DEFINITION OF FORCED EVICTION

According to the United Nations High Commissioner for Human Rights (UNHCHR, 1993:np) forced eviction is:

the involuntary removal of persons from their homes or land, directly or indirectly attributable to the State. It entails the effective elimination of the possibility of an individual or group living in a particular house, residence or place, and the assisted (in the case of resettlement) or unassisted (without resettlement) movement of evicted persons or groups to other areas.

Specifically, unlike other forms of displacement, forced evictions require direct or indirect state involvement; involve the use of force; are normally planned rather than random; and can be targeted at individuals or groups. Therefore, evictions due to non-payment of “legitimate” rent or destruction of rental property are generally not considered a violation of human rights such as the right to housing.

This paper begins with a brief literature review on forced evictions, before moving on to look at the development and socioeconomic contributions of informal settlements in Kenya, and the practice of evictions in Kenya, in terms of causes, effects, community responses and possible alternatives. The analysis relies on secondary data, especially from Kenya’s leading newspapers that have extensively...
covered the problem of urban evictions in recent decades.

LITERATURE REVIEW

Forced evictions are widespread in cities in developing countries (hereafter LDCs) and are mainly targeted at poor people in slum and squatter (informal) settlements. According to the World Bank and the United Nations Centre for Human Settlements (UNCHS) (1999:1), slums are neglected parts of cities where housing and living conditions are appallingly poor. They range from high density, squalid central city tenements to spontaneous squatter settlements without legal recognition or rights, sprawling at the edge of cities.

The principle perpetrators of evictions in Kenya and many other LDCs are local and central governments, private developers, private organisations, public institutions, individuals, state corporations and, occasionally, foreign business interests (Apiyo, 1998). Reasons for eviction include development and infrastructure projects, land acquisition or expropriation, housing or land reclamation schemes, speculation, urban redevelopment and resettlement programmes, and to control the proliferation of informal settlements — although, as elsewhere, slum clearance in Kenya has led to the creation of more slums (NCCK, 1991; UNHCHR, 1993; Everett, 2001).

As in other LDCs, most evictions in Kenya are violent, unexpected and disruptive, conducted using overwhelming force, and timed to minimise resistance from the affected communities (NCCK, 1991; Everett, 2001:461). The socioeconomic, cultural and political consequences of evictions include:

- multiplying individual and social impoverishment, including homelessness and the growth of new slums;
- physical, psychological and emotional trauma;
- insecurity for the future;
- medical hardship and the onset of disease;
- substantially higher transportation costs;
- loss of livelihood and traditional lands;
- worsened housing conditions;
- physical injury or death resulting from arbitrary violence;
- the removal of children from school;
- arrest or imprisonment of those opposing an eviction;
- loss of faith by victims in the legal and political system;
- reduction of low-income housing stock;
- racial segregation;
- loss of culturally significant sites;
- the confiscation of personal goods and property;
- substantially higher housing costs;
- absence of choice of alternative accommodation;
- criminalising self-help housing options;
- increased social isolation; and
- tension with dwellers already at resettlement sites (UNHCHR, 1993:np).

Therefore, according to UNHCHR, to mitigate the negative effects of evictions in cases where this is inevitable, certain guidelines should be followed, namely: (1) relocation should be minimised; (2) a relocation/resettlement plan that allocates sufficient resources to ensure that those affected are fairly compensated and rehabilitated should be prepared and implemented; evictees should benefit from the development process and, at minimum, should be no worse off than before relocation, (3) evictees should participate fully in the relocation planning and management process, and (4) the parties benefiting from the development causing the relocation should pay the full costs of the relocation process, including the socioeconomic rehabilitation of those affected to at least their former level. Unfortunately, these guidelines are seldom adhered to, if at all, in many LDCs including Kenya (Apiyo, 1998).

Elitist governments in many LDCs view slums as a drain on the economy and as criminally infested places deserving of
destruction, rather than as positive and integral parts of the urban environment. Consequently, evictions are widespread because they also “epitomise the desperation of local governments, city planners and land developers to keep cities exclusive” (Lecke, 1998:np). This is certainly true of the situation in Kenya where, historically, the authorities have held the least progressive of views on informal settlements and relied (unsuccessfully) on demolition to control their proliferation.

Although many LDC governments have a negative view of slums, the incidence of evictions that they initiate or tolerate depends on local socioeconomic conditions as well as their understanding of the reasons for the existence of slums and their role in society. According to Cheema (1987:40-41; also summarised in Agevi, 1998:127), government policy on urban slum and squatter settlements evolves through five successive stages: (1) slum clearance and forced migration; (2) housing followed by slum clearance; (3) the provision of minimum services for existing slums and squatter settlements; (4) extension of tenure security and physical upgrading; and (5) recognition of the legitimate role of slums and squatter settlements in urban development.

In Stage 1, governments are suspicious and downright hostile to informal settlements and seldom view them as solutions to urban shelter problems. Instead, governments often see them as reflecting the failure of official policy and, therefore, an embarrassment to be removed (Agevi, 1998:126). As a result, governments use slum clearance and forced displacement of urban residents – to less desirable urban land or to their rural areas of origin – to control informal settlements. Stage 2 features slum clearance for redevelopment and the simultaneous provision of subsidised low-income public housing “necessitated by the fact that those removed from slums are either legal owners of land or have been staying there over a long period of time” (Cheema, 1987:40-41). Unfortunately, the inadequate provision of low-income housing, often due to insufficient cost recovery and the use of unsustainable subsidies (Agevi, 1998:127), coupled with its infiltration by higher socioeconomic groups, limits its accessibility to displaced persons and other poor urban groups. In Stage 3, governments begin to come to terms with the enduring nature of urban informal settlements and, conversely, the obvious failure of slum clearance and forced eviction practices. This, together with mounting “pressures from the residents to eliminate hazards to public health” (Cheema, 1987:41), forces governments to begin providing essential basic urban services to existing informal settlements. Still, non-provision of services beyond a bare minimum and the moderate use of slum demolition are used to discourage the future growth of these habitations. Stage 4 is where governments recognise and begin to invest in informal settlements and extend security of tenure to their residents, while gesturing toward slum upgrading projects. Such measures are usually intended to encourage residents to improve the quality of their housing, using personal or communal resources. Even though evictions decline substantially in this stage, informal habitations are yet to be fully incorporated into the urban environment. Finally, in Stage 5, governments extend full recognition to informal settlements and embrace them as productive and creative solutions to urban shelter and economic problems. Consequently, governments develop and begin to implement a strategy designed to integrate informal settlements and their teeming populations into the urban development process. Active government-community partnerships are also established to facilitate schemes for basic services and infrastructure provision, as well as employment generation.

Based on present and past responses to slums in the country, the Kenyan government seems to oscillate between the first and second stages outlined above. As will be
shown in subsequent sections, the Kenyan authorities’ erratic approach to informal settlements stems from the central role of land in the country’s agrarian political economy.

INFORMAL SETTLEMENTS IN KENYA: FORMATION AND ROLE

Table 1 indicates how pervasive informal settlements or *muorotos*¹ are in various cities in Kenya (see Figure 1), including the capital city of Nairobi where contradictions between modernity, affluence and abject poverty are most starkly manifest. Nairobi, in fact, contains some of the oldest, largest and most established slums in the country, for example, Mathare and Kibera (Figure 2).

The formation of slums in Kenyan cities is due to the combined effects of several factors that include (1) widespread poverty due to periodic droughts, politically-instigated civil disturbances, a widening income gap between the rich and the poor, sickness, excessive political interference in the country’s economy, and a lack of commitment to the poor (DANIDA, 1997; Apiyo, 1998); (2) over-urbanisation due to rapid population growth resulting in a transfer of rural poverty to the city faster than the city can accommodate its immigrants; (3) shortages of decent low-income housing; (4) inequitable patterns of land ownership; (5) lack of land and absence of tenure for the urban poor; (6) poor enforcement of building and zoning laws leading to the deterioration of formal residential areas which, in Nairobi, include Buru Buru, Komorock, Kayole, Shauri Moyo, Gorofani, Oafaa Maringo, Kaloleni, Bahati, Mbotela, Makadara, Kariobangi North, Oafaa Jericho, Jerusalem, Biafra, Old Ngara and Ziwani (Daily Nation, 2001b); and (7) use of inappropriate urban planning policies and standards that limit sufficient supply of and access to good quality housing (MDC 1993; Republic of Kenya, 2000).

According to de Soto (2000:28), informal settlements in the Third World play an important economic, social and political role. This is true of Kenya where slums form the base of the informal sector that is a major part of the country’s economy (Sunday Nation, 2001). Specifically, the informal sector contributes labour, employment, income, markets, as well as cheap goods and services that are indispensable to urban economic production and household survival in the country (Pangaya, 1988; Otiso, 2000; Sunday Nation, 2001). Socially, since a substantial portion of the country’s urban population is born and raised in informal habitations, they make an important contribution to the nation’s social reproduction. Politically, the burgeoning populations in these informal agglomerations form a potentially large political constituency, especially when mobilised. In fact, slum and squatter residents played an important role in Kenya’s independence struggle although, regrettably, the political muscle of these residents has largely been abused in the post-independence period (NCCK, 1991:9).

Moreover, these depressed settlements play a critical role in alleviating Kenya’s shortage of low-income urban housing. For instance, as early as the 1970s, informal settlements such as Mathare and Kibera housed 40 per cent of Nairobi’s population (Amis, 1988:238). Both because and in spite of Nairobi’s precipitous economic decline since the mid-1970s, the proportion of the city’s population in such squalid settlements rose from 40 per cent in 1979 to 56 per cent in 1993, and finally to 70 per cent in 2000 (Table 1) (MDC, 1993, Daily Nation, 2001b).

FORCED EVICTIONS IN KENYA

From the first forced eviction in Kenya – the razing of an Indian bazaar in embryonic Nairobi in 1904 by the colonial government on the grounds that it posed a health hazard – until the late 1970s, the demolition of informal settlements for health and other reasons was at the core of official colonial and postcolonial
TABLE 1. SLUM POPULATION IN SELECTED MAJOR CITIES IN KENYA, 1995

<table>
<thead>
<tr>
<th>URBAN CENTRE</th>
<th>POPULATION SIZE</th>
<th>POPULATION IN SLUMS (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi</td>
<td>1,324,570</td>
<td>57-75</td>
</tr>
<tr>
<td>Mombasa</td>
<td>461,753</td>
<td>80</td>
</tr>
<tr>
<td>Kisumu</td>
<td>192,733</td>
<td>70</td>
</tr>
<tr>
<td>Nakuru</td>
<td>163,927</td>
<td>80</td>
</tr>
<tr>
<td>Machakos</td>
<td>116,293</td>
<td>50</td>
</tr>
<tr>
<td>Meru</td>
<td>94,947</td>
<td>60</td>
</tr>
<tr>
<td>Nyeri</td>
<td>91,258</td>
<td>60</td>
</tr>
<tr>
<td>Kericho</td>
<td>48,511</td>
<td>80</td>
</tr>
<tr>
<td>Kisii</td>
<td>44,149</td>
<td>70</td>
</tr>
<tr>
<td>Embu</td>
<td>26,525</td>
<td>70</td>
</tr>
<tr>
<td>Nanyuki</td>
<td>26,070</td>
<td>80</td>
</tr>
<tr>
<td>Voi</td>
<td>13,202</td>
<td>80</td>
</tr>
</tbody>
</table>


Figure 1. Location of major urban areas in Kenya.
Forced Evictions in Kenyan Cities

Figure 2. Distribution of slum areas in Nairobi City.

Causes of forced evictions in Kenya

Government (local and central) and private developers are responsible for most of the forced evictions in Kenyan cities. On the surface, evictions usually appear to be caused by the enforcement of municipal planning and building by-laws and other government orders, conflict over land rights, political struggles, non-payment of unjust land and house rents, state security, and urban development or redevelopment (Apiyo, 1998). But below the surface, evictions in Kenya are more fundamentally caused by factors embedded in the country’s political economy. Most notable is the country’s landownership structure that precludes many poor people’s access to land and decent shelter. This factor underpins the following discussion of three primary causes of eviction in Kenya: (1) conflicts over land rights – by far the most important cause of evictions; (2) non-payment of excessive land and house rents; and (3) urban development or redevelopment.

Conflicts over land rights. Kenya’s economy is largely agrarian and, as such, land has a high social, cultural and economic value; it is an important sign of wealth as well as a source of livelihood and political power (Apiyo, 1998; Kanyinga, 1998). Unfortunately, the distribution of land ownership across the country is grossly inequitable, most evident in cities such as Nairobi where 55 per cent of the population is crowded into only four per cent of the total residential land area (Daily Nation, 2000). Because most people lack an alternative means of earning a livelihood, the competition for land is intense, and especially so in urban areas. In wider perspective, the country is locked in a land crisis attributable to:
the combined effects of unsustainable demographic patterns, objective limits to available [arable] land resources, limited application of scientific knowledge in facilitating sustainable land use, increasing social injustice through uncurbed appetite for land, and a blend of incompetence and corruption on the part of government officials (Daily Nation, 2000).

Kenya's land crisis, as well as the importance of land in the country's political economy, trace back to developments that were initiated in the colonial period. In order to facilitate commodity capitalism through the exploitation of cheap local labour, the colonial authorities alienated fertile agricultural land from the natives and consigned them to reserves on marginal lands; supplanted indigenous communal land tenure with private land ownership (together with attendant title deeds and private property rights); and imposed various taxes on the natives payable in currency so as to force them to seek waged labour on European estates (Kanyinga, 1998:3; Otiso, 2000:45-48). As a result of these actions, massive displacement of indigenous peoples such as the Kikuyu occurred in the alienated areas, creating the country's first squatters.

Initially, many displaced people moved to the native reserves, but life there quickly became unbearable due to population growth. This triggered a subsequent migration, especially that of the Kikuyu to areas formerly occupied by ethnic groups such as the Kalenjin and Maasai, and, thereby, the inter-ethnic land conflicts that continue to plague Kenya to this day (Kanyinga, 1998:3-4). In the 1950s, the need to recover alienated land from the Europeans was the spark that ignited the struggle for independence (Stewart & O'Sullivan, 1998:10).

Immediately following independence, the Kenya government effected some land adjustments featuring tenure reforms in the reserves and the resettlement of indigenous people on some alienated lands formerly set aside for European habitation (Kanyinga, 1998:4). Simultaneously, the government set out to Africanise or Kenyanise state institutions (Lado, 1996:35). Unfortunately, these reforms neither went far enough nor benefited most of the urban poor or rural squatters created by colonial policies (NCCK, 1991). Instead, the programmes largely benefited the African petite bourgeoisie that had formed and prospered under colonialism. This same group inherited the state apparatus at independence and preserved the economic production relations and landownership patterns initiated by colonial capitalism, both for their own benefit as well as that of the former colonialists (Rowley, 2000:138). Moreover, because independence merely "Africanized the colonial class structure" (Lado, 1996:35) without substantially altering the form and function of the economy, or state, political or legal structures (Kanyinga, 1998:5; Rowley, 2000:139), it perpetuated and exacerbated – instead of redressing – colonial injustices such as displacement, inequable land distribution and eviction. Stated differently and bluntly, when “the [colonial-minded] rulers of the newly independent [state found] themselves faced with the same problems… as the colonial officials, [they] reacted identically” (Hall, 1988:191).

These new rulers remain disinclined to change the country's political economy because it allows them to acquire (often dishonestly) unrestricted amounts of land, wealth and political power through "political patronage [which has] evolved as the single-most medium of regulating access to land" (Kanyinga, 1998:5). Since the early 1990s, the dishonest acquisition of public lands, or "land grabbing" as the practice is known locally, has increased significantly with the denial of international aid to Kenya as a result of the failure to stem corruption and successfully implement World Bank-IMF-sponsored structural adjustment programmes to resuscitate the country’s economy. The drought of aid money during the 1990s that
substantially reduced the amount of public funds available for pilferage by political functionaries required them to seek other means of accumulating private wealth or maintaining political power. Because of their high value and the ease with which they can be disposed of, urban public lands have come to be a handy means for this purpose (Otiso, 2000).

The dishonest system of land allocation, together with the poorly regulated urban land market, has disadvantaged poor people, invariably forcing most of them to “obtain land informally, often through illegal occupancy” (UNCHS, 2001:36). Illegal land occupation not only discourages poor people’s investment in better quality housing, it also makes them vulnerable to eviction, even from public lands that they have occupied for decades (Apiyo, 1998). Although one might expect that poor urban dwellers would, on humanitarian grounds, be given special consideration when public plots are reallocated, this is frequently not the case. And the legal system is of little use to such people because the law recognises only the rights of title-holders – even when the land is allocated irregularly (Apiyo, 1998; Mwangi, 2000; Sunday Nation, 2001).

Unscrupulous government officials and other individuals have taken great advantage of this loophole to acquire public lands that are deemed to be vacant despite their occupation by several generations of poor dwellers as the following excerpt (Sunday Nation, 2000) demonstrates:

More than a thousand people were yesterday thrown out into the cold by the Mombasa Municipal Council after it demolished their houses in Tudor. In an early morning raid, a squad of council workers, backed by armed riot and administration police, flattened 300 dwellings built on a disputed plot. The workers had also brought along hired youths armed with rungus [clubs] and pangas [machetes]. They ordered the villagers out, before a bulldozer demolished the mud-walled houses in a three-hour operation. The eviction caught the residents by surprise, as many believed their houses were safe until a case reportedly in court is heard and determined [emphasis added].

More recently, Tudor and other slum areas of the city of Mombasa (Figure 1) have suffered more evictions designed to: clean up the urban area following its elevation to city status in January 2002 (East African Standard, 2002a); rid the coastal city of up-country slum dwellers in order to make room for locals and increase the support base for local pro-government politicians; and clear land for redevelopment by private developers (Daily Nation, 2002). Demolitions for similar purposes have recently occurred in the city of Nairobi in diverse slums, like those in the posh residential neighbourhoods of Gigiri, Kileleshwa and Westlands in the Langata and Parklands divisions of the city (Figure 2), formed by poor people seeking economic opportunity in wealthy areas (NCCK, 1991; East African Standard, 2001a).

The injustices inherent in Kenya’s landownership structure are mirrored in and exacerbated by the country’s wide income disparities. For instance, in 1994, the top 20 per cent of Kenya’s population accounted for 61 per cent of urban and 51 per cent of rural incomes respectively, while the bottom 20 per cent accounted for only 5.4 per cent of urban and 3.5 per cent of rural incomes respectively (UN, 1998:16). The increasing formation of informal settlements in Kenya’s cities clearly indicates a worsening state of poverty throughout the country, which means that most Kenyans are unable to obtain decent shelter. Although the skewed land distribution and high levels of poverty that exist in Kenya should have resulted in sociopolitical turmoil, this frightening prospect has been averted because, over time, sharper vertical inequalities (i.e., between economic classes within...
ethnic groups) have tended to offset the political effect of horizontal (i.e., regional or ethnic) inequalities. The vertical inequalities have created divisions within regional and ethnic groups, since the richer elements are gaining from the system and have much to lose from violence of any significant magnitude. In addition, over time the horizontal inequalities have shown some diminution (Stewart & O’Sullivan, 1998:16).

Because of the importance of land in Kenya, it is widely used by the government as an instrument to maintain political power. Political supporters are frequently rewarded with land while opponents of the government are deprived of it or evicted. This strategy has been accentuated with the introduction of multi-party politics in 1991. Since then the government has unleashed waves of evictions in slum areas in cities such as Nairobi and Mombasa, as well as in rural areas with large settler populations that are perceived to be sympathetic to opposition politicians (Kanyinga, 1998; Daily Nation, 2002). These evictions not only engender a sense of insecurity among the political opposition, but also help the government to score political points as the electorate is persuaded to associate the opposition’s resistance with violence. Ironically, a relative peace under a politically oppressive status quo becomes preferred to the unfulfilled socioeconomic benefits of a more open political process. Unsurprisingly, many of the evictions resulting from government efforts to maintain political power are often carried out in the guise of protecting state security, controlling crime and enforcing municipal by-laws (NCCK, 1991). Examples of slums demolished in Nairobi for “security” reasons in the last decade are Muoroto and Mwariro (NCCK, 1991). As the following excerpt (Daily Nation, 2001b) shows, the country’s elitist press often facilitates an acceptance of evictions by erroneously or deliberately associating antisocial behaviour with slum areas:

The uncontrolled growth of shanties in a city [Nairobi] seriously afflicted by crime and lack of essential services portend a grave danger for the country. It is time the uncontrolled growth of slums was halted.

Similarly, evictions due to violations of various municipal by-laws are suspect because many of these, like the underlying framework of urban administrative structures – being relics of the colonial era and set to Western expectations – are irrelevant to prevailing socioeconomic conditions (Bubba & Lamba, 1991; Kironde, 1992). Although “the need, purpose and advantage of reformulating [these by-laws] have been repeated ad nauseam” (Agevi & Ngari, 1990:32), policy makers are hardly moved because formulations that are appropriate to local conditions are perceived to be too old-fashioned or backward and incongruent with their quest to “modernise” the country. More importantly, continued enforcement of these colonial regulations “the law” which is touted as “for everybody’s good” (Daily Nation, 2001a) – serve to perpetuate the socioeconomic status quo that sustains the country’s political and economic elite. In short, slum demolitions due to the failure to comply with inapplicable municipal regulations “the law” which is touted as “for everybody’s good” (Daily Nation, 2001a) – serve to perpetuate the socioeconomic status quo that sustains the country’s political and economic elite. In short, slum demolitions due to the failure to comply with inapplicable municipal regulations is almost always a red herring that masks the true objectives of most urban evictions in Kenya, that is, the need to make land available for use by the economic and political elite.

Non-payment of excessive house or land rents. Unscrupulous landlords in Kenyan cities often evict poor tenants to make room for tenants who can afford to pay more. Such evictions violate poor people’s human rights because they are motivated by greed rather than the failure to pay legitimate rent (UNHCHR, 1993). Typically, these evictions are preceded by unreasonable rent increases and short notices within which payment must be made: tenants who are unable to comply, or those that try to resist such arbitrary rent increases, get evicted. While the unfortunate evictees often incur a substantial element of
violence and/or loss of property, the landlords responsible are seldom prosecuted for such acts of lawlessness (Agevi, 1998).

Disputes over land rent, especially where ownership is unclear, can also lead to eviction: More than 2,000 people are facing eviction in Kisauni, Mombasa, after refusing to pay land rent to “absentee” landlords. Already 23 of the 400 permanent houses built on rental land are being auctioned, with the house owners yet to leave. The houses, which are situated in Maweni plot No. 633/1/MN, will be sold to recover ground rent arrears. The owners of the houses have, however, vowed not to vacate them and demanded an audience with the plot owner (East African Standard, 2001b).

Although the tenants in the above excerpt have done better than most in building their own houses (at substantial cost by local standards), their future is uncertain in the absence of secure tenure. Mere occupancy rights often expose tenants to more exploitation, as the land rates can easily exceed the cost of buying the land outright within a relatively short period of time. Moreover, landowners can demand very high land rates to precipitate foreclosure and repossession of the developed plots for resale at much higher prices.

Urban development or redevelopment. Demolition to make room for urban redevelopment or “urban renewal” (Agevi, 1998; Apiyo, 1998) usually occurs in slums initially built on peripheral or marginal land when a given town or city was smaller in population or physical size. Subsequent city growth has engulfed such lands resulting in a substantial appreciation of their value. As in many other parts of the world, most urban redevelopments in Kenya tend to take the path of least resistance, often encroaching into areas occupied by disenfranchised segments of society or unorganised slum dwellers.

In recent decades, especially since the early 1990s, sections of slums, like Nairobi’s Mathare Valley which occupies land close to the city centre, have been demolished and redeveloped as permanent high-rise buildings (Otiso, 2000). Although slum residents have tried to resist being displaced, they have largely failed because of poor organisation, an unsympathetic legal system and the use of strong-arm tactics such as arson or violence by landowners (Pangaya, 1988:11).

Effects of eviction
The socioeconomic and political consequences of evictions in Kenya are akin to those witnessed in other places (Everett, 2001). Evictions lead to loss of life, family break-ups, loss of social networks, homelessness and a resort to crime due to loss of livelihoods (NCCK, 1991). Moreover, they disproportionately victimise women and children, generally being executed at odd hours (e.g. when the men have gone to work), without notice and with overwhelming force (Sunday Nation, 2000).

Politically, evictions fuel public animosity toward government, thereby undermining political stability and security. In Nairobi, for instance, the perception that the government endorses slum demolitions has cost the ruling party, the Kenya African National Union (KANU), considerable political goodwill. As a result, KANU has consistently fared poorly in elections in the city, conspicuously in urban constituencies with substantial slum populations, which it can ill-afford in the current era of multiparty politics (Throup & Hornsby, 1998:611-12).

Economically, slum evictions lead to a loss of livelihood, employment and property. According to one NCCK (1991:21) survey, demolitions in Nairobi in the late 1980s led to the loss of 1,431 businesses, 4,293 jobs, and jeopardised the lives of 34,000 people. Given the significant economic contributions of informal settlements and the informal sector to Kenya’s economy (Sunday Nation, 2001),
demolitions represent a cancer in the country’s economic development (NCCK, 1991:10). Moreover, they reduce the availability of low-income housing, which is already seriously in short supply in many urban areas nationwide. In short, slum demolition nearly always fails and, in fact, poses a greater danger to Kenya’s political and social tranquility than that associated with the proliferation of the slums.

Community responses to eviction

As in other parts of the world, slum residents in Kenya resist forceful eviction using a number of community and legal strategies (Apiyo, 1998). For instance, in the rare cases where slum dwellers are privy to plans for their impending eviction, they have sought legal protection and, occasionally, succeeded in delaying this, thereby buying time to seek alternative residential space (Sunday Nation, 2001). More often than not, attempts to seek legal remedies boomerang, causing evictors to act sooner, often by demolishing slums while cases are pending in court, to pre-empt legal action (Sunday Nation, 2000; East African Standard, 2001a). Not only do such violations of legal process rarely result in contempt of court charges, but even when the legal proceedings are allowed to run their course, the title-holder usually wins because in Kenyan law, people who occupy land without proper titles have no locus standi – or right to be heard in court (Apiyo, 1998).

At times, slum residents have attempted to purchase the land they occupy from private agencies or get government to allocate it to them if it is publicly owned. This strategy has worked best in areas such as Mathare in Nairobi where impoverished squatters – since independence – have formed land cooperatives for the purpose of securing land through purchase or allocation (Pangaya, 1988). Unfortunately, the recent waves of land grabbing have severely reduced the amount of public land available for allocation to poor urban residents (Apiyo, 1998).

Another promising response to demolitions in Kenya has come from non-governmental organisations (NGOs) (Otiso, 2000). Realising that poor urban dwellers are frequently victimised owing to their illiteracy and poverty, and their lack of organisation, legal knowledge and civic education, a number of NGOs are mobilising, training and empowering the poor to resist unjust government and landlord action (Apiyo, 1998; Mwangi, 2000). An example of this type of mobilisation is Muungano wa Wanavijiji Maskini (Federation of the Urban Poor), formed in 1996 and comprising 86 urban poor communities scattered throughout Nairobi and its satellite community of Athi River. Ultimately, the Federation hopes to incorporate other poor communities in the country and become a national association of the urban poor. Its mission is to (1) advocate and defend the rights of the urban poor; (2) bring an end to forced evictions and illegal allocation of land; (3) ensure that preference is given to the urban poor for permanent settlement instead of rich speculators; and (4) ensure that evictees are given alternative sites and sufficient time and notice to resettle peacefully and with dignity when necessary evictions are carried out (Muungano wa Wanavijiji Maskini, 2001). Since its formation, the Federation has conducted land-related awareness campaigns, demonstrations and night vigils, and submitted protest letters and memoranda to government to forestall evictions (Apiyo, 1998).

Another NGO, Kituo Cha Sheria (Legal Aid Centre) offers legal representation and advice to the poor when they are threatened with eviction. The Habitat Task Force, which is a network of NGOs working in the fields of human rights and shelter under the auspices of Kenya’s National Council of NGOs, also organised Operation Firimbi (literally, “Operation Blow the Whistle”) at the height of forced eviction and irregular land allocation in Nairobi in 1996. The task force has been publicising irregular land allocations and providing material, financial, medical and moral support to those who are evicted (Apiyo, 1998). Other NGOs advocate for poor people’s needs to government and also act as intermediaries, thereby increasing government sensitivity to
poor people’s needs. In some cases, these efforts have helped the urban destitute to gain secure tenure or protected occupancy of public lands, for example, the Mathare 4A area in Nairobi, where the Catholic Church succeeded in convincing the government to allocate land for a church-run slumupgrading project (Otiso, 2000).

Overall, these community responses to eviction have so far met with promising but limited results. However, there is a probability of greater success in the future as poor residents become increasingly organised and cognisant of their rights and potential political power. It is noteworthy that recent demolitions have drawn the attention and condemnation of opposition politicians eager to capitalise on these unpopular measures (East African Standard, 2001a).

Alternatives to eviction

Obviously, the main solution to evictions in Kenya lies in reform of the country’s political economy to better respond to the needs of the poor so as to eradicate the underlying causes of evictions in the country, especially iniquitous land distribution, the use of land as a political weapon and a corrupt land allocation system that works against poor urban residents. Without such fundamental reform, any measure aimed at reducing evictions is bound to be ineffectual or ineffective. Thankfully, pressure for change is already materialising from the ranks of civil society activists and opposition politicians. For the most part, the government and those sections of the elite that are benefiting from the status quo are fiercely resisting calls for reform, which in some cases has taken the form of political violence intended to silence the opposition and other forces clamouring for change. Although the government has recently appointed a commission headed by a one-time Attorney General and wealthy landowner to look into the country’s land situation (Daily Nation, 2000), this is unlikely to come up with recommendations that will significantly impact the status quo. Even if it did, the present government has a long record of sitting on the findings of numerous other commissions on lesser issues.

However, once the country’s political economy is reformed, a series of measures should be taken to improve poor people’s access to land and decent housing. First is the need to create a proactive land policy that would enable the country to rationalise the use of its land resources (Daily Nation, 2000). This calls for a second land reform that should aim to (1) spread the benefits of land ownership more widely by limiting the amount of land an individual can own; (2) use taxation and other measures to compel the country’s largest landowners to maximise the use of their lands rather than hold them for prestige and other symbolic purposes; (3) merge and streamline the various laws and tenure systems governing land in the country (East African Standard, 2002b); (4) outline ways of utilising the country’s large tracts of semi-arid land to relieve pressure on the country’s limited arable land – now only about 17 per cent of the total (Ojany & Ogendo, 1973:130); and (5) streamline the country’s land market and land allocation process. Collectively, these measures should help lower the cost of land and make it more affordable and accessible for poor people (Mwangi, 2000), and also reduce rural landlessness, poverty and rural-urban migration, which all contribute to excessive urban growth and consequent slum formation and eviction.

Second is the need to develop a proactive informal settlements policy that aims to (1) improve low-income groups’ access to productive resources, especially land; (2) enable the socioeconomic development of the poor, in particular women, for example, through increased access to education and training opportunities to improve livelihoods and, thus, decent housing prospects; (3) improve slum residents’ access to affordable housing, infrastructural services and a healthy living environment; and (4) enable the sustainable use of these environments (Agevi, 1998:128).
Since informal settlements are likely to continue being an integral part of the country’s urban areas in the foreseeable future, they should be integrated into an overall urban management strategy that includes upgrading the existing ones as well as pre-empting the formation of others by developing well-targeted site and service schemes.

Third, there must be a search for innovative ways of extending land tenure to the genuine urban poor. Innovative programmes such as community land trusts (CLTs), temporal occupation licenses (TOLs) and land cooperatives or companies are some promising vehicles for this (Yahya, 2001). CLTs work by offering landownership to a group from which members can obtain leases, thereby controlling irregular land transfers, discouraging speculation, creating conditions that encourage land development, reducing the cost of land acquisition by minimising survey costs and government taxes, as well as creating legal titles which can be used to secure credit. Nevertheless, CLTs are unpopular because they are misunderstood and are more complex to implement than other land ownership schemes such as land cooperatives. Moreover, communal ownership can be a disincentive to individual development initiatives or realising a profit by selling the land. TOLs allow government to allocate strategically located public land for business purposes without giving up ownership. Since TOLs are renewable annually, the land can always be repossessed if needed for other public uses. Land under TOLs is often used to put up food and business kiosks and other types of informal economic activities. Land cooperatives or companies essentially enable poor people to pool their resources and purchase large farms on the fringes of major cities such as Nairobi. Once the farm unit is paid for, or sufficient equity in it is acquired, it is subdivided and allocated for individual housing construction. Traditionally, this has been the most popular vehicle for poor people to acquire land in Kenya.

Fourth, current municipal by-laws and institutions should be revised to reflect Kenya’s current socioeconomic conditions. Whereas, the Government of Kenya did revise urban low-income housing standards in 1995 (Agevi, 1998), the new standards are unlikely to benefit low-income households if the rest of the exclusive colonial planning apparatus and the inequable land ownership situation remain unchanged.

Fifth, besides the question of access to land, the Kenyan authorities must address other related causes of slum proliferation, such as the country’s wide income gap, rapid urban population growth and related urban poverty due to high rates of natural increase, rural-urban migration exceeding the growth rate of job creation (“over-urbanization”) and national economic decline (Otiso, 2000). Reduction of poverty calls for more concerted national economic management, including paying sufficient attention to rural economies as a way to slow rural-urban migration, rapid urban growth and slum proliferation. Simultaneously, there must be an implementation of measures designed to ensure that urban areas function properly. Since urban areas are the engines of economic growth, failure to provide them with basic services makes them unproductive and a drain on, rather than a stimulus to the national economy. Overall, proper management of the economy would increase not only the economic welfare of Kenyans in general but also help poor urban residents, especially, to afford urban land and decent housing.

CONCLUSION

Evictions have been widespread in Kenya for a long time. Overtly, they are the result of conflicts over land rights, non-payment of excessive land or house rents, and urban redevelopment. But, fundamentally, evictions are due to the country’s inequable land ownership structure and other factors imbedded in the country’s agrarian political economy. This was engendered when the British, intent on launching colonial capitalism in the country, created the first squatters by alienating African land and introducing

However, the attainment of independence did not substantially alter the inequities of the colonial socioeconomic or land distribution structure; rather, it merely “Africanised” them. Together with subsequent rapid population growth, economic decline, rising poverty, dishonest land allocation practices and a non-inclusive political system, this set the stage for the urban poor’s increasing inability to afford land or decent shelter. Consequently, they have been forced to resort to illegal land occupation, thereby setting themselves up for eviction.

As in other parts of the world, evictions in Kenya have tremendous social, political and economic consequences, including loss of lives, livelihoods, property, social networks, housing and political stability. Unfortunately, eviction is an ineffective and failed strategy against the proliferation of slums because it does not address the underlying causes of these settlements, namely, skewed land distribution, poverty, excessive urbanisation, rapid population growth, limited access to urban land, especially among the poor, and a shortage of low-income housing. As a result, most slums reappear as soon as they are demolished.

Because the primary causes of evictions in Kenya are embedded in the country’s political economy, evictions cannot be meaningfully addressed without first reforming the system. And, although some agitation for reform is materialising, the necessary reforms are still a while away because the government and other societal elements favoured by the current status quo are deeply entrenched. Moreover, the country’s pro-reform voices (e.g. the poor, opposition politicians and civil society organisations) are too fragmented to offer any significant challenge to the system. Consequently, the practice of urban eviction in Kenya is likely to continue into the foreseeable future.

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ENDNOTES

1 As informal settlements have become popularly known, after Muoroto, the slum village demolished by the Nairobi City Council in the early 1990s (NCCK, 1991; Daily Nation, 2002).

REFERENCES


