRE FFM interview with an official of TAF Construction.

<sup>148</sup> COHRE FFM interview with Hon. Bakary Darboe, Bakkau District Councillor.

75 percent through taxes. According to the Councillor, this would go a long way to solving The Gambia's housing problem.<sup>149</sup>

The former Judicial Secretary and Master of the Supreme Court of The Gambia informed the COHRE FFM team that, under SSHFC Act No. 13 of 1981, Section 5(3)(c), low-cost housing is supposed to be a priority, but in fact is only made available to the middle income bracket. Such housing is simply too expensive for most low-income earners, especially those outside the main urban centres; such as Basse Sante Su, Janjabure, Soma, Farafenne, Essau, and Bricama. Through the SSHFC, the Government has undertaken housing projects in Bakoth, Kanifing and Brusbi. 'Option A' projects are for Gambians living abroad who are interested in buying homes in their country of origin; 'Option B' projects are for resident Gambians. According to this contact, low-income earners have not benefited appreciably from these projects.<sup>150</sup>

He explained further that it is only on paper that those in the lower-income bracket are entitled to a loan, for the central Government currently has no housing-loans scheme.<sup>151</sup>

The poorest members of society are marginalised and have no access to proper shelter. The SSHFC is not addressing the main needs of the people, as it is driven by commercial considerations rather than the socio-economic needs of the Gambians. The Secretary refers to the SSHFC as 'prudent fund Managers'.<sup>152</sup>

## **Non-Governmental Organisations**

According to the Julia Harrington, the Executive Director of IHRDA, very few Gambians know that the right to adequate housing is an internationally recognised human right. For this reason, there is very little public expectation as regards the Government's responsibility to respect, protect and fulfil the right to adequate housing for all Gambians. Few NGOs focus on the promotion and protection of economic, social, and cultural rights from an international human rights perspective. Most NGOs are active in the field of development.<sup>153</sup>

According to Joseph Amable, Training Officer at the ACDHRS, this centre was established to promote greater respect for human rights in Africa. So far, however, all of its training programmes, workshops and conferences have focused on basic civil and political human rights; there has been only minimal attention to economic, social, and cultural issues.<sup>154</sup>

Mr Amable further explained to the COHRE team that the implementation and promotion of economic, social, and cultural rights, particularly the right to adequate housing, is new to The Gambia. Notably, however, the ACHPR often endeavours to ensure the protection, promotion, and fulfilment of these rights – including the right to adequate housing – by State Parties.<sup>155</sup>

In a bid to redress this general lack of awareness in The Gambia, the COHRE FFM organised a training session for members of civil society organisations and community development leaders

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<sup>149</sup> Ibid.

<sup>150</sup> COHRE FFM interview with the former Judicial Secretary and Master of the Supreme Court of the Gambia

<sup>151</sup> Ibid.

<sup>152</sup> Ibid.

<sup>153</sup> COHRE FFM interview with Julia Harrington, Executive Director, Institute for Human Rights and Development in Africa (IHRDA).

<sup>154</sup> COHRE FFM interview with Joseph Amable, Training Officer at the African Centre for Democracy and Human Rights Studies (ACDHRS).

<sup>155</sup> Ibid.

in Banjul, on the theme of *Civil Society, Community Activism, and the Right to Adequate Housing*. There were 25 participants, including local residents, community leaders, and representatives of NGOs and women's groups.

During the COHRE training session, participants were informed about the right to adequate housing, the legal implications of this right, and strategies of community activism to protect and promote it. Participants were also instructed on The Gambia's international legal commitments with regard to the right to adequate housing, and strategies for monitoring, lobbying and seeking Government participation towards the provision of adequate new housing and the improvement of existing housing.

The COHRE FFM team also met with officials of the ACHPR to discuss its work towards achieving economic, social, and cultural rights. The Commission's Legal Officer explained that the Commission welcomes communications on violations of any type, and will issue relevant decisions, but does not actively monitor State violations. Rather, the Commission expects States to report any activities they pursue to protect and promote their citizens' rights in their periodic reports.<sup>156</sup>

When asked if the African Charter would be reviewed to specifically include the right to adequate housing, the Legal Officer responded that the COHRE FFM team could attend the NGO forum prior to any of the Commission's sessions, in order to propose such an inclusion, and could possibly have this incorporated in the resolution to be presented to the Commission by the NGOs. He noted that, in accordance with previous Commission decisions, the combination of Articles 14, 16, and 18(1) of the Charter effectively represents a right to adequate housing.<sup>157</sup>

## **The Position of Gambian Women**

Throughout its visit, the COHRE FFM team was struck by the extent of poverty in The Gambia, and in particular the suffering of women. COHRE visited the Foundation for the Research on Women's Health and Productivity and the Environment (BAFROW), in order to better ascertain the specific housing problems faced by women.

BAFROW is a women's rights NGO which focuses on the protection of human rights as well as on reproductive issues, and also examines the impact of economic and environmental issues on women's lives. On environmental issues, the organisation tries to ensure the safety of sanitation systems, encourages and carries out training on crop planting, and seeks to monitor the provision of adequate housing. BAFROW also engages in lobbying, advocacy with and on behalf of women.

The COHRE FFM team learned from BAFROW's Executive Director that Gambian women have problems acquiring land in rural areas due to patriarchal structures. Outside the urban centres, under the customary legal system, land is under the control of men. This is despite the fact that women are responsible for many of the agricultural activities throughout the country, in particular rice cultivation, and is also in violation of The Gambia's legal obligations under the ICCPR, the ICESCR and the CEDAW.<sup>158</sup>

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<sup>156</sup> COHRE FFM interview with Jules Batchono, Legal Officer for promotional activities at African Commission on Human and Peoples' Rights (ACHPR).

<sup>157</sup> Ibid.

<sup>158</sup> Gender Division of Labour in Rice Production in the Gambia, IFAD Study Report, [http://www.ifad.org/gender/learning/resource/natural/gm\\_labour.htm](http://www.ifad.org/gender/learning/resource/natural/gm_labour.htm), accessed 21 Feb. 2004

In addition, civil law is codified, and applies mostly to Christians. Customary or Personal laws are often highly discriminatory to women. Personal laws for Muslims are largely based on Sharia law, which particularly affects divorce and interstate succession, in which males are predominantly favoured. Male Chiefs, who are also Judges, are given broad powers to decide cases, and decisions normally rule against women. Under this system, women have little rights to property.<sup>159</sup>

In urban areas, the situation is also difficult, a condition that the organisation tries to mitigate through loans for land purchase. Households headed by unmarried women are particularly disadvantaged, and illiteracy is a contributing factor to the plight of Gambian women.<sup>160</sup> They remain, by and large, uneducated. This aspect of housing rights in The Gambia deserves further investigation.

## CONCLUSIONS

At the end of a four day programme of visits and interviews with Government officials, human rights activists, community leaders and local slum-dwellers, the COHRE FFM team came to the following conclusions:

1. The living conditions of over 60 percent of the Gambian population are characterised by a lack of adequate housing and poor infrastructures.
2. The Government of The Gambia is poorly informed as to its legal obligations with regard to economic, social and cultural rights, in particular as regards its duty to respect, protect and fulfil the right to adequate housing. Currently, the Government is in violation of its obligations under human rights treaties including the ICESCR, and the ACHPR.
3. Due to the high levels of illiteracy, the people also have a very low level of awareness of their economic, social and cultural rights, including their rights to adequate housing.
4. Housing in Banjul is largely comprised of old dilapidated structures that are grossly inadequate for human habitation.
5. There is a trend of movement from inner Banjul to outlying districts, such as Serrekunda and Senegambia, though these urban areas have a shortage of land for building homes. There are far more villages than towns in The Gambia, and the majority of people are rural subsistence farmers. Despite the availability of land in the rural areas, the lack of infrastructure makes it impossible to use this valuable resource.
6. Currently, although the Government is concentrating on building infrastructure, the provision of adequate housing, particularly to low-income earners, is non-existent. Slum communities are neither demolished nor upgraded, and the people have no alternative to developing their own survival strategies and processes.

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<sup>159</sup> Iber, Davies, *Factors Inhibiting Women's Rights in West Africa*, ISHR, <http://www.ishr.org/sections-groups/wac/africanwomen.htm>, accessed 23 Feb. 2004.

<sup>160</sup> COHRE FFM interview with Mrs. Fatou Waggeh, Executive Director of Foundation for Research On Women's Health and Productivity and the Environment (BAFROW)

## RECOMMENDATIONS

The Gambia is internationally renowned as the seat of the ACHPR, and the Government of The Gambia is known to be quite receptive to human rights organisations and human rights issues. However, the Government seems to attach greater importance to civil and political rights and their protection than to economic, social and cultural rights, even though all human rights are universal and indivisible. All States around the globe are obligated to treat their citizens fairly and equitably.

COHRE is deeply concerned that the Government of The Gambia has effectively disregarded the economic, social and cultural rights of the Gambian people, in particular those in the lower-income bracket. While there have been some positive measures, the Government has made negligible progress in the provision of these rights.

The COHRE FFM team makes the following recommendations with regard to the current housing rights situation in The Gambia:

1. Economic, social and cultural rights, including the right to adequate housing, should be given serious attention at the highest levels of Government.
2. The Government should review its laws, policies, and programmes on housing in the light of its legal obligations under the ICESCR, with a view to ensuring the realisation of the right to adequate housing for all sectors of the population, without discrimination.
3. The Government should take special measures to provide adequate housing to the poorest sectors of Gambian society.
4. The Government should establish, publicise, and make readily accessible an official government department or office responsible for gathering and responding to complaints regarding housing provisions. This department should also be responsible for educating the citizenry on their economic, social and cultural rights.
5. All relevant legislation, such the Landlord and Tenant Law, should be developed to include security of tenure, as defined in General Comment Nos. 4 and 7 of the UNCESCR.
6. NGOs in The Gambia should develop their capacities to work on economic, social and cultural rights issues, including the right to adequate housing.
7. NGOs in The Gambia should also take steps to educate the general populace with regards to their economic, social and cultural rights, including the right to adequate housing, and should actively assist persons seeking to claim these rights.
8. The Government should collaborate with NGOs and other civil society organisations in order to foster joint participation in the promotion and protection of economic, social and cultural rights, including the right to adequate housing.

## Chapter 3: Senegal



# INTRODUCTION

Senegal has an enviable history among African nations, for it stands as a notable example of co-operation and tolerance between religious and ethnic groups, and can boast nearly two decades of peaceful co-existence among its diverse peoples. This is remarkable, on a continent which has too often been racked by war, ethnic clashes, corruption and repressive dictatorships. The fact that a Christian president governed the country smoothly for nearly 20 years, when over 92 percent of the people are Muslims, speaks in no small way to the success and responsiveness of the Government of Senegal.

In recent years, however, there have been increasing reports of forced evictions within the country. As international attention has shifted from the sensational and regrettable violence (which accompanied many of the independence movements of African nations in the 1990s) to more basic concerns of feeding, housing and employing the poor, this has raised concerns about the direction the Government of Senegal is pursuing.

Civil and political rights, though essential, do not take precedence over economic, social and cultural rights. COHRE firmly believes that all human rights are interdependent and indivisible. The realisation of any particular right or set of rights depends on whether all others are realised. The enjoyment of economic, social and cultural rights – in particular the right to adequate housing – is a prerequisite for the enjoyment of civil and political rights, and *vice versa*.

Although Senegal has always had a relatively good reputation in terms of respect for human rights, both forced evictions and other violations of the right to adequate housing have, as mentioned above, been reported with increasing frequency. Senegal is a State Party to the ICESCR and several other international and regional organizations, all of which oblige States Parties to refrain from the practice of forced eviction and to ensure that their citizens fully enjoy the right to adequate housing.

## Objectives and Report Outline

The Africa Programme of COHRE, concerned by this news of widespread forced evictions, sent an FFM team to Senegal with the following objectives:<sup>161</sup>

1. To investigate reports of widespread forced evictions in Senegal;
2. To examine the housing situation in relation to laws, policies and programmes pertaining to land and housing;
3. To examine the extent to which the Government is complying with its international obligations in the area of housing rights, and;
4. To meet with local communities, NGOs and other role players in order to discuss strategies to resolve the problem of housing rights violations.

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<sup>161</sup> The COHRE FFM team was comprised of Yousif Ahmed, Ndidi Bowei, and Gift Duru. COHRE wishes to thank ENDA TM-RUP (*Environnement et Développement Action dans le Tiers-Monde, Relais pour le Développement Urbain Participé*) for assistance during the mission.

During the mission, the team visited a number of slum communities in the Senegalese capital, Dakar, held meetings with several civil society organisations, and co-ordinated a seminar on the right to adequate housing and civil society's role in helping to achieve the enjoyment of this right.

On several occasions, the COHRE FFM team sought to interview Government officials in charge of housing affairs in order to enquire about issues of reported forced evictions and the Government's apparent non-compliance with its international obligations. However, all the officials approached by the team – at the Ministry of Housing and Urban Planning (*Ministère de l'Habitat et Urbanisme*) and the Municipality of Dakar – were unwilling to be interviewed. The team therefore had no option but to rely on the available Government documents, which are cited extensively in this report.

This chapter presents the findings of the COHRE FFM to Senegal. An overview is presented of the country's geography, political structure, legal framework – as it relates to housing rights – and economic situation. Current housing in the country is examined, as well as issues relating to forced evictions and other housing rights violations. Government housing policies and programmes are reviewed, and then the detailed conclusions of the COHRE FFM team are presented. Finally, COHRE makes specific recommendations to the Government of Senegal, as well as to national and international NGOs.

## PERSPECTIVE ON SENEGAL

### Geographical and Political Overview

#### Physical and Social Geography

Senegal is Africa's most westerly state, bordered by Mauritania to the north, Mali to the east, Guinea and Guinea-Bissau to the south, and the Atlantic Ocean to the west. The Gambia lies within Senegal, almost completely enclosed save for its opening on to the Atlantic Ocean. Senegal covers 196,190 km<sup>2</sup> (75,750 sq. miles).

The northern part of the country is characterised by arid steppe, which is prone to desertification. The central region is savannah, while to the south the country experiences four to five months of rainy season, as it lies within the northern extreme of the monsoon region. Generally, May to November is the hot humid rainy season while December to April brings the hot, but dry, *harmattan* winds.

There are over 10 million people in Senegal, comprised of quite diverse ethnic groups. The Wolof predominate with 43 percent of the population, followed by the Pular (23.8 percent), Serer (14.7 percent), Jola (3.7 percent), Mandinka (3 percent), Soninka (1.1 percent), European and Lebanese (1 percent), and other peoples (9.4 percent). Fully 92 percent of the country is Muslim, 2 percent follow the Christian faith (primarily Roman Catholic), and approximately 6 percent hold to traditional religious beliefs. The official language is French, though Wolof, Pulaar, Jola and Mandinka tongues are also spoken.<sup>162</sup>

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<sup>162</sup> Based on: <http://www.worldfactsandfigures.com/countries/senegal.php>; and <http://www.gouv.sn/senegal/index.html>

## Politics

Senegal broke from French colonial rule in 1960, and joined with the Gambia to form Senegambia in 1982. This perceived union was dissolved seven years later, however, as the two countries never effectively integrated.

Dakar is the capital city, and there are ten administrative divisions, served by the republic through a multiparty democratic rule. The Senegalese Democratic Party (PDS) currently holds 89 of the 120 seats in Parliament. Senegal's Constitution, modelled on the French Constitution, has a mixed system of Presidential and Parliamentary powers. The Presidency remains dominant in policy areas such as foreign affairs and defence.

President Leopold Sedar Senghor, a Christian, was Senegal's first President, and presided over a moderate partly democratic system (Senegal was a one-party state from 1966-75).<sup>163</sup> President Senghor nominated Abdou Diouf as his successor in 1980. The Socialist Party (PS) dominated Senegalese political life until the year 2000, winning a series of regular and reportedly fair elections through the 1980s and 1990s.

Eight candidates contested the 2000 presidential elections. The incumbent Abdou Diouf won 40 percent in the first round and faced a run off against Abdoulaye Wade. In the second round, Mr Wade rallied almost all the other candidates and won comfortably. President Diouf conceded defeat and there was a peaceful transition to the country's first non-Socialist Government. President Wade was sworn in on 2 April 2000. Moustapha Niassé, leader of the *Alliance des Forces de Progrès* (AFP), was appointed Prime Minister.

## Dispute over Casamance

The people of the climatically and ethnically distinct Casamance region of southern Senegal have close kinship ties with tribal communities in neighbouring Guinea-Bissau and The Gambia. Since 1982, an armed separatist movement known as the *Mouvement des Forces Démocratiques de Casamance* (MFDC) has been fighting against Senegalese Government forces, ostensibly in a bid to obtain independence.<sup>164</sup> Since the early 1990s there have been numerous attempts at negotiated settlements, though the MFDC has increasingly split into factions, and most of the recent armed activity could be classified as banditry. In the 1990s, the MFDC was supported clandestinely by armed rebels in neighbouring Guinea-Bissau. This support ended in December 2000 when the rebel leader, General Ansumane Mané, was killed by soldiers loyal to the Government of Guinea-Bissau.

Low-level violence continues to this day. Most rebel activity is in the Bignona region north of the Casamance River, although there are still pockets of resistance in southern Casamance. The political leadership of the MFDC is seriously split and does not appear to control all the armed elements in the bush. Various attempts have been made in the past year to revive peace talks, including an offer of renewed dialogue by the President during his end-of-year message in 2003, but to date these have all been unsuccessful.<sup>165</sup>

Although the Casamance is Senegal's richest agricultural area, the disruption caused by the armed insurrection has left it badly underdeveloped, lacking basic infrastructure and adequate transport

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<sup>163</sup> Ibid.

<sup>164</sup> [http://news.bbc.co.uk/1/hi/world/africa/country\\_profiles/1064496.stm](http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1064496.stm)

<sup>165</sup> <http://www.warmafrica.com/index/geo/4/cat/1/a/a/artid/142>

links to the rest of Senegal. A ferry that used to link the Casamance with Dakar, Le Joola, sank in September 2002 with the loss of over 1,800 lives.... claiming more fatalities than the sinking of the *Titanic*.

## Housing Rights Legal Framework

### Domestic Law

#### The Constitution

The current Constitution of Senegal, adopted by a referendum on 7 January 2001, provides for various economic, social and cultural rights. It does not, however, make any reference to the right to adequate housing. Nonetheless, Article 8 of the Constitution indicates that the Republic of Senegal guarantees, *inter alia*, economic, social and cultural rights for all its citizens. Inclusion of such an article in the Constitution implies that the Government has made an obligation to respect and protect all economic, social and cultural rights, including the right to adequate housing. Article 8 also refers to the rights to property, health, and a healthy environment. Again, the enjoyment of such rights cannot be achieved without securing adequate housing.<sup>166</sup>

Article 8 of the Constitution states:

“The Republic of Senegal guarantees, for all its citizens, fundamental individual freedoms, economic and social rights, as well as group rights. These rights are:

- the right to education,
- the right to property,
- the right to work,
- the right to health,
- the right to a healthy environment,
- the right to information.”

The article also lists civil and political rights such as freedom of opinion, freedom of expression, freedom of speech, freedom of association, etc. Enjoyment of all the rights mentioned in Article 8 is subject to legislation, which, ideally, would specify how these rights are to be enforced.

#### Housing and Land Legislation

Senegal has no national housing law. However Senegal does have a rich legacy of land legislation, including the *Loi Relative au Domain National* of 1964, considered as “one of the most innovative land laws yet devised in Africa”, designed to give democratically elected local institutions high levels of control over land and resources. However, in practice, these land laws have not delivered on their promise - control over land and resources have in fact remained centralised in the hands of ineffective and bureaucratic State structures.<sup>167</sup>

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<sup>166</sup> <http://www.gouv.sn/textes/constitution.html>

<sup>167</sup> See John W. Bruce, Mark S. Freudenberger and Tidiane Ngaido, “Old Wine in New Bottles: Creating New Institutions for Local Land Management”. MekongInfo 1995, [http://www.mekonginfo.org/mrc/html/bruce/bru\\_inh.htm](http://www.mekonginfo.org/mrc/html/bruce/bru_inh.htm). Also see Doudou Ndoye, *Le Droit des Terres du Domaine National et du Domaine de l’Etat au Sénégal*, Memento EDJA (Les Editions Juridiques Africaines SA), ISBN: 2-87838-039-8

This has had implications both for agricultural production and for the provision of housing. According to a prominent Dakar-based lawyer and human rights activist:<sup>168</sup>

“The Government does not really care whether or not a community is engaged in any valuable economic activity. For example, I was involved in a case where the Government had evicted a fishing community which was contributing to their local economy. The Government had not paid this community any compensation nor had it offered them any alternative”.

## International Law

Senegal is a State Party to several international instruments which guarantee housing rights. Perhaps the most prominent of these is the ICESCR, which the Government of Senegal ratified on 13 February 1978. The ICESCR requires States Parties to do their utmost to ensure the full enjoyment of the right to adequate housing. Article 11 (1) of the ICESCR recognises:

“... the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”<sup>169</sup>

In 1991, the UN CESCR adopted General Comment No. 4 on the right to adequate housing, which provides concrete elements of what the right entails.<sup>170</sup>

As a State Party to the ICESCR, Senegal is obligated to respect, protect and fulfil its provisions. However, official statistics indicate that the Government of Senegal has committed grossly inadequate time and resources to ensuring its full compliance in this regard. In 2001, the CESCR expressed concern about the acute lack of affordable housing in Senegal and the Government’s new policy of ceasing to build social housing units for low-income, disadvantaged and marginalised groups.<sup>171</sup> The Committee consequently urged Senegal to reintroduce a programme of social housing and to ensure access to housing credit for those in lower-income levels.<sup>172</sup> The CESCR also urged Senegal to take measures to eradicate discrimination against women, which is manifest in their restricted access to land, property, housing and credit facilities, as well as in their inability to inherit land.<sup>173</sup>

Furthermore, the practice of forced eviction, which is prohibited by international laws, is common in Senegal. In March 1993, the UNCHR, in the unanimously adopted resolution 1993/77, affirmed that:

“... the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing.”<sup>174</sup>

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<sup>168</sup> COHRE FFM interview with Mr Alioune Badara Cesse, lawyer, human rights activist and former Member of Parliament, based in Dakar, Senegal.

<sup>169</sup> [http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm)

<sup>170</sup> <http://www.unhchr.ch/html/menu6/2/fs21.htm>

<sup>171</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights: Senegal, UN Doc. E/C.12/1/Add.62, paragraph. 30 (24 Sept. 2001).

<sup>172</sup> Ibid. at paragraph. 51.

<sup>173</sup> Ibid. at paragraph. 15.

<sup>174</sup> <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/9fd992e449c32b04c1256a8600397d0b?Opendocument>

Moreover, the prohibition of forced eviction is a State obligation not qualified by the availability of resources. Indeed, forced evictions often entail an expenditure of State resources. Consequently, the practice of forced eviction violates the obligation to respect and protect the right to adequate housing enshrined in Article 11(1) of the ICESCR. Similarly, forced evictions often amount to a violation of Article 17 of the ICCPR, to which Senegal became a State Party on 13 February 1978, and the ACHPR.<sup>175</sup>

To provide more clarity as to the meaning and content of the prohibition on forced eviction, the UN CESCR also adopted General Comment No. 7 on forced evictions. This provides strict guidelines for lawful evictions, including:

1. Genuine consultations with those affected;
2. Adequate and reasonable notice given to all affected persons prior to the scheduled eviction date;
3. 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;
4. Government officials or their representatives to be present during an eviction; especially where groups of people are involved
5. All persons carrying out the eviction to be properly identified;
6. Evictions not to take place in particularly bad weather or at night, unless the affected persons consent to this;
7. Provision of legal remedies;
8. Provision, where possible, of legal aid to persons in need of redress from the court.

Notably, paragraph 16, General Comment No. 7 states that:

“Evictions should not result in individuals being rendered 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.”<sup>176</sup>

The investigations and interviews conducted by the COHRE FFM team revealed that the Senegalese authorities routinely carry out forced evictions. One took place in the Capatage slum community on the outskirts of Dakar on 14 September 2002 when the COHRE FFM team was in the capital. The team managed to interview affected persons and photograph the eviction as it was taking place.

The evictees told the COHRE FFM team that no one had consulted with them prior to the eviction and no alternative had been proposed. Furthermore, they had not been given reasonable notice prior to the evictions. The pictures taken by the team in Capatage, which show the evictees scrambling to collect their belongings and leaving in haste, support these claims.

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<sup>175</sup> ACHPR Decision 155/96, The Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR), Nigeria (27 May 2002).

<sup>176</sup> [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument)



### Eviction, Capatage, Senegal September 2002

Clearly, the Government of Senegal, by carrying out forced evictions and not adhering to the guidelines provided in General Comment No 7, has violated its international obligations to respect and protect the enjoyment of the right to adequate housing. Senegal is also in direct violation of its obligations under other international instruments including: the ICCPR; the ACHPR; the International CRC and CEDAW.<sup>177</sup>

Indeed, having considered Senegal's second periodic report in 2001, the CESCR expressed its concern about the increasing prevalence of forced evictions, particularly in and around Dakar. The CESCR expressly mentioned its concern about threatened forced evictions in the Diamaguène district and the Baraka slum. The CESCR recommended that the Government of Senegal:

“ ... undertake a systematic and comprehensive review of its relevant legislation, administrative policies and procedures to ensure that they comply with the guidelines of General Comments No. 4 and No. 7 in relation to forced evictions.”<sup>178</sup>

Finally, with respect to incorporating international law on forced evictions into the domestic legal regime, Mr Alioune Badara, a lawyer and human rights activist, made the following comments:

“Clearly, current land law gives the state sweeping powers. In fact, Land Law No. 64-46 of 17 June 1964 made all lands in the country, except those registered, State land. Whenever the State needs a piece of land, it evicts the inhabitants on the grounds that occupiers are not making valuable improvements *mise en valeur* [in an economically productive fashion] to the land and that the State needs the land for the public good and the economic development of the country. Therefore, it is difficult to obtain a court

<sup>177</sup> The African Charter on Human and Peoples' Rights was adopted by the Assembly General of the African Heads of States and Governments on 27 June 1981 and entered into force on 21 Oct. 1986. The International Convention on the Rights of the Child, adopted by UN General Assembly Resolution 44/25 on 20 Nov. 1989, entered into force on 2 Sept. 1990. The International Convention on the Elimination of All Forms of Discrimination against Women, adopted by UN General Assembly Resolution 30/180 on 18 Dec. 1979, entered into force on 3 Sept. 1981.

<sup>178</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights: Senegal, UN Doc. E/C.12/1/Add.62, paragraphs. 31 and 52 (24 Sept. 2001).

decision against the State. As for international law, such as the International Convention on Economic, Social and Cultural Rights, to which Senegal is a party, the Constitution provides that enjoyment of these rights is subject to the law, which always preserves the powers of the Government – and that limits the ability of the courts to make any progressive interpretation of the law.”<sup>179</sup>

## Economic Development

In 1993 the economy of Senegal dropped by 2.1 percent. Alarmed, the Government took action the following year by devaluing its currency, the CFA (*Communauté Financière Africaine*) franc by 50 percent.<sup>180</sup> This economic reform effort, combined with the elimination of price controls and subsidies, produced the desired effect. From 1995 to 1999 the GDP averaged an annual 5 percent growth, inflation was kept to less than 2 percent, and investment increased from 13.8 percent of the GDP in 1993 to 16.5 percent in 1997.

Senegal, as a member of the West African Economic and Monetary Union (UEMOA), is still struggling with its economic development. Private activity now accounts for 82 percent of the GDP, but real problems exist with urban crowding, high unemployment figures, dissatisfied trade unions and troubled youth.<sup>181</sup>

Senegal’s main agricultural products are peanuts, millet, corn, sorghum, rice, cotton, tomatoes, green vegetables, cattle, poultry, pigs and fish. More than 70 percent of the labour force is engaged in farming.

The main industries are: fish processing, phosphate mining, fertiliser production, petroleum refining, and production of construction materials. The country’s main trading partners are France, Italy, Spain, Thailand, Germany, the US and Cote d’Ivoire, to which Senegal exports fish, peanuts, petroleum products, phosphate and cotton.<sup>182</sup>

The services sector represents 55 percent of the GDP, while agriculture and industry contribute 18 percent and 27 percent, respectively.<sup>183</sup>

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<sup>179</sup> COHRE FFM interview with Mr Alioune Badara, Dakar-based lawyer, human rights activist and former Member of Parliament, Dakar, 14 Sept. 2002.

<sup>180</sup> Senegal is a member of the CFA Franc Zone of Francophone West African countries that share a common currency (the CFA franc). Prior to the 1994 devaluation, the CFA franc (CFAF) had been pegged to the French franc (FF) at 50 CFAF = 1 FF. With devaluation the rate became 100 CFAF = 1 FF. Since the advent of the single European currency, the CFA franc has been pegged to the euro at CFAF 655.957 = € 1.

<sup>181</sup> <http://www.abacci.com/atlas/economy.asp?countryID=315>

<sup>182</sup> Website of the UK Foreign and Commonwealth Office <http://www.fco.gov.uk> (go to Country Profiles/Senegal).

<sup>183</sup> 2001 estimates.

# HOUSING RIGHTS VIOLATIONS

## Forced Evictions

To assess the housing situation in the Senegalese capital of Dakar, the COHRE FFM team visited several slum communities where cases of forced evictions had recently been reported.

### Baraka Slum Community

The COHRE FFM team began its investigations by visiting Baraka slum, a community of 1,200 inhabitants on the outskirts of Dakar. The Municipality of Dakar had ordered the eviction of this slum in February 2001 on the grounds that the site was illegally occupied. Community members informed the COHRE FFM team that the authorities had neither consulted them on the eviction process nor offered any alternative. The team contacted the Municipality of Dakar to determine their point of view on the eviction, but the Municipal officials refused to be interviewed.

The new location to which the Baraka slum-dwellers have moved is also called Baraka and is only a short distance from the old location. The community is difficult to reach and lacks electricity and sanitation. The dwellings are made of corrugated iron sheets. An NGO called Environment and Development Action in the Third World, Relay for Participatory Urban Development, ENDA TM-RUP (*Environnement et Développement Action dans le Tiers-Monde, Relais pour le Développement Urbain Participé ENDA TM-rup*)<sup>184</sup> has provided the community with potable water (which it obtains from one supply point), two public toilets and one classroom, which serves as a primary school. ENDA TM-RUP has also built a small health centre to deal with minor injuries and matters relating to sexual health and childbearing.

Badara Deing, Housing Co-ordinator of ENDA TM-RUP, told the COHRE FFM team that the Government, in order to justify its policy of forced eviction, has always maintained that the slum-dwellers in Baraka are foreigners living illegally in Senegal and that the Government therefore has no obligation towards them.

The COHRE FFM team interviewed several slum-dwellers to verify these allegations. Most of those interviewed insisted that they were Senegalese nationals and originally came from the Casamance region. Mr Osmanu Diallo (64 years old) said:

“I used to live in Casamance, but because of the security problems there I had to leave and come to Dakar. I settled here. I have been evicted from Baraka. The Government did not give us any choice. I know that they will not allow us to live here [in this new site] either, but I do not know when they will come to evict us again.”

Mr Amin Mohammed (41 years old) said:

“I am from Casamance and I used to work as a trader, but it is not safe there. I had to flee with my family and come to Dakar, where I work as a vendor. I have been evicted from Baraka. If they evict us again, I do not know where to go.”

Another Baraka evictee, who wished to remain anonymous, said:

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<sup>184</sup> This Dakar-based subsidiary body of ENDA is concerned mainly with issues of environment and development in disadvantaged urban communities.

“The Government does not want to recognise us as citizens. They always accuse us of being foreigners so that they can wash their hands of the responsibility to assist us in having decent life.”

Again, the COHRE FFM team tried to contact officials of the Municipality of Dakar to discuss these allegations and other reported cases of forced evictions, but the authorities were unwilling to be interviewed.

### **Capatage Slum Community**

On 14 September 2002 officials of the Municipality of Dakar, equipped with bulldozers and security apparatus, entered Capatage, another small slum community on the outskirts of Dakar, and summarily demolished the structures and destroyed dwellers' property. The eviction had been authorised on the grounds that the residents were illegally occupying State land. The COHRE FFM team, which was conducting a training session in Dakar at the time, learned of this impending eviction from a community leader attending the session. Community-members said that no one had been consulted in advance and that no alternative to, or compensation for, the eviction had been provided. The COHRE team witnessed the eviction and saw many people desperately trying to salvage their belongings from the ruins, while others were leaving in haste, carrying what they could.

Evictions and demolitions have recently taken place in other communities as well, including Bignona, Diamaguene and Noleve, rendering more than 1,200 people homeless. No resettlement or compensation has been offered to them.<sup>185</sup> Such blatant violations of the right to adequate housing speak ill of a country generally regarded as one which respects human rights.

Senegal is a party to several international instruments, including: ICESCR, the International CRC, CEDAW, and the ACHPR, which require States Parties to respect and protect, *inter alia*, the right to adequate housing. The States Parties are obligated to refrain from forced eviction policies and practices, and to provide appropriate alternatives and compensation for those affected by evictions.

## **The Current Housing Situation**

In addition to the widespread practice of forced eviction, the general housing situation in Senegal is also a matter of great concern. A Government document<sup>186</sup> on housing, published in May 2001, shows that 61.7 percent of Senegalese live in homes they own. However, the percentage of home-ownership is much lower in major urban areas, including Dakar, where only 32 percent of the inhabitants own their homes and 48 percent are tenants.

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<sup>185</sup> COHRE FFM interview with Badara Deing, Housing Co-ordinator, ENDA TM-RUP, Dakar, Senegal, 9 Sept. 2001.

<sup>186</sup> The Development of Human Settlements Management in Senegal, 1996-2000 (*Evolution de la Gestion des Etablissements Humains du Sénégal, 1996-2000*), May 2001.

## Housing Occupation in Senegal (Government estimates)<sup>187</sup>

Housing Occupation	Dakar (%)	Guedia (%)	Pikine (%)	Rufisque (%)	Bignona (%)	Thies (%)	Senegal (%)
Privately owned property	32.2	46.3	55.2	48.4	58.9	67.7	61.7
Housing of co-operative organisation	3.8	1.7	2.7	18.0	6.7	9.2	7.2
Tenant-buyer	2.8	0.4	0.0	1.0	–	2.1	1.0
Tenants	48.2	38.8	33.6	14.9	15.9	13.8	18.1
Joint tenants	0.2	2.5	3.6	2.2	–	1.0	0.9
Sub-tenants	1.3	1.2	–	0.8	0.7	0.5	0.2
Housing provided by employers	4.7	0.4	0.0	2.2	1.5	–	1.1
Living with family or friend	6.8	8.8	4.5	12.4	15.6	5.6	9.2
Other	0.0	0.4	0.0	0.7	–	0.3	–

The table does not indicate the percentage of people living in inadequate housing conditions. It does show, however, that around 68 percent of the Dakar population do not own their own houses.

As regards the availability and affordability of housing, the Government document claims that greater numbers of citizens are now able to buy houses because the national average annual income nearly trebled from 1993 to 1998. In the same period, it is claimed, the annual average income in the city of Dakar increased from USD 5,513 to US \$9,224.<sup>188</sup> However, the situation for the majority of the population remains dire. Several persons interviewed by the COHRE FFM team expressed serious dissatisfaction with their income and living conditions. Mr Nfally Bediane<sup>189</sup> of ENDA TM-RUP told the team that even with a university degree he cannot afford to buy or even rent a house in the capital. According to him, over 70 percent of the city's inhabitants are unable to obtain mortgages from financial institutions such as the Housing Bank of Senegal (*Banque de l'Habitat du Sénégal, BHS*) because they work in the informal sector or do not earn enough. According to Government estimates, around 56 percent of houses in Dakar are not covered by the mortgage system, whereas 54 percent of houses in Thies, a major city close to Dakar, are covered. These official estimates seem optimistic in the light of information provided by persons interviewed by the COHRE FFM team.

In recent years, lack of employment opportunities in Senegal's underdeveloped regions and rural areas has led to a massive influx of people into the urban areas. As a result there is serious overcrowding in and around the major cities, pushing housing rents to prohibitively high levels. Low-income earners such as taxi drivers, restaurant and hotel workers, and even some lower-ranking civil servants, can no longer afford to rent houses in the big cities, especially in Dakar – the country's business and commercial centre – and are forced to live in their villages and commute to their jobs. This places an extra financial burden on such people, whose budgets are already overstretched. One hotel worker told the COHRE FFM team that the daily trips from his village to the capital leave him almost bankrupt at the end of each month.

According to international standards, the right to adequate housing comprises, *inter alia*, security of tenure and affordability. Clearly, these two vital elements are lacking in Senegal today.

<sup>187</sup> Source: *Enquête Sénégalaise Auprès des Ménages (ESAM)*, a Government statistics office.

<sup>188</sup> *Supra* note 186.

<sup>189</sup> COHRE FFM interview with Nfally Bediane, Programme Officer, ENDA TM-RUP, Dakar, Senegal, 9 Sept. 2002

Another key element of the right to adequate housing is access to potable water. The Government claims that from 1996 to 2000 access to potable water rose to nearly 73 percent of the total population, and to nearly 84 per cent of the urban population<sup>190</sup> (see table below). However, the COHRE FFM team found that, in the Dakar slums, there is restricted access to clean drinking water: in several slum communities they saw people fetching water from a limited number of communal water sources – provided not by the Government but by local NGOs. Again, the Government statistics seem to be optimistic.

#### Access to potable water in Senegal (Government estimates)<sup>191</sup>

Urban areas	83.7%
Rural areas	67.9%
Senegal	72.7%

According to the Government statistics, only 39.2 percent of the country's households have electricity. While people in major cities are the main beneficiaries of these supplies, the COHRE FFM team experienced daily power cuts lasting several hours in central Dakar. Slum communities, unconnected to the national grid, would undoubtedly fare worse.

#### Access to electricity in Senegal (Government estimates)<sup>192</sup>

Dakar	87.4%
Pikine	67.7%
Guediawaye	61.7%
Rufisque	71.9%
Bignona	23.6%
Thies	75.7%
Senegal	39.2%

## Government Housing Policies and Programmes

### Housing reconstruction and regularisation

The Government housing policy, set out in a publication entitled *The Development of Human Settlements Management in Senegal, 1996-2000 (Evolution de la Gestion des Etablissements Humains du Sénégal, 1996-2000)*, is aimed at reconstruction and regularisation of what are referred to as 'irregular quarters' (slums and unauthorised constructions) in Dakar and other cities. Several years ago the Government launched a pilot project in the impoverished Dalifort district (a quarter of an hour by car from the port of Dakar), in a bid to eradicate 'irregular' housing<sup>193</sup>.

In 1998, as a result of this pilot project, the Right to the City Foundation (*Fondation Droit a la Ville*) was jointly established by the Government, local authorities, private and public sectors, and development organisations. The Foundation is charged with reconstructing and regularising 'spontaneous and irregular housing' in Dakar and other centrally-situated cities. The goal is to

<sup>190</sup> Supra note 186.

<sup>191</sup> Supra note 187.

<sup>192</sup> Supra note 187.

<sup>193</sup> Supra note 186.

improve living conditions for over 100,000 families. In 1991, to finance this programme, a special fund was created to which the State contributed USD 1,000,000.<sup>194</sup>

## **Access to adequate housing**

A few years ago, the Government of Senegal set out ambitious policies and strategies to encourage housing construction and the distribution of land, announcing that it was striving to ensure enjoyment of the right to adequate housing for all. This was to be realised through special programmes in what are known as Zones of Concerted Development (*Zones d'Aménagement Concerté, ZAC*), clearance and preparation of plots for housing development in collaboration with housing co-operatives, as well as the encouragement of public and private housing developers.<sup>195</sup>

In 1999, the Ministry of Housing and Urban Planning organised a meeting that brought together the Government, housing developers, housing co-operatives and land dealers. The purpose of the meeting was to harmonise the programmes of all the stakeholders involved in housing development. A supervisory committee was created, which was also to examine the modes of participation.

## **Access to land**

Under the law, everyone in Senegal has equal access to land. In practice, however, there is effective discrimination due to the considerable disparity in the purchasing power of potential land-buyers. Whether housing units and plots of lands are sold depends on buyers' income and their ability to secure payments through financial institutions. Among possible measures that the Government is considering to prevent such discrimination is the creation of a national programme to combat urban poverty, in which Senegal would be assisted by the UNDP.<sup>196</sup> COHRE firmly believes that the priority in such a programme should be helping the poor to access land and housing.

## **Access to credit**

Also under the law, everyone in Senegal has equal access to credit. Nevertheless, the majority of the population cannot obtain mortgages for homes or loans for other purposes because of insufficient income and the fact that they cannot give the financial guarantees that lending institutions require. The majority of the active labour force work in the informal sector. Most such people invest their money outside the banking system, and are therefore excluded from such potential benefits as housing credit.

A number of NGOs in Senegal participate in micro-credit schemes to enable beneficiaries to generate dependable incomes, which will in turn allow them to eventually obtain credit from the banking system. The Housing Bank of Senegal, established in 1978, plays an important role in financing social housing, an area in which commercial banks seldom become involved.

In addition, the State has furnished housing co-operatives with a revolving fund to facilitate the development of social housing. This fund, from which a beneficiary can borrow up to USD 17,000 at an interest rate of 3 to 5 percent, is designed to help members of housing co-operatives obtain housing credit. Furthermore, the State has created a fund through which the

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<sup>194</sup> Supra note 186.

<sup>195</sup> Supra note 186.

<sup>196</sup> Supra note 186.

Ministry of Finance can provide loans of up to USD 2,942 to low-income Ministry employees seeking to purchase homes. These loans have to be repaid within 48 months.<sup>197</sup>

## Access to essential services

As far as the provision of essential services is concerned, the Government gives its highest priority to water. In the mid 1990s, the Government initiated a six-year project (1996-2001) costing a total of around USD 290 million, designed to ensure, *inter alia*, adequate water supplies in Dakar.

The Government began by privatising the country's main water supplier, the National Water Exploitation Company. As a result, access to potable water rose from 67 percent to 73 percent in the period 1996 to 2000, according to official statistics. The Government document<sup>198</sup> makes no mention of increases in water prices, nor does it indicate whether impoverished areas and slum communities are included in this project.

With regard to sewage, the Government, assisted by the World Bank, has set up a programme to create new waste-water disposal systems. Currently, only 21.1 percent of households in Senegal are connected to sewers.

## CONCLUSIONS

In comparison with other African countries, post-independent Senegal has been an open and democratic society. In terms of respecting its international human rights obligations, it can boast a relatively good record. However, the Government's failure to ensure that all its citizens enjoy economic, social and cultural rights – in particular the right to adequate housing – is a serious shortcoming.

The Government could, and should, have established national land and housing legislation compatible with its international obligations. Senegal has signed several international instruments, all of which oblige States Parties to ensure that all their citizens enjoy the right to adequate housing. The Government of Senegal has, nevertheless, actively pursued a policy of forced evictions. To make matters worse, the Government has disregarded the international guidelines to which they must adhere if they resort to a policy of eviction. The Capatage and Baraka evictees interviewed by the COHRE FFM team confirmed that they had neither been consulted nor offered an alternative prior to being evicted. Moreover, after suffering the trauma and degradation of eviction, they were not offered any form of compensation whatsoever. This clearly constitutes a violation of Senegal's obligations to the international community.

When a country ratifies an international convention or treaty, it is expected to reform its legal system in order to accommodate its new obligations. Senegal was, therefore, expected to reform its land law in order to guarantee security of tenure to all citizens. However, far from guaranteeing security of tenure, the existing land law of 1964 effectively abolished it.

Senegal's housing problems, typical of most African countries, are primarily caused by poor economic planning and unfair distribution of wealth. Successive Senegalese governments have focused their limited resources on developing urban areas, and have neglected rural communities, which are, significantly, the main source of food and other agricultural products.

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<sup>197</sup> Supra note 186.

<sup>198</sup> Supra note 186.

This situation has been further compounded by unreliable rainy seasons and desertification encroaching on the country's territory, particularly in the north. Under such circumstances, it is only natural that people leave their home areas and seek the perhaps illusory 'better life' in the city. Although the Government may take a series of bold measures in an attempt to ease the pressure on its urban centres, these are doomed to fail unless they are combined with a serious commitment of time and resources to developing the rural communities. Development of the cities will only make them more attractive to impoverished rural residents.

The enjoyment of the right to adequate housing, in truth the enjoyment of all human rights, depends on raising the awareness of these rights among the populace. In Senegal, the COHRE FFM team was struck by the fact that many apparently well-educated people, even some lawyers, were unaware of the human right to adequate housing, nor of the implications of this right. Under international human rights law, governments are not only required to respect and protect human rights, they are also obliged to actively disseminate human rights culture and education. In Senegal, clearly, there is an urgent need for intensive efforts by the Government, along with national and international NGOs, to raise the people's awareness of the right to adequate housing.

## RECOMMENDATIONS

There is no doubt that Senegal has a serious housing crisis. This problem is attributable to several factors, including: poverty, internal migration ('urban drift'), inadequate legal protection and poor Government planning. While the alleviation of poverty requires considerable time and resources, sound economic planning and legal reforms are entirely feasible in the short term. COHRE, therefore, makes the following recommendations. These are addressed primarily to the Government of Senegal, and secondarily to national and international NGOs:

The Government of Senegal should:

1. Reform national land legislation so that it effectively guarantees security of tenure to all occupants.
2. Introduce national housing legislation, which should incorporate the country's international obligations regarding the right to adequate housing.
3. Organise public awareness campaigns on the right to adequate housing, and provide proper training in this area for judges, lawyers and civil servants.
4. Refrain from the practice of forced eviction.
5. Encourage financial institutions to provide micro-credit loans to low-income earners so that they can access the land and housing markets.
6. Encourage the public and private sectors to invest in land and housing development to ease the pressure on congested city centres.
7. Invest far more resources in rural communities to provide agricultural support, education, health and other basic needs.

National and international NGOs should:

1. Provide training and awareness-raising campaigns on economic, social and cultural rights, in particular the right to adequate housing.
2. Provide legal assistance for the victims of forced evictions, seeking redress on their behalf.
3. Encourage the Government to introduce national land and housing legislation, and to respect its international obligations regarding the right to adequate housing.
4. Encourage the Government to allocate more resources to ensure that all its citizens fully enjoy the right to adequate housing.

## Chapter 4: Sierra Leone



# INTRODUCTION

## Aftermath of Civil War

Television first brought the shocking images of the brutal civil war in Sierra Leone to the world, and these pictures were so horrific that the international media could not ignore the atrocities. This was one of the worst human rights violations in history, where not only men, but women, children and elders had their arms and legs mercilessly hacked off. Over 30,000 lives were lost, more than 350,000 people were forced to live as refugees in neighbouring countries, and over one million people were internally displaced. In rural and urban areas alike, economic activities, the education system, medical services and other social infrastructures were devastated. Thousands of homes and public buildings were destroyed.

Shocked by this grim reality, the international community finally took action. The UN Security Council produced resolutions calling upon the warring factions to cease hostilities and, eventually, authorised humanitarian intervention. Soon, aid-workers and human rights NGOs were pouring into Sierra Leone to help the suffering citizens. Since then, the security situation has improved enormously. The capital, Freetown, is once again a peaceful and vibrant city.<sup>199</sup> Schools, the civil service, the police and the judiciary are slowly returning to normal.

## Objectives and Report Outline

Although many of the aid organisations currently active in Sierra Leone are doing excellent work, not enough attention is being paid to the vital issues of internally displaced people (IDPs) and their housing problems – two very real impacts of the civil war. What has happened to the more than one million persons who were internally displaced? How have their housing rights been affected? Have there been any efforts to resettle them? And to what extent has the housing and infrastructure they so badly need been rebuilt and repaired?

In an attempt to answer these questions, and to investigate the housing situation in Sierra Leone, a team from COHRE went on an FFM to the country in October 2002.<sup>200</sup> The FFM team visited camps for IDPs, as well as Government departments and international NGOs operating in the country. This report presents our findings.

The study examines Sierra Leone's political background – one of the root causes of the brutal civil war – and attempts to shed light on the atrocities committed during and after the war, mainly by the rebel forces of the Revolutionary United Front (RUF).

A review is provided of the pre-war domestic legal framework concerning the right to adequate housing: the country's land and housing legislation, tenancy law and Government housing policy. Also examined are Sierra Leone's international obligations with respect to economic, social and cultural rights in general, and housing rights in particular.

The impact of the civil war is assessed, in terms of internal displacement of the country's population and the destruction of housing. The Governmental and international efforts to

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<sup>199</sup> See also: United Nations Security Council report S/2000/992.

<sup>200</sup> The COHRE fact-finding mission team consisted of Bowei Ndidi from Nigeria, and Yousif Ahmed of the COHRE Africa Programme.

rebuild housing and infrastructure are similarly examined. In addition, the repatriation process, jointly undertaken by the Government of Sierra Leone and the United Nations, is reviewed.

COHRE then presents the key conclusions of its FFM to war-torn Sierra Leone, and makes a number of recommendations to the Government and NGOs.

## **PERSPECTIVE ON SIERRA LEONE**

### **Geographical, Historical and Political Overview**

#### **Physical and Social Geography**

The Republic of Sierra Leone lies to the southwest of Guinea and to the north of Liberia. It is bordered on the west by the Atlantic Ocean, and has a population of roughly 4.7 million people. Approximately eighteen separate ethnic groups make up the population. The Mende and the Temne, found in the east and south, and the north, respectively, together comprise a majority. Other significant groups include the Susu, Loko, Kono, and Kissi, but numerous smaller groups are also represented, some having immigrated from Guinea. A sizeable portion of the population is made up of Creoles, descendants of a poignant legacy of the slave trade... the free blacks who returned to Sierra Leone and settled largely in Freetown.

Though English is the official language, Krio (mother tongue for the Creole people) is the language of common use. Mande, a mixture of several local languages and dialects, is also spoken. The majority of people practice some form of animist religions, with roughly one third of the population being Muslim and the remainder Christians.

The country occupies 71,740 km<sup>2</sup> (27,699 square miles). It has a tropical climate characterised by heat and humidity, with a rainy season from May to October and a dry season from November to April. Three-fifths of the population engage in traditional farming, and agriculture remains the most important industry in Sierra Leone. Rice is the primary crop, though millet, peanuts, cassava, sweet potato and oil palms are also grown.

Rich reserves of diamonds, gold, rutile, chromite and bauxite are found here. Iron ore was mined for years, but is no longer commercially important. Fish and timber are significant economic activities, and the potential for electrical generation exists with the presence of steep precipitous valleys.

The natural wealth of the country has not, however, enriched the people. A succession of governments in the post-colonial era failed to safeguard these resources, and much of the riches were squandered. Diamond smuggling has made serious inroads on profits from that industry, and on the whole, governmental responsibility has not been what it should be.

Freetown is the capital city, once the headquarters of British West Africa, and boasts one of Africa's oldest academic institutes, Fourah Bay College, which was opened in 1827.<sup>201</sup> In 1967 the college amalgamated with Njala University College to become the University of Sierra Leone.

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<sup>201</sup> Sierra Leone background information and statistics as cited in a research paper by Osman Gbla, Lena Spencer, Abraham John and Charles Silver, University of Sierra Leone, Department of Political Science, and the United

## Pre-Civil War Political History

Sierra Leone became a part of the British Colonial Empire in the 19<sup>th</sup> century. Timber was exported to England for the shipbuilding industry, and a European market for vegetable oils was served. When Africa was divided up by the European powers, Britain, in 1896, proclaimed Sierra Leone a protectorate. There was resistance by the local population, in particular to a hut tax imposed to raise revenues, but it was effectively suppressed.

In the decades following World War II Britain slowly succumbed to nationalist pressures. Democratic institutions, modelled on the British Parliament, were implemented, and culminated with Sierra Leone finally winning its independence on 27 April 1961. The Creole minority, which had been quite active politically, hoped to maintain control, but the constitution of 1951 handed power to the majority. Under the first elected Prime Minister, Sir Milton Margai of the Sierra Leone Peoples Party (SLPP), the country was relatively stable and democratic. Human rights were respected. There was freedom of expression and freedom of the press. The mineral resources brought prosperity to the country, and revenues were invested in further development.

In 1964, however, Sir Milton Margai died and was succeeded by his brother, Sir Albert Margai. Sir Albert, also of the SLPP, governed from 1964-1967, but his was a far different rule than that of his brother. Throughout his tenure he attempted to consolidate power and repress any opposition. He adopted and implemented the Public Order Act of 1965, which imposed various restrictions on political opponents, including the requirement that they seek government permission before holding any public gathering. He also proposed one-party rule for Sierra Leone, though civil society organisations put a stop to this effort.

In 1967 the opposition All-Peoples' Congress (APC) won the general election, with Siaka Stevens at its head, but the military stepped in forcibly and set up Lieutenant Colonel Andrew Juxon-Smith as the country's leader. One year later the military experienced its own mutiny, and officers were imprisoned and Stevens was restored to his elected position.

The following years, however, were turbulent and rife with political chicanery and economic deterioration. Sierra Leone became a republic in 1971, with Stevens as its executive president. Mineral resources had been plundered, smuggling activities had robbed the national coffers of diamond revenues, and corruption was rampant. In 1978, in response to student protests and general dissatisfaction, Stevens imposed one-party rule.

This paved the way for a complete transition from democratic rule to dictatorship, economic inequality and further exploitation of the national resources. Stevens employed a range of authoritarian techniques, including the assassination of potential political opponents, repression, imprisonment and extra-judicial execution. APC leaders and their supporters plundered the nation in every conceivable way, including massive expropriation of public funds. Under this long regime, Sierra Leone gradually descended into economic ruin, and the overwhelming majority of the population saw their living standards inexorably eroded.

Joseph Saidu Momoh was the APC's ruler from 1986 to 1992, when he was ousted by the military's National Provisional Ruling Council (NPRC). Captain Valentine E.M. Strasser was named head of state, and the new military regime was initially perceived as Sierra Leone's salvation. The National Advisory Committee (NAC) and the National Commission for

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Nations peacekeeping mission UNAMSIL 2002. Supplemented with information from the online Encyclopædia Britannica: <http://www.britannica.com>

Democracy – now known as the National Commission for Democracy and Human Rights (NCDHR) were established, and the trend seemed to be one from dictatorial rule to enlightened leadership through true democracy. On the advice of the NAC, the military regime also established the interim National Electoral Commission (NEC), the body that conducted the 1996 elections.<sup>202</sup>

Unfortunately, however, the military proved to be worse and even more corrupt than the previous APC regime. The 1991 constitution was suspended and all political parties were banned. NPRC members engaged in diamond smuggling, further looted Governmental funds, and committed gross human rights violations, including the execution and harassment of defenceless citizens.

## **The Civil War and its Causes**

Few would dispute that a decade of civil war in Sierra Leone left the country and its people devastated: over 30,000 lost their lives; over 350,000 fled and became refugees in neighbouring countries; and over one million were internally displaced. Economic activities, education, medical services and other social infrastructures in both rural and urban areas were completely ruined, as were thousands of dwellings and public buildings.<sup>203</sup>

There has been considerable dispute as to the root causes of the civil war. In 1991 the village of Bomaru on the eastern border of Sierra Leone and Liberia was attacked by a small group of armed dissidents belonging to the Revolutionary United Front (RUF). This force was backed by Charles Taylor's National Patriotic Front of Liberia (NPFL). Taylor, originally a rebel leader, eventually became Liberia's president, and instigated a campaign of terror in 1989.

Taylor condemned Sierra Leone for harboring ECOMOG, the Cease-Fire Monitoring Group of the Economic Community of West African States (ECOWAS), viewing this complicity as a conspiracy against him. A year after his brutal repression of the country began, Taylor publicly stated that "Sierra Leone too would taste the bitterness of war" – a clear threat that the country would pay for its role in supporting what he regarded as the ECOMOG 'attack' on Liberia.

Taylor formed an alliance with the founder of the rebel RUF, Foday Saybana Sankoh, a former corporal in the Sierra Leonean army. RUF forces even attacked Sierra Leone from NPFL-controlled border territory in 1991, further implicating Taylor in direct involvement with Sierra Leone's civil war. The country's gold and diamond resources held out no little incentive to Taylor, as he needed funds to fuel his insurrection in Liberia.

Others blame the brutal conflict in Sierra Leone on a natural reaction to the overwhelming governmental corruption and economic chaos into which the country was plunged during rule by the APC and the NPRC. Opposition members were harassed and intimidated, State coffers were pilfered with impunity, nepotism and favouritism influenced government policies heavily, and human rights were grossly and routinely violated.

The RUF stepped into this void, claiming that they were fighting for the peoples' rights and against these injustices. In truth, however, it seems that the reign of terror they imposed on their fellow citizens cannot, under any circumstances, be viewed as a positive or altruistic movement. The rebel leaders proved incapable of formulating a clear set of political objectives, much less

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<sup>202</sup> Ibid.

<sup>203</sup> Ibid.

articulating them. The vicious civil war the rebels unleashed can only be described as a criminal insurgency.

The insurrection was swelled, undoubtedly, by the huge numbers of unemployed, illiterate and frustrated young people between the ages of 15 and 35. This segment of Sierra Leone's society – 45 percent of the population – lacked (and still lacks) educational and employment opportunities, particularly in the rural areas. These disenfranchised youth were soft targets for RUF recruitment agents and others seeking to stir up resentment against, and unleash armed terror on, their political opponents. Indeed, such young people comprised the greater part of the fighting forces in Sierra Leone's civil war.

Ahmad Tejan Kabbah was elected president in 1996, though a year later a rebel group supported by the RUF ousted Kabbah and took over the government. In 1998, ECOMOG returned Kabbah to power, and a year later Kabbah and Sankoh signed a peace agreement that gave Sankoh and other RUF members positions in the Sierra Leone government. United Nations (UN) peacekeeping forces replaced the ECOMOG troops early in 2000.

In the years between 1991 and 2001, more than 30,000 people (some estimates run as high as 50,000) were killed in the civil war. In 2001, UN forces disarmed rebel soldiers, and by January 2002, the war was declared over. In May, Ahmad Tejan Kabbah was re-elected president.

## **Housing Rights Legal Framework**

### **Domestic Law and Policy**

#### **Pre-War Situation**

Even before the widespread destruction of the civil war, the housing situation in Sierra Leone was dismal. Even though Government officials interviewed by the COHRE FFM team referred to the war as the cause of every ill in Sierra Leonean society, the team's own investigations have revealed that successive Sierra Leonean governments, from the first years of independence to the present, did very little to improve housing conditions. No meaningful housing legislation was adopted, nor was the 1978 national housing policy ever implemented.

#### **The Constitution**

Although the current Constitution of Sierra Leone<sup>204</sup> does not explicitly refer to the right to adequate housing, Chapter 2, Article 8, Paragraph 3(a) does imply recognition of this right, albeit indirectly:

“The State shall direct its policy towards ensuring that every citizen, without discrimination on any grounds whatsoever, shall have the opportunity for securing adequate means of livelihood as well as adequate opportunities to secure suitable employment.”

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<sup>204</sup> Constitution of Sierra Leone (1991, amended 2001): <http://www.sierra-leone.org/constitution.html>

Indeed, although the constitution does not specifically provide for the right to adequate housing, it can be argued that “securing adequate means of livelihood” cannot be achieved without adequate housing.

### **National Housing Legislation**

Sierra Leone does not have national housing legislation, though the present Government is considering the introduction of such legislation. Unfortunately, the Parliament of Sierra Leone lacks the human resources necessary for such an undertaking. According to the National Ombudsman: “we often have to rely on drafters from neighbouring Ghana to assist in the drafting of various legislation.”<sup>205</sup> However, the Ombudsman does believe that it is necessary and possible for Sierra Leone to start addressing the country’s housing problems.<sup>206</sup>

### **Land Law**

The preliminary Act No. 19 of 1960 deals solely with state land, defining it as:

“... all lands which belong to the state by virtue of any treaty, cession, convention, or agreement, all lands which have been or may hereafter be acquired by or on behalf of the state ... for any public purpose or otherwise howsoever and lands acquired under the provisions of the Public Lands Act which includes all shores, beaches, lagoons, creeks, rivers, estuaries, and other places and water.”<sup>207</sup>

With regard to allocation of land for housing purposes, Section 3, Part 2 of the same Act states:

“The Minister may make grants of state lands in such manner and subject to such conditions as they may be required and so he may deem proper.”

Although the procedure for obtaining land involves little more than making an application to the right department and paying a modest fee, many persons interviewed by the COHRE FFM team said that corruption and a general lack of transparency among officialdom were real obstacles to them having land on which to build homes.

### **Tenancy Law**<sup>208</sup>

Tenancy law in Sierra Leone does not provide adequate protection for tenants in the event of a dispute. Furthermore, many people interviewed by the COHRE FFM team complained about unreasonably high rents. Although overcharging is prohibited by law, many landlords seek to enrich themselves by charging rents which few local people can afford, and will only accept hard currencies, preferably US dollars. For obvious reasons, many landlords prefer to rent property to members of the expatriate community. A member of the NGO National Forum confirmed that they are obliged to pay rent for their office space in US dollars. According to the Rent Restrictions Ordinance of 1954, a rent assessment committee shall determine the rental value of all houses or shops. Paragraph 5 of that Ordinance stipulates:

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<sup>205</sup> COHRE FFM interview with Francis Gabbidon, Sierra Leone’s National Ombudsman.

<sup>206</sup> Ibid.

<sup>207</sup> Laws are cited in the Report of the Committee of Enquiry on Western Province Land, Government publication (2002: p. 43).

<sup>208</sup> Rent Restrictions Ordinance, Laws of Sierra Leone Cap. 52, p. 466.

“The owner, tenant, or up-tenant of any dwelling house or shop and any person to whom an offer to let any dwelling house or shop has been made may make application to the chairman of the committee within the jurisdiction within the area in which such dwelling house or shop is situated for the determination of the rental value thereof.”

In practice, this Ordinance is not effective in protecting tenants from unreasonable rents, especially the poorer tenants. The majority of Sierra Leoneans are highly vulnerable to the caprices of the housing market. The National Ombudsman told the COHRE FFM team that many landlords apply pressure to exploit or evict tenants, and that the more powerful elements of society have always favoured the landlords. The Ordinance itself, argued the Ombudsman, is outmoded as it dates from the colonial era.

Unfortunately, Paragraph 12(d) of the Ordinance allows a landlord to evict tenants if he wants his property as a residence for himself, his family or for any person in his fulltime employment. In most cases, landlords demand higher rents, and if the tenants then fail to pay, the landlords simply claim that they need the property for their own use. The committee often agrees to such claims, and the tenants are forced to either vacate or accept the landlord’s conditions, which usually include an increase in rent.

### **National Housing Policy**

Until 1998, Sierra Leone had no national housing policy. In 1998, however, the Ministry of Housing and Country Planning, with the assistance of the United Nations Development Programme (UNDP) and the United Nations Human Settlements Programme (UN-HABITAT), prepared a draft proposal for a National Housing Policy (NHP).<sup>209</sup> The central goal is to make it possible for every Sierra Leonean to have access to safe and sanitary housing.

The proposed policy acknowledges that the available information on housing is dated and that there is limited information on key variables such as occupancy and total housing. According to estimates, 301,781 new housing units will have to be built by 2010, which means 27,435 new units per year if the target is to be met.

### **National Land Policy**

A key objective of the present Government’s land policy is to ensure that, for housing development, all income groups have access to an adequate amount of serviced land at affordable prices and suitable locations, with security of tenure guaranteed. This is an admirable goal, which if achieved would help to lay the foundation for secure housing rights for all. In pursuit of this goal, the Government is drafting plans to control and guide the following processes of urban land development: (1) more efficient land use in urban centres; (2) improved land registration, surveying and management systems; (3) increased decentralisation of land management; (4) the introduction of taxation on undeveloped land; and (5) the gradual regularisation of land tenure in informal settlements.

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<sup>209</sup> The current National Housing policy document was prepared by the Ministry of Housing in consultation with UNDP, UN-HABITAT and international experts.

## Housing Finance

Consecutive Government budgets have so far given low priority to housing. The very limited funds that have been allocated have been used to build highly subsidised housing projects in Freetown. Other public funds are used to subsidise housing rental and to provide housing allowances for civil servants. There are no long-term mortgage facilities in Sierra Leone. The majority of Sierra Leoneans finance house construction through borrowing from relatives or friends, or simply using their own resources. The few commercial banks that do offer lending facilities do so only for short terms and charge prohibitively high interest rates. If the national housing targets and needs are to be met, it is critical that the Government establish a sound nationwide housing-finance system to mobilise the necessary resources in the short term, and to secure a sustainable flow of financial resources in the long term.

## **International Law**

### The African Charter

Sierra Leone is a State Party to the ACHPR. Although the Charter does not explicitly mention the right to adequate housing, the ACHPR, the body mandated to interpret the Charter, has found that such a right is implicit in Articles 14, 16, and 18(1):

Article 14 protects the right to property, stating:

“The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.”<sup>210</sup>

Article 16 states:

- (1) “Every individual shall have the right to enjoy the best attainable state of physical and mental health.
- (2) “States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.”<sup>211</sup>

Article 18(1) states:

“The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.”<sup>212</sup>

In Decision 155/96, *The Social and Economic Rights Action Centre and the Center for Economic and Social Rights / Nigeria* (27 May 2002) the African Commission recognised that:

“the combined effect of Articles 14, 16, and 18(1) reads into the Charter a right to shelter or housing.”<sup>213</sup>

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<sup>210</sup> African [Banjul] Charter on Human and Peoples’ Rights, Art. 14, *adopted* 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* 21 October 1986.

<sup>211</sup> *Ibid.* at Art. 16.

<sup>212</sup> *Ibid.* at Art. 18(1).

<sup>213</sup> African Commission on Human and Peoples’ Rights (ACHPR), Decision 155/96, *The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria* (27 May 2002) at para. 60.

## **Other International Instruments**

Sierra Leone is a State Party to several other international human rights organizations, including the ICESCR, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), CEDAW, and the CRC.

Article 11 (1) of the International Covenant provides that:

“The States parties to the present covenant recognise the right of every one to an adequate standard of living for himself and his family, including adequate food, clothing and **housing** and to the continuous improvement of his living conditions. The states parties will take appropriate steps to ensure the realization of this right, recognising to this effect the essential importance of international cooperation based on free consent.”

The UN CESCR, the body mandated to monitor compliance with the International Covenant, has made several pronouncements with respect to the right to adequate housing in Article 11(1). These pronouncements include General Comment No. 4 on housing and General Comment No. 7 on forced evictions. These General Comments lay out the elements of the right to adequate housing as well as the prohibition on forced evictions. A requirement under the International Covenant, found in Article 16, is for States Parties to submit periodic reports on the right to adequate housing as embodied in the International Covenant. Thus, the Government of Sierra Leone was legally obligated to submit the first such report on 30 June 1998. To date, however, the Government has failed to submit its report, and consequently, failed to consider the implementation of the International Covenant in Sierra Leone.

## **Economic Overview**

Sierra Leone, in spite of its rich mineral and agricultural resources, is an extremely poor African nation with tremendous inequality in income distribution. The economic and social infrastructure is poorly developed, and serious social disorders continue to hamper economic development, particularly following the 10-year civil war. About two-thirds of the working population engages in subsistence agriculture. Yields are not high, and fertilisation of soils is not routinely practised. When the soils wear out, the farmers move on to unused ground.

Manufacturing consists mainly of the processing of raw materials and of light manufacturing for the domestic market. There are plans to re-open bauxite and rutile mines which were shut down during the conflict. The major source of hard currency is diamond mining, but smuggling continues to sap the wealth from the country and is a major concern. The fate of the economy depends upon the maintenance of domestic peace and the continued receipt of substantial aid from abroad.<sup>214</sup>

Since 1990, the Government has been able to meet the economic stabilisation targets imposed by the IMF and the World Bank, hold down fiscal deficits, increase foreign exchange reserves, and pay off much of its domestic debt. However, this has been achieved at a high cost in terms of capital investments and social spending. Furthermore, the economic infrastructure has nearly collapsed due to neglect and war-related disruptions in the mining and agricultural export

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<sup>214</sup> World Book online, <http://www.worldbookonline.com>

sectors. Moreover, the civil war in neighbouring Liberia has led to a large influx of refugees, which places additional burdens on Sierra Leone's fragile economy.

Clearly, the long and devastating civil war in Sierra Leone had a huge impact on the country's economy, and it may be years before it starts to recover. Recent Government reports, however, cite encouraging economic signals. One such publication claims that the quarterly economic trend indicates improvements in terms of overall performance. In particular, agricultural production and construction increased significantly during the first quarter of 2002. These two sectors are key indicators of significant positive change in the country since the peace process was initiated.<sup>215</sup>

## ADDRESSING THE POST-WAR HOUSING CRISIS

The civil war led to devastation and atrocities on a scale unprecedented for Sierra Leone. On all fronts there were gross violations of human rights. Well over 30,000 lives were lost, hundreds of people, many of them children, suffered horrific maiming – including the deliberate amputation of limbs – and numerous women were raped. There were also aggressive policies of forced eviction and displacement on both sides. Indeed, over one million Sierra Leoneans were internally displaced or became refugees in neighbouring countries. Healthcare, education and other social infrastructures were destroyed in both rural and urban parts of the country. The combatants specifically targeted housing: approximately 400,000 dwellings were destroyed nationwide. Among these were 114 low-cost housing units managed by the Sierra Leone Housing Corporation (SALHOC), which were burned down.<sup>216</sup>

With so many homes destroyed and people uprooted, the available settlements and houses in and around urban centres have become seriously overcrowded. The problems of congestion have been compounded by the huge migration from rural to urban areas. The housing situation in Freetown is particularly difficult. Other problems plaguing the housing sector in post-war Sierra Leone include the high cost of building materials and construction work, the shortage of local capital for investment, the inadequacy of housing for low-income families, the unavailability of developed land for new housing, and the sharp increase in the number of slum-dwellers.

As a key part of their FFM to Sierra Leone, the COHRE team visited several communities of slum-dwellers and camps for IDPs in Freetown, to see how those most seriously affected by the post-war housing crisis were coping with the situation, and what efforts were being made to improve the quality of their lives.

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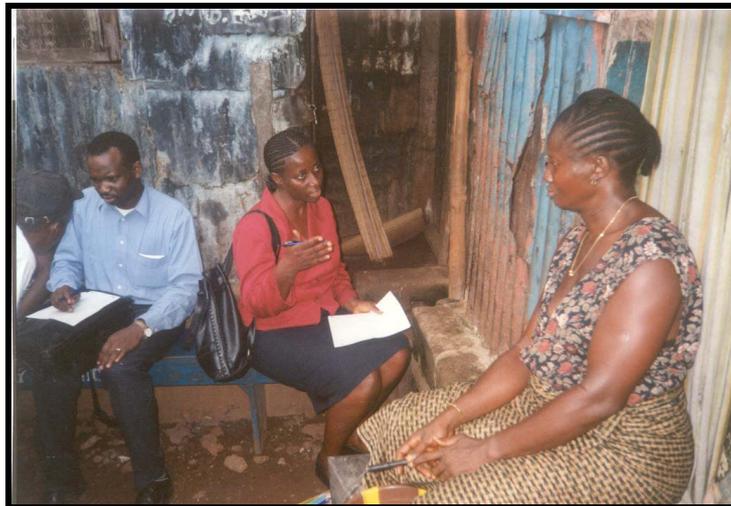
<sup>215</sup> Quarterly Economic Trends, June 2002, Volume 8, published by Economic Policy and Research Unit, Ministry of Finance, Sierra Leone.

<sup>216</sup> COHRE FFM interview with Kemoh Tarawli, Director, Sierra Leone Housing Corporation.

## Slum Communities and IDP Camps

### Kroo Bay Slum Community

The population of the Kroo Bay community, Freetown's largest and most impoverished slum, has swollen enormously as a result of the civil war. The Secretary of Kroo Bay Area Development Association, Mr Mohammed Kargbo, who has been a member of the community for over 11 years, told the COHRE FFM team that only about 3,600 of the present 11,000 inhabitants have lived there all their lives. The available infrastructure, which was inadequate even before the war, is under heavy pressure: there is only one healthcare centre, one nursery school, five toilets and three water taps. The community, over a century old, houses Sierra Leone indigenes and non-indigenes. As it is close to the seashore, many inhabitants are fishermen or fishmongers. Many others are blacksmiths or small traders. Most of the dwellings are simple wooden frames covered with corrugated iron sheets and are built on questionable foundations. The greatest problem facing the people is flooding. One resident described the situation, "Our houses get flooded and we live on the water till the end of the rains". Another major problem is malaria, which is rampant throughout the area.



**The COHRE team in discussion with women  
in Kroo Bay Slum, Freetown, Sierra Leone**

Many international organisations, including the ICRC, Plan International, Concerned Universal and the World Bank, have contributed in various ways to developing the community's infrastructure. However, the Government of Sierra Leone has done nothing directly to improve the living conditions of the Kroo Bay slum-dwellers.<sup>217</sup>

### Aberdeen Amputee Camp

Aberdeen Amputee Camp, the largest of its kind in Freetown, was built in 1999 for people mutilated either by RUF rebels or Government soldiers. According to the Public Relations Officer, the camp presently houses some 2,000 persons – 230 amputees and their families. On average, one family of about 8 people lives in a room measuring two by three metres. The camp's meeting centre was recently renovated by the United Nations High Commissioner for Refugees (UNHCR). Médecins Sans Frontières (MSF) of France was previously responsible for

<sup>217</sup> COHRE FFM interview with Mohammed Kargbo, Secretary of Kroo Bay Area Development Association.

providing health services. There are eight pit latrines, behind which the camp dwellers dump their domestic waste. The camp's primary school was built by a locally active NGO and supplied with educational materials by the Ministry of Education. There are two churches and two mosques on the premises.<sup>218</sup>

CAUSE Canada, an international development organisation, helped with the training of approximately half the amputees in making soap and grenadine dye, and supplied miscellaneous equipment. According to the camp's Deputy Finance Officer, however, these materials were insufficient. He also informed the COHRE FFM team that the Norwegian Refugee Council (NRC) has embarked on a housing project specifically for the amputees. The NRC constructs the houses and moves the amputees to the new location.<sup>219</sup>

One camp resident, Sia Saidu, gave the following account:

“My husband was killed by the rebels and I was captured and mutilated in Kono District. I have six dependants living with me, mostly children whose parents were killed. I am 60 years old. I was taught here how to make tie-and-dye, which I now live on. I am on the list awaiting a home from the NRC.”<sup>220</sup>

On top of their housing problems, the amputees face a lack of adequate food, health facilities and education for their children. They claim that the Government has done nothing meaningful for their welfare. To express their dissatisfaction and put pressure on the Government, they write frequent protest letters and refuse to attend official meetings with representatives of the Special Courts and the Truth Commission.

## **Cline Town National Workshop IDP Camp**

This camp for IDPs, whether they be ex-combatants or civilians, was established by the National Commission for Social Action (NaCSA). Official figures put the camp population at 3,211, though the unofficial estimate is 7,444. The camp is managed by Save Heritage and Rehabilitate the Environment, an international body known as SHARE. The Government has built a reservoir and UNICEF has provided water supply. The International Rescue Committee is responsible for education at the camp. When the COHRE FFM team visited, there had been no health supplies for three months, though this was the responsibility of MSF of the Netherlands (Artsen Zonder Grenzen). Regular food supplies were brought to the camp and shared, but the camp dwellers would often sell these reserves and save the money in case of health emergencies. They would also obtain credit on their savings accounts and use it to buy sustenance.<sup>221</sup>

According to the camp's Chairman, who provided almost all the information to the COHRE FFM team, there is only one primary school in the camp, with 1,312 pupils in six classes. There are 11 toilets and six bathrooms. The dwellers have a dumping site for their waste in the middle of the camp, but at the time of the COHRE FFM visit, it had not been cleaned for two months.

The camp has a training centre provided by a local body, Yerima Skills Training and Development Association, where the residents are trained in dressmaking. The equipment was provided by a Government agency charged with rehabilitating ex-combatants. About 250 people have been trained so far, and 30 are currently undergoing training. Under a reconstruction and

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<sup>218</sup> COHRE FFM interview with Jabaty Mambu, Public Relations Officer, Aberdeen Amputee Camp.

<sup>219</sup> COHRE FFM interview with Thumba Fornah, Deputy Finance Officer, Aberdeen Amputee Camp

<sup>220</sup> COHRE FFM interview with Sia Saidu, a resident of Aberdeen Amputee Camp.

<sup>221</sup> COHRE FFM interview with Francis Kanu, Chairman, Cline Town IDP camp.

repatriation programme, NaCSA, in collaboration with a number of international NGOs, is resettling and rehabilitating the people in stages.

## **Waterloo IDP Camp**

The Waterloo IDP Camp is divided into eight sections, A to H. Many of the people who used to live in the camp have since been resettled or repatriated. The COHRE FFM team visited Section H, with the highest number of people waiting to be repatriated. The Community Health Promoter informed the FFM team that there were 200 people, most of them from the northern province of Makene, residing in 15 structures, each family being entitled to only one room.<sup>222</sup> An international body, Action Contre Le Faim, provided 16 toilets with showers, but almost all of these have been vandalised. There is one primary school for all the children in Section H. Until May 2002, the World Food Programme provided food. Health services were provided by the Adventist Development and Relief Agency.

## **Reconstruction and Repatriation Efforts**

### **Government Efforts**

#### **National Commission for Social Action (NaCSA)**

The massive devastation of the civil war did not leave Government ministries and departments untouched. Many were completely incapacitated and could not perform their normal duties, and certainly couldn't undertake the substantial task of rebuilding the country. Most departments had been looted and burned and were therefore not even in a position to receive the huge amounts of foreign aid that started pouring into the country once the war was over. In order to co-ordinate the international assistance aimed at reconstruction, the Government established NaCSA, based on the former National Commission for Reconstruction, Resettlement and Reintegration (NCRRR).

The organisation's mission includes the continuation of the NCRRR's reconstruction, resettlement and reintegration activities. It serves as a co-ordinating agency for planning programmes; it supervises organisations and their activities to ensure a more effective delivery of assistance to groups and communities affected by the war; it provides services to line ministries incapacitated by the war, and it acts as a funding agency.<sup>223</sup>

The Government as well as civil society and donor organisations are represented on the NaCSA Board. The Commission maintains an 'emergency recovery' support fund with three funding areas: the Community-Based Programme, the Labour-Intensive Public Works Programme, and the Micro-Finance Programme. The Community-Based Programme, the largest funding area, is demand-driven and provides for maximum participation by beneficiaries. The Labour-Intensive Public Works Programme envisages the creation of jobs for returning refugees, IDPs, war victims and ex-combatants. The Micro-Finance Programme has so far issued over 15,000 loans, managed by micro-credit committees, in 101 chiefdoms. Ninety-two percent of the beneficiaries are women.

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<sup>222</sup> COHRE FFM interview with Amos Fomba, Community Health Promoter, Waterloo IDP Camp.

<sup>223</sup> COHRE FFM interview with Julius Bangurah, Deputy Commissioner, NaCSA.

The Commission was set up on 23 November 2001 with a broad mandate to become involved in medium-term development. According to the Deputy Commissioner, that three-year mandate has since been extended to five years.<sup>224</sup>

The Commission's greatest challenges are providing shelter for war victims. Funds from the World Bank, the primary donor, are used to resettle citizens affected by the war back to their places of origin. For this purpose, the Commission has compiled a list of war-wounded and IDPs in the various camps. The resettlement is done in stages, as the availability of funding permits. The group to be resettled next is chosen from the list, and its members are given relief materials for at least two months (including foodstuffs, cooking utensils, household materials, and the means for temporary shelter, etc.). The Commission also provides these war victims with transportation to their respective communities. The names of these people are then removed from the list and their booths in the camps destroyed.

The Deputy Commissioner informed the COHRE FFM team that the World Bank does not authorise the Commission to embark on full-scale housing construction, as this would be too expensive. However, the Commission is able to support housing projects for communities through its Support Reinstatement and Resettlement Programme Department (SRRPD). The communities are required to build their houses to a pre-defined stage of construction before the SRRPD provides assistance to complete them.

According to NaCSA figures, out of the more than 350,000 refugees that initially needed to be moved back into Sierra Leone and returned to their places of origin, approximately 30,000 people were still awaiting repatriation at the time of the COHRE FFM.<sup>225</sup> More than 115,000 of the returnees and over 180,000 IDPs had already been resettled. The Commission had resettled a total of 123 amputee family-heads and 965 family members, as well as 48 war-wounded heads of family, and 346 family members.

### **Ministry of Lands, Country Planning and Environment**

The Minister of Lands, Country Planning and Environment informed the COHRE FFM team that the Government, through his Ministry, is also undertaking some basic housing-related projects to benefit Sierra Leoneans displaced by the war.<sup>226</sup> Rather than ensuring the provision of housing itself, the Government implements an Enabling Policy, where private sector involvement in this process is facilitated by leasing or mortgaging land to individuals. They are only required to start paying once their homes have been built. Applications are made through the State Land Committee. The Government periodically publishes a gazette with a list of persons currently seeking to build a house. It then interviews and prioritises the applicants. A successful applicant is expected to pay a token processing fee, after which a letter of offer is issued. Before construction starts, the applicant is required to submit a building plan. Once the required payment has been made and house construction completed, the applicant is entitled to a freehold interest in the property. Through its Enabling Policy, the Government also assists aspiring home-owners by creating avenues through which they can acquire inexpensive building materials.

The Ministry has also moved into undeveloped areas outside Freetown. Under its Land Use Management programme, it conducts perimeter planning and surveying of lands, while international NGOs help to construct houses with community participation. The NGOs provide

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<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

<sup>226</sup> COHRE FFM interview with A. B. Sesay, Minister of Lands, Country Planning & Environment.

imported materials while the recipient communities provide local ones. With funds from international donors, about 400 houses have been constructed in Kono, Kambia, Mayamba, and Trunkolile. A Grafton Housing Project is currently being undertaken for IDPs in the Waterloo and Mile 38 camps. The Government, it should be noted, is only providing the enabling environment for these construction efforts.<sup>227</sup>

### **Sierra Leone Housing Corporation (SALHOC)**

In 1982, the Government established the State-owned SALHOC, in order to build and rent housing for all segments of the population. According to the Corporation's founding charter, 60 percent of SALHOC's budget is to be allocated for low-income earners, 30 percent for medium-income earners, and the remaining 10 percent for high-income earners. At the time of the COHRE FFM, SALHOC had already provided 600 low-cost housing units for very low-income earners, 218 units in the Godrich area for medium-income earners, and 60 villas for high-income earners in exclusive neighbourhoods.<sup>228</sup>

SALHOC originally intended to utilise the revenues generated through housing provision to expand its operational capacity. So far, however, it has not achieved full collection of rents due from its tenants, nor has it managed to raise rents to keep pace with inflation. The Corporation's Director complained to the COHRE FFM team that all the envisaged rent increases have been successfully blocked by politically well-connected tenants. For the past 18 years, the Corporation has been engaged in little more than housing management, thus failing to achieve its original mission.<sup>229</sup>

SALHOC constructed low-cost housing even before the war; now, as part of its reconstruction efforts, it is undertaking projects to train communities in simple construction skills.<sup>230</sup>

### **Ministry of Works, Housing and Technical Maintenance**

This Ministry's role in housing provision is merely to assist in co-ordinating the implementation of Government housing policies by NGOs and other international bodies. According to the former Director of Housing, the Ministry has developed a five-year Housing Programme subject to Government approval.<sup>231</sup> In this Programme, the Ministry pledges to support the Government in efforts aimed at consolidation of the peace process as well as resettlement and reintegration of the displaced populace. This is to be achieved through community-based reconstruction of shelter, promotion of housing construction skills and creation of self-employment opportunities for the war-affected communities, primarily returning refugees, IDPs, ex-combatants, and other vulnerable groups.

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<sup>227</sup> Ibid.

<sup>228</sup> COHRE FFM interview with Kemoh Tarawali, Director, Sierra Leone Housing Corporation.

<sup>229</sup> Ibid.

<sup>230</sup> COHRE FFM interview with the SALHOC General Manager.

<sup>231</sup> COHRE FFM interview with Mr Muana, former Director of Housing, Ministry of Works, Housing & Technical Maintenance.

## Housing Demolitions and Evictions

Even as reconstruction, resettlement and reintegration efforts proceed, the Government is demolishing houses in Freetown that it considers illegal or dangerous to the inhabitants and the community. Because of the enormous housing shortage caused by the war, many people have resorted to building without permission, aided by fraudulent officials at the Ministry of Lands. As Sierra Leone is hilly, many streets are on fairly steep slopes and it is neither easy nor inexpensive to build a well-constructed and stable house that poses no risk to high voltage electricity cables and other delicate infrastructure (and *vice versa*). However, as many people are desperate to have a home, they tend to defy all odds and build on any empty plot, often without seeking official approval or professional advice.

Under the Land, Country Planning and Environment Act of 1946, no one has a right to put up a structure without the permission of the Ministry of Lands. Any such structures are deemed illegal and liable to demolition. There has been so little urban planning in Freetown in the past few decades that the Ministry is trying to re-plan the capital to include properly designed streets and access roads, and demolish structures built on footpaths. Allegedly, there are no unannounced forced evictions in Freetown, though houses marked with an X – indicating they are due for demolition – are to be found almost everywhere. The occupants are often given time to approach the Ministry to determine the reason for the marking; however, once the reason has been established, the structure is usually demolished without further delay. Whenever a residential house or other structure is demolished, the evicted owner is given land on which to construct a properly approved building, but the recipient is expected to pay back the Government after construction. This is the official version of the procedure, as described by the Minister of Lands.<sup>232</sup> However, many NGOs claim that large numbers of residential houses and other structures have been demolished without the victims being provided with alternative lands. The COHRE FFM team witnessed several demolished houses and other structures in various parts of Freetown and confirmed that this was indeed the case.

The director of the Centre for Democratic Reforms informed the COHRE FFM team that the current wave of demolitions in Freetown began in June 2002, following a Government decision to address the problem of illegal structures.<sup>233</sup> At the time of speaking to him, more than 16 communities were facing evictions and demolition. According to him, the total number of structures due for demolition was 4,800, housing more than 48,000 people.<sup>234</sup> The affected communities were:

1. Goderich Village
2. Sherbro Town
3. Mamba Ridge
4. Bamba Road
5. Granville Brook
6. Malama community
7. Rokel community
8. Mount Aureol
9. Leicester Road
10. Culvert Zone

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<sup>232</sup> COHRE FFM interview with A. B. Sesay, Minister of Lands, Country Planning & Environment.

<sup>233</sup> COHRE FFM interview with Alfred Carew, Executive Director, Centre for Human Rights and Democratic Reforms.

<sup>234</sup> The Centre for Human Rights and Democratic Reforms estimates that there are about ten persons in each household.

11. Guent Height
12. Hill Cut Road
13. New England Ville
14. Approved School
15. Omole Bush
16. Sorie Town

These communities had neither been approached for consultation nor provided with alternative housing or land as required by international law.

## **The Role of International NGOs**

### **The Norwegian Refugee Council (NRC)**

In collaboration with NaCSA, the NRC is assisting in the resettling and reintegration of amputees and other war-wounded Sierra Leoneans by undertaking housing projects for them, and helping them to make an independent living. Among the wide-scale atrocities committed against the civilian population during the decade-long civil war, it is estimated that there are about 1,600 amputees and another 2,500 IDPs with severe lacerations and gunshot wounds. At the time of the COHRE FFM, over 400 of them were residents of the Amputee Camp and the War-Wounded Camp at Murray Town and Grafton, districts of Freetown, in Sierra Leone's Western Area. Approximately 40 percent of these residents were women.<sup>235</sup>

Under a November 1999 agreement between then US President Bill Clinton and Norwegian Prime Minister Kjell Magne Bondevik on assisting the amputees and war-wounded in Sierra Leone, the Norwegian Government provided USD 1,000,000. Reportedly, 214 of the Murray Town and Grafton residents had already benefited from the ongoing NRC Housing and Reintegration Project, which was designed to assist the Government of Sierra Leone in phasing out the IDP camps in Freetown, particularly those housing the most vulnerable groups, such as amputees and other war-wounded people.<sup>236</sup>

Under the project, as originally conceived, 225 houses were to be built for amputees and other war-wounded camp residents. Subsequently, however, it was decided to reduce the number of houses to 214 due to an increase in the average price of constructing a house. (Prices had fluctuated greatly since the start of that phase of the project.) At the time of the COHRE FFM, 108 of these 214 houses had been completed and handed over to the beneficiaries and their families, while 67 were still under construction, and a further 39 were awaiting Government land allocation. It was expected that all 214 selected beneficiaries and their families would be resettled by December 2002. An estimated 111 other amputees were eagerly awaiting the same assistance.

The land on which the houses are built is obtained free of charge to the war victims from their community or district of origin, or through the Government. In the Western Area, the Government has provided 60 acres of land.

The houses have two bedrooms, a living room, a kitchen, a bathroom and an outside toilet. Local buildings materials are used, together with imported roofing sheets, nails and weld mesh. Each house occupies one town plot, with minimum house grouping per area, though this

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<sup>235</sup> COHRE FFM interview with Mette Nordstrand, Executive Director, Norwegian Refugee Council (NRC).

<sup>236</sup> Ibid.

depends on how and where land has been allocated. Water and sanitation continue to be a problem and, where necessary, wells have been dug as substitutes for municipal water supply. Local councils attempt to have the houses constructed in the areas where the beneficiaries used to live, and close to available infrastructure.

The COHRE FFM team was informed that the Norwegian project also carries out community awareness programmes to make target groups aware of the imminent resettlement and reintegration of amputees and war-wounded into their midst. The target groups include district leaders, social and health workers, and teachers.

In order to facilitate the education of girls, another component of the project is that one school-age female dependant of the beneficiary is given a one-year scholarship after the beneficiary has been resettled and reintegrated.<sup>237</sup>

The project also includes an HIV/AIDS awareness campaign, which focuses on informing the amputee and war-wounded communities about HIV/AIDS prevention strategies and control methods.

Other agencies provide food and non-food items, transportation to move beneficiaries from the camps, counselling and medical support.

The NRC's greatest challenges, according to its field officers, are the lack of legal documentation – including title – for the lands, the shortage of funding, the Government's failure to demolish vacated booths in the camps, and the fact that some beneficiaries return to the camps, which is also due to lack of co-ordination between the various donors involved in distributing materials and equipment.

## **CAUSE Canada**

CAUSE Canada assists the NRC by providing basic gardening supplies, reintegration support, rehabilitation and skills training for economic sustainability, and start-up funding for the development of small businesses.

## **Catholic Relief Services (CRS)**

CRS helps returnees and IDPs in reconstructing their damaged houses. It also assists in the reconstruction of community structures. The agency's Construction Field Officer informed the COHRE FFM team that CRS locates damaged structures, then identifies and meets with the owners.<sup>238</sup> The agency provides building materials and technical personnel. As far as possible, the houses are reconstructed in accordance with the original building plans. In Kalaba Town, 10,000 to 15,000 people have benefited in this way; in Kambia and Mashaka over 400 houses were rebuilt in October 2000, thanks to funding and technicians provided by the UK Government's Department for International Development (DFID). In 19 other communities, the CRS reconstruction project has received financial backing from USAID's Office of US Foreign Disaster Assistance (USAID/OFDA).

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<sup>237</sup> While this aspect of the project is commendable and undoubtedly beneficial, it should not be forgotten that under international law all children must be provided with elementary education.

<sup>238</sup> COHRE FFM interview with Christopher Saffa, Construction/Field Officer, Catholic Relief Services (CRS).

The Government of Sierra Leone, under its Transitional Housing Programme of June and July, 2002, provided the agency with 68 acres of land in Grafton, where 300 to 500 houses are to be constructed. There are 12 different designs, and each IDP is to choose the one they prefer, with a plot size allocated to them to build with the materials provided. In Kambia, 262 houses were constructed through a fund of UNDP. CRS has constructed a total of 3,000 houses, but plans to construct as many as 30,000.

### **UN High Commissioner for Refugees (UNHCR)**

The UNHCR provides some assistance to war victims, but deals solely with the repatriation of returnees. Through the Ministry of Interior and the chiefdoms, the UNHCR acquires space in communities to set up transit centres and homes. The UNHCR also provides transportation, household equipment, agricultural facilities, medical and educational facilities.

The COHRE FFM team was informed by a UNHCR Field Assistant that their current project was one of awareness-raising. When an area is declared safe, its original inhabitants are encouraged to return. At the time of the COHRE FFM, all provinces and areas of Sierra Leone were safe, except for a northern part bordering Liberia.

## CONCLUSIONS

Sierra Leone's enormous housing problems resulted primarily from a brutal civil war, which transformed at least one million citizens into internally displaced persons and another 357,000 into refugees living abroad. These figures, for a country with a pre-war population of only 4.7 million, graphically illustrate the gravity and enormity of the housing crisis now facing the Government and the international community. There were, however, severe housing problems even before war broke out.

The current crisis is compounded by a general lack of transparency and proper management of the Government housing departments. Over 60 percent of the population live in and around badly congested Freetown, many of them without adequate housing, safe drinking water, proper sanitation or waste-removal systems.<sup>239</sup>

In addition to displacing a significant part of the population, the civil war left numerous refugees, IDPs, returnees, amputees and other war-wounded people without shelter or adequate means of sustenance. There is also massive unemployment and an unprecedented increase in crime. People are disenchanted, disoriented, and unhappy with the situation in which the war has left them.

Sierra Leone's current tenancy laws do not provide adequate protection. Landlords, seeking personal gain from the high demand for rental houses, charge rents which are beyond the financial means of the majority of Sierra Leoneans. Many landlords, preferring foreign tenants, even require rents to be paid in US dollars, thereby excluding a large percentage of their compatriots who are unable to acquire foreign currency. This phenomenon is largely a result of, and has been exacerbated by, the influx of foreigners working with international organisations such as the United Nations. These unscrupulous landlords have a free hand because there is no legal protection for the less affluent Sierra Leoneans. They have no option but to build on any available land they can find.<sup>240</sup>

The Government is still revitalising its Ministries and parastatals (government-owned companies) through the National Commission for Social Action (NaCSA), as well as trying to reconcile and re-orient the populace through the Special Courts and the Truth Commission (styled on South Africa's famous Truth and Reconciliation Commission). While these intense efforts by the NaCSA and its international partners are commendable, minimal support has been given to the people of Sierra Leone in the area of adequate housing.

The country's existing housing legislation is outdated and largely irrelevant to the current situation, while new legislation is not being implemented at all. It seems that the Government is primarily concerned with its own recovery from the civil war. Thus, apart from the current inter-governmental and non-governmental efforts described above, there are no real policies aimed at improving the housing situation. In effect, the Government agency responsible for housing delivery, SALHOC, is engaged in little more than estate management and has been so for nearly two decades. According to the National Ombudsman, Sierra Leone lacks legislation-drafting personnel; in fact, there are only two people in the country who are sufficiently qualified — and they are both Ghanaians. However, the Ombudsman told the COHRE FFM team he believes the problem is really that there is a lack of political will to push legislation forward.

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<sup>239</sup> COHRE FFM interview with Francis Gabbidon, Sierra Leone's National Ombudsman.

<sup>240</sup> COHRE FFM interview with Abraham John, Programme Officer, Sierra Leone Adult Education Association (SLADEA).

Furthermore, the international treaties ratified by the country are neither being implemented nor are they incorporated into domestic law, as the Constitution of Sierra Leone requires.

Under the present circumstances, Sierra Leone cannot address these problems alone. It is clear that the international community's role is vital, and will continue to be so for the foreseeable future.

Post-war Sierra Leone has attracted enormous international sympathy, and numerous aid agencies have poured resources into the country to assist in the reconstruction, rehabilitation and reintegration efforts. Unfortunately, however, the majority of key actors in the international community seem to have only short-term memories. It's imperative that Sierra Leone seize this opportunity before the abundant goodwill evaporates. In order for the international community to continue and, indeed, deepen its involvement in addressing the country's housing crisis, the Government must maximise its efforts to put meaningful housing legislation and policies into place, and then to effectively implement these.

## RECOMMENDATIONS

While the Government of Sierra Leone and the international community struggle to deal with an overwhelming range of serious difficulties in the aftermath of civil war, and whereas the immediate issue of the one million internally displaced persons seems to be receiving sufficient attention, the country's pressing housing problems are, unfortunately, still being neglected. To assist in finding practical solutions to housing problems and housing rights issues, COHRE makes the following recommendations to the Government of Sierra Leone and the NGOs that are active in the country:

1. The Government should pass legislation that explicitly recognises the right to adequate housing, and make sure that these policies are properly implemented.
2. The Government should recognise and regularise land tenure in slums and informal settlements.
3. The Government should ratify the protocol to the ACHPR, which has established the African Court on Human and Peoples' Rights. Such ratification will help to provide an urgently needed mechanism of enforceability for the right to adequate housing at the regional level.
4. Funds should be sourced and set aside for the upgrading of slums and integration of informal settlements.
5. The Government should provide incentives, and should improve the land-delivery system, to encourage the private sector and communities to invest in housing and enhance security of tenure on a grand scale.
6. The Government should adopt and implement legislation to protect the rights of tenants.
7. The Government should review and revamp the Sierra Leone Housing Corporation (SALHOC).
8. The Government should pass laws and undertake civic educational programmes to ensure that women gain opportunities equal to men in matters relating to land ownership and housing development.
9. National and international NGOs and civil society groups should more actively engage in advocacy for the passing of land and housing legislation.

10. Special Government funding should be provided for, and increased attention given to, the resettlement and proper housing of all war victims in camps. All evacuated accommodation in the camps should be promptly demolished.
11. The Government should create an environment in which residents are enabled to construct their own housing, in part through providing suitable sites and infrastructure such as electricity and potable water supplies, sewage disposal systems, access roads, etc.

## ANNEX 1: REFERENCES, CHAPTER 1

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