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**DEALING WITH MARKET EVICTION PROCESSES IN THE CONTEXT OF
DEVELOPING CITIES**

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This paper must be considered only as an exploratory reflection on one dimension of eviction issues. Although it refers explicitly to two case studies, Kigali and Phnom Penh, it is also based on a series of observations made by the author in a large number of developing cities throughout sub-Saharan Africa, South and South-East Asia and Latin America over the last two decades.

The aim is to draw the attention of aid and cooperation agencies, decision-makers, practitioners and researchers to a widespread but still poorly documented phenomenon. Many evictions are not recorded as such either because they do not require the use of force, or because some form of compensation is paid to the “displaced” or “removed” households, regardless of how fair and equitable this compensation may be. And yet - although no reliable figure is available – the scale of market evictions overrides that of forced evictions. Current dynamics that accompany the liberalisation of land markets in many developing countries, and nationwide land titling programmes carried out in the name of economic development and “poverty reduction strategies” are increasing the pressure of the market on urban low-income settlements, and this in a global context where resources generated by economic growth are rarely allocated to housing and resettlement projects for the low-income groups.

1. FORCED EVICTIONS AND MARKET EVICTIONS

1.1. Framing eviction processes

This paper does not deal with “forced eviction” processes, i.e. the involuntary – and usually coercitive – removal of households from the land or dwelling unit they occupy, with – or usually without – compensation or resettlement options. It deals with particular forms of “negotiated removal”, or “voluntary removal” of households or communities following negotiations with the property owner(s), which usually results in a deterioration of their economic and housing conditions. This is what we call “market eviction” or, with a slightly different meaning, “market-driven evictions”.

Evictions concern primarily informal settlements, and especially “slums”. In the literature, this term refers to three main types of settlements: (i) squatter settlements on public or

private land, (ii) illegal commercial sub-urban land subdivisions on private land or customary land, usually in suburban areas, and (iii) occupation of overcrowded, dilapidated buildings in city centers or densely urbanized areas (UN-Habitat, 2003 b).

UN-Habitat (2002) defines slums as contiguous settlements where the inhabitants are characterized as having (i) insecure tenure or residential status; (ii) inadequate access to safe water; (iii) inadequate access to sanitation and other infrastructures; (iv) poor structural quality of housing; (v) overcrowding (see end note 1)

In the case of formal settlements, whether the occupant is a tenant or the owner of the house, evictions may take place if the occupant does not comply with an administrative or a court expropriation decision. However, such cases are not frequently observed, and they rarely concern a community as a whole. Expropriated owners are entitled to receive compensation corresponding to the market value of their property as assessed by the administration and, in case of dispute, by a tribunal.

Households and communities living in informal settlements are in a different situation: their rights on the land (in the case of squatters) or their irregular situation regarding planning, development and/or construction norms and standards (in the case of informal commercial land subdivisions) do not entitle them to claim compensation for the replacement cost of their land and dwelling unit.

In some cases, the terms of the negotiation can be considered as being fair: any compensation paid or alternative resettlement options that are offered to the households concerned do not result in any significant deterioration in their incomes or daily life. This is usually the case for households living in formal settlements, with some form of secure tenure, who have access to information, benefit from political protection, and can mobilise resources to protect their interests.

The level of tenure security depends on evidence the occupants of any settlement can provide. By definition – tenure insecurity being one of the four main characteristics of slums as defined by the UN – occupants in informal settlements do not have real rights such as property titles or a lease. In many cases, other documents such as administrative permits, deed of sale, receipts, invoices, ration cards, may be accepted as evidence of quasi-ownership, but with a lower value than real rights or leaseholds. However, as observed in Ho Chi Minh City by Kim (2004) it may happen that legal title is not the most valuable form of property rights.

In many cases, however, especially when the tenure status of households or communities does not provide them with sufficient protection against eviction procedures, or when their incomes, their cultural background, asymmetry in access to information, social status, or the prevailing political environment do not provide them with sufficient protection – as is usually the case for poor communities and households living in informal settlements – the terms of the negotiation are distorted: their negotiating/bargaining capacity is weakened and they tend to accept “voluntarily” arrangements that will result in a deterioration of their situation. This may be also the case when households have been allocated land under the administrative “permits to occupy” regime, which are still the most common occupancy status in sub-Saharan West African cities. With few exceptions, PTO are temporary documents, granted conditionally, and they can be unilaterally revoked by the administration whenever it considers that the permit holder has not fulfilled his obligation and/or that it can make better use of the land.

In short, those who have settled on land whose value has increased over time, and who cannot provide sufficient evidence as to their rights on the land are exposed to “market evictions”, as they are not necessarily entitled – in strictly legal terms – to be paid

compensation corresponding to the replacement cost of the dwelling unit in case of eviction. In such cases, everything depends on the balance of power at local level, and ultimately on political decisions.

In other cases, *in situ* tenure regularisation, settlement upgrading and basic service provision without appropriate accompanying social and economic measures may result in increases in housing expenditures that the poorest segment of the settlement population will not be able to meet. When combined with increases in land values and market pressures resulting from tenure regularisation, the poorest households will be tempted to sell their property and settle in a location where accommodation costs are less, especially when they are confronted with unexpected expenses, or a deterioration in their economic situation. This commonly observed progressive and “soft” form of market eviction results in the progressive gentrification of inner city and suburban low-income settlements.

In many societies, gender inequality in access to land, economic opportunities and decision making bodies, is resulting in households headed by women being more vulnerable to evictions than those headed by men, especially market-driven forms of eviction. Disguising a forced eviction as a “negotiated removal” is usually seen as “good governance” practice. It is less risky, in political terms, than a forced eviction; it is less brutal and accordingly less visible as it can be achieved following individual case-by-case negotiations. Most observers consider that the very principle of negotiating is more important than the terms of the negotiations, especially regarding the compensation issue, even when the compensation is unfair and detrimental to the occupant. Similarly, progressive changes in the social composition of a low-income settlement following tenure regularisation are usually seen as a normal market-driven process.

Forced evictions as well as negotiated “market evictions” are closely related to market pressures, except in cases where evictions are the consequence of expropriations for public interest (need for land for infrastructures), or are justified for safety or public health reasons (sites exposed to hazards, sites unsuitable for urbanization). Even in cases where expropriations are carried out for public interest for urban renewal projects or city centre beautification, the market may be the driving force. This is the case when expropriation procedures are carried out in order to provide public land for a development project in partnership with the private sector.

1.2. Some definitions

- *Expropriation* refers to a government procedure taking or modifying the property rights of an owner without his or her consent, usually by power of eminent domain, for public purposes.. All countries have legal provisions for the payment of compensation in case of expropriation. An expropriation does not automatically result in eviction, if the land is not occupied, or if the occupants leave the land voluntarily.

- *Eviction* refers to a formal procedure (a legal act, following a government or a flawless court decision) or to an unlawful action that aims at removing an occupant (tenant, squatter) from the physical possession of a property (land or dwelling unit) he/she occupies. It can be initiated (i) by private land owners; (ii) by public land owners (governments, local authorities, administrations); (iii) by developers (who do not necessarily own the land). Compensation may or may not be paid to evicted households.

- *Unlawful evictions*. Evictions may be legal (following a court decision) or illegal. Many evictions authorized or initiated by public authorities do not have a full legal basis. They are called “unlawful evictions”. For example, the eviction may not be carried out according to legal procedures, or it may take place before appeals against a court decision have been examined

- *Forced eviction* refers to a form of eviction involving the use of force. It usually involves the use of public forces (police or armed forces). It may also involve private security guards, or local mafia or gangs. The Involvement of public forces in evictions does not mean that an eviction is “legal”, or “lawful”. Destruction of a settlement by fire is a common mean of forced eviction.

- *Market eviction* refers to the negotiated removal of individual occupants or of communities, but where the terms of the negotiation are biased by the weakness of the tenure status of the concerned population, or its non-compliance with planning and development laws and regulations, or with construction norms and standards, or any form of marginality, segregation or exclusion.

- *Market-driven eviction* has a broader meaning. It encompasses all situations where displacement or eviction is the direct or indirect consequence of a development aiming to make a more profitable use of the land.

- *Involuntary resettlement* refers to two distinct but related processes (Schonberger, 2002): (i) displacement is a process by which a development project causes people to lose land or other assets or access to resources, which may result in physical dislocation of the settlement, loss of income, or otherwise adversely impact on the settlement; (ii) resettlement or rehabilitation is a process by which those adversely affected are assisted in their effort to improve, or at least restore, their incomes and standards of living.

2. INFORMAL SETTLEMENTS AND EVICTIONS: SITUATIONS, FIGURES AND TRENDS AT GLOBAL LEVEL

2.1. The global context: urban poverty and slum populations

According to recent UN estimates, 924 million people - nearly one out of three urban dwellers – were living in slums in 2004. Of these, 874 million live in low and middle-income countries (TF 8 report, MDG, 2005). Urban poverty as a proportion of total poverty is clearly increasing: 43% of the population of developing cities are living in slums (28% in North Africa, 71% in sub-Saharan Africa, 42% in Asia and 32% in Latin America) (LopezMoreno, 2003 and UN-Habitat, 2003 b). By 2020, this figure is expected to increase to 1.5 to 1.7 billion, depending on estimates.

Recent estimates (Cohen, 2004) suggest that about 2.8 billion will need housing and urban services by 2030. The slum population is expected to increase from 32% of the world population in 2001, to about 41% in 2030.

So far, no satisfactory solution for addressing the challenge of slums has been found.

Conventional responses are usually based on the combination of three main types of intervention: (i) in situ upgrading – including tenure upgrading – in existing informal settlements; (ii) resettlement on serviced sites on the periphery of cities; (iii) the preventive provision of low-cost serviced plots for housing (UN-Habitat, 2003 b). These responses have achieved limited results. Despite some major successes at national level where political will and continuity, economic development and mobilization of resources in sufficient quantities

have made possible the implementation at national level of innovative policies for housing the poor (South Africa, Brazil, Tunisia, etc.), scaling up remains a major problem. Most policies regarding slums are simply treating the symptoms and cannot be considered as structural and sustainable policies. In this context, the Millennium Development Goal to achieve a significant improvement in the lives of 100 million slum dwellers by 2020. This target would represent only 6% of the slum population in 2020.

2.2. The eviction drive

Eviction mechanisms and trends must be analyzed with reference to the global context of the persistent imbalance between demand and supply of land for housing, the scarcity of prime urban land for development, increases in the market value of urban land, and increasing commodification of informal land markets (Durand-Lasserve and Royston, 2002). Although there is a continuum between forced eviction and market eviction, each has its own specific characteristics.

The most common cases of forced evictions that can be observed in developing cities are the following:

- A landowner who has, in the past, authorized tenants to settle on his land wants to dispose of his property to develop it or sell it to a developer. He refuses to collect rents and asks the occupants to move out (case of inner-city slums in Bangkok during the last thirty years).
- An investor buys land suitable for development from a private landowner with the intention of developing it. If tenants or squatters already occupy the land, and if the investor cannot persuade them to leave through negotiation, he may obtain an eviction order from a court.
- An investor buys from a private landowner, land which is occupied but is not suitable for development due to its physical characteristics or to planning regulations. He improves the physical conditions of the land, or he obtains from the relevant authorities changes in the existing planning regulation, in order to be permitted to develop the land. If squatters already occupy the land, the landowner will try to evict them.
- Public authorities launch an expropriation procedure in the public interest in order to carry out a development and infrastructure project, or an urban renewal, or a redevelopment, or a beautification project. Households living on the concerned site who do not comply with the expropriation decision will be evicted
- Public authorities sell land from the State private domain to private investors for development projects. If tenants or squatters are living on the land, they are liable to eviction (case of cities where land is being privatized, with pressure of emerging land markets) .
- Public authorities recover land that had been allocated to occupants under a temporary Permit to Occupy regime, in order to carry out a development project, usually in partnership with private investors. Occupants are then exposed to eviction.(case of sub-Saharan African cities where the PTO regime still prevails).

Market evictions are usually observed in the following situations:

- The public or private owner of non-serviced land occupied by tenants or squatters provides or upgrades infrastructures and services. Low-income households – whatever their tenure status– who cannot pay for the cost of services provided and the costs incurred are exposed to market eviction. In addition, provision of services and infrastructures in a settlement results in an increase in the market value of the land, and consequently in rents, making lower income tenant families vulnerable to market pressure (Cross, 2002).

- Public authorities carry out a tenure upgrading or regularization programs in informal settlements. Provision of secure tenure has an immediate impact on the market value of the land, making lower income families vulnerable to market pressure.
- A private developer wants to develop land already occupied by households that have no real rights, but some form of de facto secure tenure. This situation may compromise the success of a legal action to evict occupants, and the developer will opt for negotiation and pay compensation to occupants.
- A community living in a formal or informal settlement – whatever their tenure status– takes the initiative to provide or improve infrastructures and services. The poorest households may not be able to meet the costs of improvements and will be exposed to market pressure.

Market eviction is usually the result of an effective/actual or anticipated investment in a property which is already informally occupied, and which cannot be developed as long as it is occupied. The objective of the investor is to buy the land or immovable property at a price which is below market price, and to sell it back at a higher price with or without development. Four main factors bring down the market value of the land.

- Tenants or squatters already occupy the land or the immovable property: the anticipated costs and delays in evicting occupants bring down the value of the property. This is the most common case.
- The tenure status of the land being transferred is uncertain; obtaining a real right to the land may require time and financial resources. This brings down the market value of the land.
- The land is not suitable for development because of its physical characteristics: investments required prior to any development may bring down its price
- Existing land use regulations do not permit the development of the land: any formal development will require legal or regulatory changes. The time required to remedy this as well as uncertainties in obtaining these changes brings down the price of land.

If the investors succeed in obtaining the required rights or manage to carry out the land development, or can expropriate or evict occupants (tenants or squatters) such transactions may produce a higher profit/return than that obtained in conventional development projects, where vacant land suitable for urban development is purchased at normal market price.

Settlements exposed to market eviction may be located on private or public land. Those living in prime land or land located in areas suitable for profitable housing or commercial development projects are particularly vulnerable to pressures from the administration or investors, especially if they do not have full security of tenure. Poverty and weak community organization usually increase the risk of market eviction.

Compared with forced evictions, market evictions are usually a longstanding process (resulting in the progressive gentrification of low-income settlements). However, they may also take place in a very short period of time.

2.3. Despite legal protection the number of forced evictions continues to increase at global level.

Although not always enforced, legal protection against forced evictions does exist. The international community has long recognized – at least since the mid 1960s – that the issue of forced eviction is a serious one, and the position of international human rights law on forced evictions is becoming increasingly clear, especially since the early 1990s (see appendix 1, UNCHS 1996 a and b, and United Nations, 2001).

However, as noted by the Center on Housing Rights and Evictions (COHRE), the use of the term "forced eviction" is, in some respects, problematic. While forced evictions have been recognized by the UN as a gross violation of human rights, they continue to take place under a number of pretexts: in the name of national security, fight against terrorism, improvement of the urban environment, city beautification, community development, or sporting events.

Current trends

Improvement in the situation regarding evictions was observed during the late 1990s, compared with the situation which prevailed previously (Habitat Debate, 1999). This trend can be attributed to the increasing role of the civil society in many developing nations, to democratization and decentralization, and the result of the imbibing current international thinking. For example, the preparatory process of the Habitat II Conference in 1996 also had a positive impact on government policies.

Although very few countries do provide constitutional protection against eviction (Brazil, South Africa) many governments, aware of the political risks of evictions when no alternative is offered to evicted households, have adopted anti-eviction laws. The high visibility of forced evictions (Civil society organizations, COHRE, HIC, SDI, ...), and anti-eviction laws have been very successful in giving millions of people tenure security in general. However, if the land is required, anti-eviction laws are often ignored by land owners, local authorities and others, and recent survey initiatives clearly indicate that the situation is now deteriorating. According to COHRE (2003), "the worldwide rate of forced evictions has practically doubled in the last two years, leaving nearly seven million people ejected – often violently – from their homes..." COHRE's Global Survey of international forced evictions in 60 countries found that 6.7 million people were evicted from their homes between 2000-2002. This compares to 4.2 million during the years 1998- 2000. Moreover, it found that 6.3 million people across the world are currently under threat of forced eviction, compared to 3.6 million people in the period 1998-2000"

There are no figures for market evictions

There are no figures for the scale of market evictions resulting from a combination of interrelated factors: relatively insecure tenure, market pressure, lack of legal protection, and poverty. Yet, in cases that have been documented, the number of market evictions or market-driven evictions is much higher than the number of forced evictions. Market evictions are usually seen as normal consequences of urban development, as a kind of "creative destruction", as defined by Schumpeter, which necessarily accompanies economic development and modernization processes.

Another set of problems encountered in attempts to identify the scale of market-eviction is the lack of agreed definitions. As long as negotiations between the involved parties take place, whatever the terms of the negotiation are, eviction is usually considered as a voluntary removal.

To illustrate this, we shall refer to recent observations made in two different urban, social, cultural and economic contexts: Phnom Penh, Cambodia, and Kigali, Rwanda.

3. TWO CASE STUDIES : KIGALI (RWANDA) AND PHNOM PENH (CAMBODIA)

3.1. TWO DIFFERENT CONTEXTS, BUT SOME SIMILARITIES

3.1.1. Population living in informal settlements

National population of 13 M (Cambodia) and 8 M. (Rwanda)

Predominantly rural : urban population : 20% in Cambodia, 16% in Rwanda.

Capital cities with a population of 1,2 M (Phnom Penh) and 650,000 (Kigali)

Rate of urban population growth around 7% (Phnom Penh and Kigali)

Percentage of urban population living in informal settlements in Kigali, 80% to 85%, in Phnom Penh, 25% (250,000 persons, scattered in 500 settlements : squatters on public land and in urban- rural fringe, slums on private land, rooftop dwellers).

Tenants : more than 50% of the population of Kigali and about 20 to 25% of the population of Phnom Penh are tenants.

3.1.2. Post-war situation: the progressive re-introduction of property rights

Land rights have been and are being redefined in a post-war / post-genocide context (Cambodia between 1971 and 1975, Rwanda in 1994), which was accompanied in both cases by the destruction of land registers and records. Following the war and the genocide, the two cities have been confronted with the massive arrival of “returnees”/war refugees. This phenomenon had a major impact on tenure and occupancy status of the population.

In the two countries, the emergence of a land market was accompanied by the implementation of a nationwide land titling and registration programme. The cadastre of Phnom Penh is currently being set up. It is expected to be completed within 5 to 6 years. In Kigali emphasis is put the creation of GIS, for planning and fiscal purposes.

- In **Kigali**, the land remains the exclusive property of the State. The right to use, develop and occupy the land is granted to persons by the government under the “permit to occupy” regime. The permit to occupy is a revocable administrative document. The State retained the eminent ownership of the land, and is entitled to take the land back if, in urban or suburban areas, leaseholders of plots of land for housing cannot develop the land within 5 years according to construction standards set by public authorities. This is a land management and development pattern very common in most sub-Saharan African countries. In rural areas and in suburban areas, customary rights were recognised, and the subdivision and allocation of land by customary owners was either recognised or tolerated. Combined with self-help housing construction, this gave birth – after decolonisation – to large urban low-income settlements. In 1994, 80% to 85% of the population of Kigali was living in these so-called “informal” or “precarious” settlements.

The adoption of the new Land Law in November 2004 does not put an end to the State monopoly of land, but recognises private ownership of land, and open the way for a privatisation of land markets.

- In **Phnom Penh**, private property was abolished by the Khmer Rouge regime which was in power from 1975 to 1979, and the population of Phnom Penh was forcibly displaced in rural areas. From 1979 onwards, following the fall of the “Khmers Rouges” the city was progressively reoccupied. All property rights prior to 1979 were abolished. People working for the new government were permitted to settle in vacant land and abandoned buildings in Phnom Penh with their families. They were granted only a right of use but were permitted to

transfer their land or dwelling unit by inheritance. They did not have to pay rents. They had – in principle – to register to government authorities. They received a “card” that authenticated the legitimacy of their occupation. The land and houses remained the property of the State. According to the 1981 Constitution, “no one is permitted to buy, sell, mortgage or lease a land” (Art. 17). However, during the 1980’s, one can observe the development of an informal property market, which included the subdivision and sale – without titles – of apartments in city centre buildings. Increased population pressure combined with insufficient land and housing supply induced the development of the first squatter settlements in Phnom Penh.

3.2. MARKET EVICTION PROCESSES IN KIGALI

3.2.1. The dynamics of urban growth in Kigali and the extension of informal settlements

Between 1991 and 2002, when national population censuses were carried out, the proportion of the urban population has jumped from 6% to 17% of the total population of the country. This increase is due to the combined effects of natural growth, rural urban migrations, and the return to the country, mainly to Kigali, of Rwandan refugees living in the neighbouring countries (Pérouse de Montclos, 2000).

With an average of growth rate of 9% per year between 1991 and 2002, and 7% between 2002 and 2004, Kigali is by far the largest urban centre in Rwanda, with an estimated population of 700,000 in 2004 (Republique du Rwanda, 2004 f).

Each year, about 10,000 new households (approx. 48,000 persons) settle in Kigali. This would require an annual provision of 8,500 dwelling units, to be added to the units that would be needed to cope with the existing backlog.

Before 1994, the supply of urban land for the low-income population was mainly provided by “customary owners” of the urban fringe, like those usually seen in sub-Saharan African cities (Durand-Lasserre, 2003). Government authorities tolerated these practices and, especially in the late 1990s and early 1990s, tried to streamline and regulate them by implementing some regularization projects (République Rwandaise, 1987). The role assigned to customary owners to provide land for housing the poor was condemned by the new Government that came into power following the 1994 genocide, but it did not suggest any alternative policy.

So far, the National housing policy has not taken into account the demands of the majority of urban households, who are facing major problems in accessing land and housing (Republique du Rwanda, 2004 a). In 2002-2003, housing provision by the formal sector represented less than 10% of demand in Kigali. Nearly 90% of the population has to rely on informal land and housing delivery systems .

In a context where the provision and delivery of land for housing by informal/customary actors is becoming an almost impossible task, poor urban households increasingly encounter difficulties in gaining access to urban land, including access through informal arrangements. This situation is characterized by a growing pressure on old unserviced irregular settlements with demands for housing to rent, and the increased density of these areas (Republique du Rwanda, 2004 b).

3.2.2. The land and housing development policy currently implemented by the City of Kigali is pushing the majority of the urban population into illegality

Until the new Land law adopted in November 2004 is implemented, land remains the property of the State or, if it lies within the City of Kigali boundaries, of the City Council,

which allocates the land required for any development project (Republique du Rwanda, 2004 c).

Development and construction norms and standards are an obstacle to the provision of land and housing for the low income groups. According to the current housing policy defined by the government (Politique Nationale de l'Habitat, 2004), the only settlements recognised as legal are planned "settlements", as opposed to "spontaneous" ones (Republique du Rwanda, 2004 e)

In urban areas, any development must be based on an approved "development plan". This specifies the size of the plot to be developed, the type and size of construction, the building material to be used and the length of the development and construction process. Any other form of development is considered as illegal. Individual housing constructions are authorized on land leased by public authorities, provided they conform to the same set of norms and standards. In both cases, full ownership of the land is transferred to the leaseholder after he has completed the payment of ten years' land rent. Few households have sufficient income to comply with the development and construction norms. Those who cannot, or those who have no choice but to rely on informal land markets through an arrangement with customary owners are considered to be in an illegal situation and are exposed to eviction. At present, restrictive planning and development standards are directly responsible for the exclusion of 75 to 80% of households from legal access to land and housing.

The adoption of more flexible development and construction norms, which would be the most efficient and least costly solution, does not yet seem to be currently envisaged by the authorities, and the city of Kigali is not at present willing to undertake large-scale in situ land regularization and service provision programs in irregular settlements. Although upgrading projects are envisaged in a limited number of settlements, most are not entitled to regularisation because they have not been developed according to formal norms and standards, especially regarding the minimum plot size required. The main objective of the City Council is rather to carry out urban renewal projects in order to make prime land in the central and peri-central area available for development (Republic of Rwanda, 2002).

3.2.3. Expropriations and evictions result from the combined intervention of public authorities and private investors.

, Choices in terms of urban land and housing policies currently result in an increasing number of expropriations and evictions.

The city of Kigali evicts households from irregular settlements in order to carry out infrastructure, development and urban renewal projects. Expropriation can also take place in formal settlements that have not been developed according to official norms and standards. Compensation paid to households corresponds to the cost of the dwelling unit built on the plot, as assessed by the City Council, but not to the cost of land, which remains the property of the State or of the City of Kigali.

To tenure insecurity due to the risk of expropriation by the public authorities can be added the insecurity caused by the pressure of the market on urban and suburban land. This can be a very real threat as settlements already irregularly occupied may be the target of a development project initiated by an investor, with the prior agreement of the public authorities. Indeed, land and urban development policies encourage the intervention of private developers and investors in the irregular settlements in the central and semi-urban zone. There is a procedure which enables a private investor (individual, association, cooperative, land or housing developer, etc.) to obtain approval from City Hall for a development project on a site occupied by an irregular settlement, and deal with the "voluntary departure" of the occupants or their eviction by taking responsibility for compensation costs and deducting these from the price of the land that has to be paid later to

obtain the land title on the developed land. 80% of households in Kigali are thus potentially exposed to expropriations or evictions.

The pressures on some irregular residential areas are likely to lead to increases in the number of homeless. A number of factors, however, limit the scale of the eviction drive: the State remains the owner of the land, the investment capacity of the private sector in residential housing is limited and, for social reasons, the authorities in Kigali do show some restraint in carrying out evictions.

3.2.4. The segregative impact of the land registration system implemented in Kigali tends to accelerate the movement of market evictions for households living in irregular settlements.

The multipurpose cadastre project which is being set up within the framework of the Kigali GIS is now partially operational (Republique du Rwanda, 2004 c). At the same time, occupants' rights are being clarified: regularisation of occupancies which conform to planning and construction norms; evictions or the threat of eviction of occupancies that do not conform. The social impact of the land registration system (and especially the expropriations that it involves) does not fall within the responsibility of the project, and is not part of its remit.

The city of Kigali, for its part, does not have the necessary resources to compensate and resettle expropriated households. The risks and negative impact of the land and housing policies currently being implemented in a context of land market privatization must be highlighted, as they may result in the large scale transfer of land that currently belongs to the State to high income groups and speculators, thus increasing the risks of market eviction.

The registration systems currently used give a much higher priority to the question of tenure regularisation and access to ownership than to security of land tenure. There is therefore a risk that it will only be accessible to those who can afford it, thus benefitting the richer households while penalising the poorest, as registration is on a voluntary basis and depends entirely on the ability of the individual to bear the cost.

The Land law adopted in November 2004 does nevertheless leave several options open which may be able to guarantee this security (Republique du Rwanda, 2004 d).

3.2.5. The compensation issue: a key dimension of market eviction processes

The majority of households that leave irregular settlements (between 2/3 and 3/4 according to City Hall) do so after direct negotiations with investors who have a development project planned for the piece of land that they occupy. City Hall only intervenes only if the parties cannot reach agreement on the amount of compensation to be paid. Then the compensation rate laid down by City Hall in 1996, and not updated since (it was in fact in the process of being updated at the beginning of 2005), is applied. This is very disadvantageous for households who own homes in the irregular settlements as it only takes account of part of the cost of the development of the land (buildings or crops). There is no compensation for the land itself.

Moreover, only households who own their dwelling (42.7% of households in Kigali in 2002), can receive compensation. Those who rent (47.2%) receive nothing at all and are therefore in a much more precarious situation.

The cost to the households of gaining access to another dwelling unit is very much higher than the amount of compensation they receive. For example, the minimum cost of a dwelling unit constructed according to the minimal norms recognised by the authorities is 3 M. Frw to which must be added the annual land rent. Between January 2002 and July 2004, the average amount of compensation paid to evicted families was less than 0,7 M Frw.

This practice generates a large number of conflicts: in 2003, 96 % of conflicts brought to the attention of the national ombudsman concerned land tenure, and of these 75% concerned Kigali.

3.2.6. Limited resettlement alternatives offered to evicted households is worsening the impact of market eviction processes

The compensation evicted households receive is not enough to enable them to find a satisfactory solution to their resettlement needs, especially in a context where land is being privatized.

Resettlement on serviced plots might be an appropriate response. However, the provision of serviced plots does not meet the demand from families expropriated or evicted from irregular settlements: resettlement sites have not been clearly identified and, by the end of 2004, the city of Kigali had not carried out a precise evaluation of the cost of such resettlement projects to displaced families. Nor had it the necessary resources to provide basic services in the resettlement sites. These plots are not provided in sufficient quantity, and their price is beyond the reach of the majority of the households concerned. The actual cost of low-standing plots and housing in resettlement areas is still much higher than the average compensation paid by the City Council to expropriated households.

The policy of physical settlement upgrading, especially when it involves the eviction of some or all of the households living there, should be accompanied by a policy to rehouse on serviced sites. This is not the case in Kigali, where a large-scale eviction movement is currently underway, with no alternative solutions being offered to the expropriated families. In the rare cases where such sites have been identified, the size of the plots, the administrative transfer costs incurred, the amount of rents and the norms and time frame imposed for their completion are far beyond the ability of the displaced households to pay.

3.2.7. Increased marginalisation of the poorest households

The practice of eviction without fair compensation or without offering any rehousing solution is creating a population of homeless families. There are two main reasons for this: firstly, the compensation paid to expropriated families is not sufficient to give them access to land in the so-called resettlement areas; secondly, the plots that have been developed and serviced in these areas can meet only a very small proportion of the demand for housing.

The current land and housing policy implemented in Kigali has resulted, in the last few years, in the departure of a large number of evicted families who have settled in small urban centres outside the Kigali administrative boundaries.

However, there are a certain number of factors that limit the magnitude of the eviction drive:

- Most urban land still remains the property of the State, thus limiting the development of a speculative land market: the new Land law, adopted in November 2004, does not seem to alter this principle.
- There are still limited investment capacities in formal housing development, and conditions for the emergence of a property development sector are still far from being in place.
- For social and political reasons, the city services do show a degree of restraint in carrying out evictions.

3.3. MARKET EVICTION PROCESSES IN PHNOM PENH

3.3.1. Types of tenure, occupancy status and ownership rights in Phnom Penh

During the Khmer Rouge regime, all private property was abolished in Cambodia, and most documents were destroyed. After the fall of the Khmer Rouge in 1979, returnees to Phnom

Penh were selectively authorized to occupy buildings on a first-come first-served basis and were given a “temporary permit” by the authorities, but all property remained in the hands of the State. “They were allowed to occupy any vacant dwelling close to their new place of employment in the civil service. These new owners took many centrally located buildings in the city, which some then subdivided and sold, even though there were no formal titles. Once all existing buildings were occupied, people started to settle on vacant land, creating the communities that are now considered illegal” (Fallavier, GRHS, 2003).

The right to own land was reintroduced in 1989, allowing farmers to claim possession rights to plots of up to 5 ha. after five years of continuously cultivating land, and households to obtain ownership titles to residential plots up to 2,000 square meters (Sub Decree N° 25 of April 22, 1989)

From 1989 onwards, the government took a series of measures to address land issues and ensure efficient land privatisation and management: enactment of the 1992 Land law; recognition of right to ownership of legal private property by the National Constitution of 1993 (Art 44); decision to issue land titles, in 1995; adoption of the Statement on Land Policy in May 2001 with the objective "to strengthen land tenure security and land markets, prevent and resolve land disputes" and "to promote land distribution with equity".

Lack of clarity in the 1992 Land law had generated many land-related conflicts: the population did not make a clear distinction between land titles and receipts delivered when an application for land title was submitted to the administration. In addition, two tenure systems existed: ownership rights were recognised for residential land, and possession rights for agricultural land. The Land law of August 2001 unified the system (possession rights were transformed into ownership rights), and the principle of acquisitive possession, except for land occupied prior to 2001 was abolished.

(Clerc and Rachmuhl, 2004)

During the 1990s, ownership titles on private land were issued mainly in Phnom Penh, but only for very few plots of land. As noted by Chan and Sarthi (2002), there are in practice only two types of documents used for claiming land ownership: receipts, acknowledging a person’s claim to land, and certificates, which are state authenticated document certifying land ownership. However, "land transactions involving certificates constitute only a small proportion of total land transactions".

People have a variety of different kinds of papers and documents or even invoices as proof of ownership.

Goeff Payne (2004) identifies nine types of land tenure in the current situation in Phnom Penh: (i) Pavement / mobile dweller; (ii) Unauthorised occupation of state public land; (iii) Unauthorised occupation of state private land; (iv) Unauthorised occupation of private land; (v) Family registered book; (vi) Court order after dispute; (vii) Government concession; (viii) Certificate of possession; (ix) Certificate of ownership.

Since 1992, the number of households living in informal settlements has rapidly increased, thus limiting their capacity to accommodate any additional population. Three surveys by Solidarity for the Urban Poor Federation (SUPF, 2003), a local CBO, over the last ten years confirm this trend: 130,000 people were living in 187 poor communities in 1994; there were 375,000 living in 569 communities in 2003. The announcement made in 2003 regarding in situ upgrading has contributed to increasing the pressure of demand and conversely the access price to land and housing in these settlements

3.3.2. Tenure issues, commodification of land markets, and security of tenure in “slums”

Although about half of land and property transactions have taken place outside formal market procedures over the last ten years, free access to land and housing is becoming much less frequent than in the 1990s. All observations confirm the increasing commodification of informal markets. The survey carried out by the Urban Survey Group (USG), a local NGO in 1994, for the Municipality of Phnom Penh, in informal settlements indicates that 58% of the households had paid to be allowed to settle (Ref). 42% had free access to the land or dwelling unit. Another survey carried out in 1998 indicates that 61% of households had to pay the previous occupants to buy or rent the dwelling unit (quoted by Clerc and Rachmuhl, 2004).

"Even though only a very small proportion of the population (at country level, both rural and urban) has official title to their land, people have been actively transferring land ... on the market" (Sik, 2000). Overcomplicated and costly registration procedures discourage people from using formal land transfer channels. Sales agreements that are signed and stamped by Districts chiefs are considered by most people as official enough to certify the ownership transfer.

Lack of clarity regarding land titles and rights is increasing the vulnerability of small landholders living in the rural-urban fringe of Phnom Penh to market pressures.

A recent housing situational survey (Ministry of Land management, Urban Planning and Construction ,2003), points out that "the majority of the interviewees declared they lived on land belonging to them, regardless of types of legal documents they might have at the time of the interviews". The ability of various levels of government to issue documents in-lieu of official Land Certificates leaves many households unaware of their legal land ownership status. While 71 % of those surveyed indicate that they own their land, only 5.4 percent have a land certificate.

Uncertainties about the exact location of boundaries of land under public control (the state does not know the exact location, areas or boundaries of public land) or of land privately owned as well as ambiguity about land rights generate a series of land-related conflicts that the government administrations and the courts do not have the capacity to resolve, as well as creating tenure insecurity in rural and urban areas. As underlined by Chan and Sarthi (2002): "There is considerable confusion amongst the populace with regard to the legality of ownership of land. A majority of people believe that if they are occupying land without conflict or controversy it is legally theirs, irrespective of whether they formally possess land papers."

The decision to "to create a State land inventory and ... to implement and operate a nationwide land registration system using both sporadic and systematic registration procedures, including all property, both public and private" was supposed to clarify the situation (Council of Land Policy, 2002)

3.3.3. Changes in land and housing policies in urban poor settlements

From forced eviction to upgrading and concerted resettlements

The first forced evictions carried out by the MUNICIPALITY OF PHNOM PENH have accompanied the development of squatter settlements in Phnom Penh, between 1990 and 1996. Evicted families were rarely given compensation or resettlement options. The objective

was to make land available for infrastructure, for urban beautification projects or for public-private urban development projects.

Evictions were also initiated by private investors/developers on land occupied by households who could provide some form of documentation. The land would then be sold on to the developers, but the price paid to occupants depended on the “value” of the documents. Thousands of families were concerned by this procedure, combining forced evictions and market eviction processes.

The attitude of the public authorities gradually evolved under pressure from local and international NGOs (see end note 2). Between 1996 and 2001, more than more than 6,000 households benefited from 160 small scale upgrading projects.

Changes in policy responses regarding informal settlements were reflected in changes in the perception of informality by public authorities. “Until 2000, the Municipality of Phnom Penh categorised slums into “squatter and “urban poor” settlements. Squatters illegally occupied public or private land, while urban poor were low income families with recognized occupancy status that gave them some security of tenure, but no ownership rights” (Fallavier, GRHS, 2003). In 2000, when the first stage of the Poverty Reduction Strategy was implemented, the Prime Minister renamed squatters – which has a negative connotation – as “temporary residents”, and emphasised the relocation of these residents in the periphery of the city.

A new “concerted resettlement policy” was gradually defined and implemented by the Municipality of Phnom Penh between 1998 and 2003 as part of the Municipality of Phnom Penh urban poverty reduction strategy. About 9,000 households were relocated in 21 sites on the urban fringe of Phnom Penh. Land was provided by the the Government or the Municipality of Phnom Penh, and construction of infrastructures and provision of services were usually funded by foreign aid agencies.

Initially, concerted resettlement projects concerned only a few households. However, between 2001 and 2003, the number of resettlements increased drastically in order to respond to an emergency situation: 5,000 out of 7,000 households were relocated, without proper concertation, following fires of criminal origin in several slums in Phnom Penh. Although some of these resettlement projects succeeded, others did not: resettlement sites were too far from places of employment and did not have the basic services required. Some large-scale emergency relocations of where households were placed in unsuitable locations had a negative impact on the poor communities (Ministry of Land management, Urban Planning and Construction, 2004).

In quantitative terms, concerted resettlement policy was unable to cope with the demand from low-income families: it ensured the resettlement of 1,800 households per year, but during the same period, informal settlements had to accommodate 5,000 additional households per year.

From resettlements to in situ settlement upgrading

In May 2003, just before the elections, Prime Minister Hun Sen announced the Government’s commitment to put an end to evictions and to launch an ambitious programme aimed at upgrading 100 urban poor settlements per year over a period of five years. This would mean that nearly all of the 569 poor settlements identified in Phnom Penh in 2003 would benefit from this programme. In parallel with the implementation of a new in situ upgrading policy and tenure regularisation for all poor settlements located on municipal land, “the Municipality of Phnom Penh acknowledged the need to make available new sites for poor families in and around Phnom Penh, while learning from the problems inherent in the distant, unserviced relocation sites” (Municipality of Phnom Penh 2004)

“The policy announced by the Prime Minister is an acknowledgement from the highest level of government that Phnom Penh informal communities provide a much-needed stock of housing for the city’s workers which nobody can afford to replace” (Community News. UPDF. Issue N°3 , June 2003).

This announcement came shortly after the sub-decree on social land concession and in the context of the formulation of the National Housing Policy and the National Poverty Reduction Strategy. It was enthusiastically welcomed by NGOs and federations of poor communities in Phnom Penh as a major political victory. (Community News. UPDF. Issue N°2 , June 2003).

The first five community upgrading projects were identified in July 2003. They concerned communities settled on inner-city land with a high potential commercial value (Note 2). In four of these projects, the community were to rebuild their houses on part of the land they already occupied, in a “land sharing” redevelopment. The fifth project was a resettlement project on land provided by the Municipality of Phnom Penh.

3.3.4. Limited results of in situ upgrading policy and market eviction processes

After nearly two years, the in situ upgrading policy has achieved very limited results. None of the four in situ redevelopment projects based on land sharing had been completed in January 2005. Negotiations between community representatives, public authorities and investors were much longer than expected. Profitability objectives were pushed forward to the detriment of social ones, and the land sharing turned into a form of public-private development partnership.

More important is the issue of resettlements. Resettlements, as opposed to in situ upgrading, were considered between 1999 and 2003 as a suitable response to the housing needs of poor communities. Resettlement policies require land for development in appropriate locations. The sub-decree on social land concession would enable households to be resettled (Royal Government of Cambodia, 2003) and could be seen as an appropriate alternative for those households which could not benefit from in situ upgrading projects. However, implementation is not possible because no public land has been made available for such projects, and the public authorities do not have sufficient resources for land acquisition. Market eviction is taking place in a context where the Government and the Municipality of Phnom Penh have not defined any policy regarding public land reserves, and where public land cannot be made available in sufficient quantities for low-cost land or housing development. Yet, intense land speculation and spiralling increase in the market price of land in urban and suburban areas have accelerated large scale market evictions at city level.

Market pressure on inner-city poor communities

The Royal Government of Cambodia and the Municipality of Phnom Penh own large tracts of land on the periphery of the city that could have been used for resettlement projects. However, the inventory of public land reserves – especially of land owned by Ministries – and their use for resettlement has always been problematic in Phnom Penh, with profit-making development projects competing increasingly with socially-oriented ones. Following the commitment made by the Government in May 2003 to emphasise in-situ community upgrading of the poor rather than resettlements, it became almost impossible to identify public land for resettlement or for the development of new sites for low-income housing on the periphery of Phnom Penh. It was as if the decision to emphasise in situ upgrading meant that no more land was required for resettlement projects or low-cost developments.

In this context, Ministries do not make public the state of their land reserves and they keep them for further development. Attempts to make an inventory of private state land in 1993 or

public state land in 1998-1999 never succeeded. Public land sales concern both private and public state land, although public land cannot in principle be used to create private land rights. Cambodian administration sources confirm that, in many cases, the proceeds of the sale by government administrations and government agencies are not returned to the Treasury. Sharp increases in urban land prices encourage these practices.

Poor inner-city settlements are usually located in prime areas with a high commercial value. For this reason, steady pressures are exerted by investors to develop these areas. In some cases, development projects can be based on land sharing or any other form of public-private partnership.

In other cases, development projects will require the removal of the community. This can be a forced removal, but it is usually presented as a voluntary or negotiated one. The terms of the deal will then depend on the negotiating ability of the community or households concerned (which includes its organizational and lobbying capacity, its political protection, and its tenure status).

An recent illustration of pressures made on informal settlements concerns the case of the Koh Pich area Community, which is living on a public land that the Canada Bank, and its parent company the Overseas Cambodian Development Corporation wants to develop: while independent appraisal indicates that the land on Koh Pich is worth a minimum of \$24-26 per square meter, the current offer by the city to compensate residents at the rate of \$2.50 per square meter (East-West Management Institute's Human Rights in Cambodia, 2005).

Without public land reserves being made available for low cost projects on the urban fringe of the city, poor households do not have affordable resettlement options if they move out of their inner-city settlement.

Thus, the new in situ upgrading policy implemented from May 2003 onwards, although seen and presented as a major success by NGOs and poor community federations had an unexpectedly perverse effect by restricting access opportunities to alternative resettlement sites.

Market eviction in suburban rural communities

Market eviction also concerns rural households on the periphery of Phnom Penh.

Interviews carried out in *Sangkat Chon Chao, Khan Dank Kor*, in March 2004 confirm this dispossession process. *Sangkat* sources estimate that between 40% and 50% of the farmland in the *Sangkat* has already been sold off by small landholders to foreign and local investors, mainly during the last five years. Local investors are government officials, military personnel and businessmen, mainly from Phnom Penh. Informal brokers/intermediaries are playing a key role in land transactions, especially those involving original small landholders. They accelerate the land transfer process from small landholders to investors. Market mechanisms are gradually dispossessing small village landholders of their land. Cases of forced sales have also been reported in the *Sangkat* in cases where landholders were unable to provide a property title. This is a common situation, as many households who received land in the 1990s believed that they enjoyed sufficient security of tenure and did not apply in due time for a property title (a costly and time consuming procedure). It seems that the situation that prevails in *Sangkat Chon Chao* reflects only part the situation observed in the land market at the level of the *Khan Dang Kor*, of which it forms part. According to *Khan* sources, original small landholders still only own between 10% and 15% of the land in the *Khan*.

The drying up of agricultural land and the quasi-monopoly exerted by some categories of investors on the land market on the urban fringe of the city is depriving low-income urban families of access to low-cost land.

(Sources: summary of interviews on land market carried out by the author in *Sangkat Chon Chao (Khan Dank Kor)*, March 2004)

Without appropriate regulatory measures, market pressures and mechanisms have a double impact on the housing situation of poor households: on the one hand they increase the access price to land in inner-city slums; on the other hand, it makes it difficult to access land on the periphery of the city. The land development strategies employed by property developers, land tenure, and land market patterns on the periphery of the city, combined with the steady increase in the price of urban land are drastically restricting the room for manoeuvre available to the urban poor.

Poor inner-city communities are tending to move out, not necessarily forcibly but after negotiations.

If they have some form of secure tenure, they are in a good bargaining position and may be tempted to sell their property. If they are not, they are vulnerable to pressures from investors and will be in a weak position to negotiate and obtain fair compensation.

Squatter settlements that have benefited from the new in situ upgrading and tenure regularisation policy are now subject to a high degree of market pressure.

A recent survey amongst property developers in Phnom Penh (survey carried out by the author, December 2004) suggests that most of them are currently establishing land reserves on the city periphery, with the intention of using some of them in the future for resettling poor inner-city communities, in exchange for the land they are presently occupying.

Market eviction processes are tending to replace the forced evictions that prevailed in the 1990s, with similar effects on the poorest segments of the communities concerned.

4. CONCLUDING REMARKS: POLICY RESPONSES TO MARKET EVICTIONS

4.1. CONTEXTS AND FACTORS OF MARKET EVICTIONS:

4.1.1. Coexistence of various types of property rights each with different values according to the protection they provide.

When several types of property rights coexist, and each has a different value, depending on the type of protection it affords, then the economically weaker households are exposed to market pressures. This usually happens when tenure situations are characterised by a dual legal system, with various forms of reinterpreted “customary” laws and practices inherited from when the pre-colonial period coexisted with “modern” law (e.g. in Rwanda and many other sub-Saharan African countries: (Kreibich and Olima, 2002, Durand-Lasserve, 2003), or when multiple forms of tenure status and occupancy rights coexist (legal titles coexisting with others types of documents with various legal basis, such as administrative permits to occupy, deeds of sale, bills, ration cards, registration books, etc.).

Such situations are frequently observed:

- When there are no appropriate land records or land registers, or when existing land-related information systems no longer operate (documents/titles/evidence not available, not updated, or destroyed), thus leaving the way open to arbitrary interpretations regarding the legal basis of tenure rights, and when there are no inventory of public land reserves
- When urban land and houses have been occupied in a post-war emergency context by refugees or returnees without proper government control,
- When private ownership rights have been introduced with insufficient regulatory measures, following years of State monopoly on land, as can be seen in former socialist countries (Cambodia, Vietnam, China...).

4.1.2. Pressure of demand for urban land combined with inadequate land provision.

A combination of pressure of demand for urban land and insufficient provision of land for housing the poor is usually observed in the following instances:

- During the first stages in the liberalisation of land markets following a period of government control over land management and allocation;
- In the context of accelerated commodification of informal land markets (World bank, 2003)
- When demand for urban land from investors and developers from the formal sector is accompanied by rapid increases in urban land prices,
- When the lack of public land reserves makes it impossible to offer alternative resettlement options to the urban poor.

4.1.3. Planning and urban development policy of public authorities

Urban renewal, redevelopment and beautification projects can have a direct or an indirect impact on market eviction processes, especially in cases where no financial provision has been made to compensate evicted households, or provide them with resettlement alternatives.

4.1.4. Public land reserves are transferred / sold out to private investors by governments or local authorities

This practice is currently – but not only – observed in economies in transition, where central and local governments still own large tracks of urban land, but have limited fiscal resources. The sale of public land is aiming to increase their revenues in the absence of land taxation and other fiscal resources. Kigali and Phnom Penh case studies are a good illustration of such practices that are frequently associated with illicit practices and corruption.

4.1.5. Systematic land titling and registration programs

These programs are promoted by the World Bank in many developing countries with the objective of setting up mortgage finance systems, securing investments and mobilizing “dead capital”, however they may accelerate market eviction processes if they are not incrementally implemented or accompanied by appropriate measures to provide protection for the poorest households (such as intermediate tenure options).

4.1.6. Physical pattern and location of informal settlements within the city

Low-income settlements located on high commercial value land in city centers are more exposed to market eviction.

These factors are interrelated.

4.2. LIMITING THE IMPACT OF THE MARKET EVICTION PROCESS

4.2.1. Assessing and monitoring market eviction processes

There is a need for a better understanding of market eviction or market-driven eviction mechanisms and processes. So far, a great deal of attention has been paid to forced eviction issues and the relationships between various forms of removal, evictions, and resettlements.

This in turn requires a better understanding of compensation issues in cases of expropriation and evictions.

The issue of compensation is at the core of market eviction processes and it is itself linked with (i) the market value of the titles/evidence provided, which determines the ability of poor households to resist market pressures and negotiate fair compensation; (ii) the role and practices of government institutions involved in land management and administration; (iii) the role of courts and tribunals, (iv) the role of NGOs and CBOs.

Market evictions and market driven evictions are not sufficiently taken into account by aid and cooperation agencies and international finance institutions.

. Market evictions are considered a “normal” phenomenon, as long as they result from market mechanisms and are not “illegal” with regard to international legislation. Yet, they concern tens of millions of households in cities throughout the world (but they also concern rural populations, especially when titling programmes are implemented).

4.2.2. Policy responses to market evictions

In order to assess policy responses to market evictions, it is necessary to identify those mechanisms and legal and regulatory framework and tools that could help to limit or streamline market eviction processes.

We must reassess the issue of compensation in a context where the commodification of land markets is accelerating and urban land values are increasing.

Planning measures, procedures and tools will have to be adopted to limit market pressures on inner-city informal settlements. Special zones should be designated with anti-eviction laws or settlements should be declared eligible for upgrading and local authorities should be allowed to intervene in areas of land conflict.

A wide range of alternatives to individual land ownership should be made available in order to limit market pressure on poor settlements (Durand-Lasserve, Fernandes and al., 2002)

Incremental processes should be promoted in relation to tenure upgrading and the provision of infrastructures and services (United Nations, 2003 a, Christiansen and Werner, 1999).

Collective rights should be provided rather than individual rights, at least for a certain period of time, in order to limit pressure from investors on those settlements that are being regularized (Payne, 2002) .

The action of national and international NGOs must be supported, and advocacy planning services and legal advice provided to community-based organizations (Satterthwaite and Mitlin, 2004, Imperato and Ruster, 2003)

APPENDIX 1

INTERNATIONAL HUMAN RIGHTS LAW ON FORCED EVICTIONS

- International Covenant on Economic, Social and Cultural Rights (ICESCR) is the most important international legal treaty embodying housing rights. It was adopted by the U.N. in 1966 and came into force in 1976.

"The States parties ... recognize the right of everyone to an adequate standard of living....including adequate food, clothing and housing..."

Most countries have ratified the ICESCR.

Many regional human rights instruments also prohibit the practice of forced evictions (African Charter on Human and People's Rights, American Convention on Human Rights, European Convention for the protection of Human Rights).

- UN Conference on H.S. of 1976 (Vancouver) noted that *"... major clearance operations should take place only when conservation and rehabilitation are not feasible, and relocation measures are made"*.

- In 1988, the Global Strategy for Shelter for the Year 2000 (adopted by the General Assembly) "... recognized the fundamental obligation (of Governments) to protect and improve houses and neighborhoods, rather than destroying them".

- Agenda 21, adopted in Rio de Janeiro in 1992 stated that *"... people should be protected by law against unfair eviction"*.

Agenda 21 principles were strongly reaffirmed at the World Summit on Sustainable Development (WSSD) in 2002.

- In 1993, the Commission on Human Rights made explicit that forced evictions *"... constitute a gross violation of human rights, in particular the right to adequate housing"*.

- The Commitment of Governments against forced evictions is explicitly stated in the Habitat Agenda adopted at the Habitat II Conference in 1996 (Para 40, n). section???? : The States participating in the Conference commit themselves to the objective of *"Protecting all people from and providing legal protection and redress for forced evictions that are contrary to the law, taking human rights into consideration: when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided"*.

- In 1997, in its General Comment N° 7, the UN Committee on Economic, Social and Cultural Rights stated that *"...forced evictions are ... incompatible with the requirements of the (International) Covenant (on Economic, Social and Cultural Rights) and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law" -"*.

- Some Institutions such as the W.B. or the OECD have adopted guidelines on relocation and or resettlement with a view to limiting the scale and human suffering associated with forced evictions

- The UN Task Force, set up to work on Target 11 of the MDG (to achieve a significant improvement in the lives of at least 100 million slum dweller by 2020), underlines the importance of security of tenure as a fundamental component of the concept of "sustainable

improved lives", and the need to security of tenure and in-situ upgrading of existing slums (Interim Report, Task Force 8, MDG)

END NOTES

Note 1

Security of tenure

Security of tenure “described as an agreement between an individual or group to land and residential property which is governed and regulated by a legal and administrative framework (legal framework includes both customary and statutory systems). Security of tenure derives from the fact that the right of access to and use of the land and property is underwritten by a known set of rules, and that this right is legally justifiable. Tenure can be affected in a variety of ways, depending on constitutional and legal framework, social norms, cultural values and, to some extent, individual preference. In short, a person or household can be said to have secure tenure when they are protected from involuntary removal from their land or residence, except in exceptional circumstances, and then only by means of a known and agreed legal procedure, which must itself be objective, equally applicable, contestable and independent. Such exceptional circumstances might include situations where the physical safety of life and property is threatened, or where the persons to be evicted have themselves taken occupation of the property by force or intimidation.” (UNCHS, 2000).

“Secure tenure” is defined as “the right of all individuals and groups to effective protection by the State against unlawful evictions (UN-Habitat, 2002 b).

Note 2

In 1993, the USG (Urban Survey Group, today Urban Sector Group), started organising communities. In 1994, the ACHR initiated the creation of the SUPF (Squatter and Urban Poor Federation, today Solidarity and Urban Poor Federation). In 1996, the Municipality of Phnom Penh abandoned its forced eviction policy and adopted a new approach to informal settlements, with emphasis being put on livelihood upgrading, with support from NGOs and the collaboration of UN-Habitat.

Note 2: Borei Keila, a crowded inner-city settlement of 1,776 households, living in and around 4-storey apartment blocks in the Makara District; Dey Krahom, another large settlement of 1,465 households near the river in the Chamkarmon District; Santhi Phaep, a 70-household settlement along the railway tracks in the Daun Penh District; Roteh Pleong, another railway settlement of 255 households, and Prek Toela a very poor settlement of 106 families located near the garbage dump in the Meanchey District.

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