

DEALING WITH MARKET EVICTION PROCESSES IN THE CONTEXT OF DEVELOPING CITIES

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1. FORCED EVICTIONS AND MARKET EVICTIONS

1.1. Framing eviction processes

Evictions concern primarily households living in "slums".

Evictions closely linked with market pressures + inappropriate public policies

Negotiating/bargaining capacity of slum dwellers weakened by

- Insecure tenure and occupancy status
- Poverty / lack of resources
- Cultural background
- Asymmetry in access to information
- Lack of political protection

Communities exposed to two main forms of eviction

- Forced evictions
- Market evictions, market-driven eviction, market-driven displacement

1.2. Defining the terms

- **Eviction**: formal procedure or unlawful action that aims at removing an occupant the physical possession of a property he/she occupies. Compensation may or may not be paid to evicted households.

- **Forced eviction** : a form of eviction involving the use of force.

- **Unlawful evictions**: evictions authorized or initiated by public authorities without a full legal basis.

- **Market eviction or market-driven eviction or market-driven displacement**: negotiated removal or "voluntary" displacement of individual occupants or of communities.

Usually it results in a deterioration of their economic and housing conditions.

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

2.1. Global context and trends : urban poverty, slum populations and evictions

- Slums population in 2004 : 924 M people (UN-MDG)
- 2020 : 1.7 billion (UN-MDG)
- 2030: 2.8 billion by 2030 (Cohen)

Current trends increasing number of forced evictions

- Forced evictions recognized by the UN as a gross violation of human rights.
- They continue to take place under a number of pretexts
- According to COHRE (2003), the worldwide rate of forced evictions is increasing:
 - 4.2 million (1998 -2000)
 - 6.7 million people (2000 – 2002)
 - 6.3 million people across the world were under threat of forced eviction in 2003
- Global context
- Persistent imbalance between demand and supply of land for housing.
- Commodification of informal land markets.

There are no figures on market evictions

Market evictions / market-driven evictions: an underestimated phenomenon

- 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.
- Market evictions considered as a "normal" process, as long as they result from market mechanisms and are not "illegal" with regard to international legislation.
- Market evictions not sufficiently taken into account by aid and cooperation agencies and international finance institutions.

Market evictions usually observed in the following situations:

- Settlements upgrading and provision of services may increase housing expenditures, combined with market pressures = lower income families vulnerable to market pressure.
- Tenure upgrading or regularization programmes = impact on the market value of the land, making lower income families vulnerable to market pressure.
- Direct pressures from a developer on a land already occupied by households that have no real rights, but some form of de facto secure tenure. Occupants are forced into a negotiation

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 530 settlements)

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

- Land rights redefined in a post-war / post-genocide context (Cambodia between 1971 and 1975, Rwanda in 1994)
- Progressive introduction of private property rights:
 - Rwanda: Land Law of 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.
 - Cambodia: Property rights reintroduced in 1989. Constitutional recognition of property rights in 1993.
- Emergence of land market accompanied by the implementation of a nationwide land titling and registration programme.

3.2. Market eviction processes in Kigali

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

- Land for housing the poor mainly provided by customary owners of the urban fringe: "spontaneous settlements"
- The only settlements recognised as legal are planned "settlements", as opposed to "spontaneous" ones.

3.2.2. The land and housing development policy is pushing the majority of the urban population into illegality

- Planning and development standards are excluding 75 to 80% of households from legal access to land and housing: exposed to evictions.
- No *in situ* upgrading in irregular settlements.
- Public authorities objective: to make prime land in the central and peri-central area available for development.

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

- Public authorities can evict households from irregular settlements.
- Procedure enables private investors to obtain development approval on a site already occupied by an irregular settlement.
 - "Voluntary" departure of the occupants negotiated by investor/developer.
 - Tenants not entitled for compensation.
- In both cases, compensations paid to evicted households correspond to the cost of the dwelling unit built on the plot, as assessed by the City Council, but not to the cost of land.
- Amount of compensation paid by private investors deducted from the price they will have to pay later to obtain the land title on the developed land.
- In 2003-2004, average amount of compensations = 20 to 25 % of the minimum cost of a dwelling unit constructed according to the minimal norms recognised by the authorities

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

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

3.3. Market eviction processes in Phnom Penh

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

Since 1989: series of measures to address land issues and ensure efficient land privatisation and management.

However, a very small proportion of the population has official land title.

Confusion amongst the population with regard to the legality of ownership of land.

3.3.2. 1990-2003: from forced evictions to resettlements and *in situ* upgrading

- First forced evictions have accompanied the development of squatter settlements between 1990 and 1996. Evicted families were rarely given compensation or resettlement options.

- Evictions also initiated by private investors/developers. Compensations paid to occupants depend on the "value" of the documents/title provided.

- 1998-2003: new "concerted resettlement policy" implemented by the Municipality of Phnom Penh. 9,000 households relocated in 21 sites on the urban fringe of Phnom Penh.

- In May 2003, Government's commitment
 - To put an end to evictions and resettlements
 - To launch a massive slum upgrading programme (upgrading 100 urban poor settlements per year over a period of five years) in most of the 569 poor settlements identified in Phnom Penh in 2003.

3.3.3. Limited results of *in situ* upgrading policy and market pressure on inner-city poor communities

- December 2004: less than 10 informal settlements had been upgraded.

- Resettlement policy abandoned.

- Public land reserves sold out by government administrations to private investors.

- No provision of public land is made for providing serviced sites for housing the urban poor.

- Increasing market pressures on poor inner-city settlements located in prime areas with a high commercial value resulting in forced evictions and in negotiated removals or displacements.

The post 2003 *in situ* upgrading policy, presented as a major success by NGOs and poor community federations, had perverse effect by restricting access opportunities to alternative resettlement sites.

4. CONCLUDING REMARKS: POLICY RESPONSES TO MARKET EVICTIONS

4.1. Factors of market evictions:

4.1.1. Coexistence of various types of property rights

- Multiple forms of tenure status and occupancy rights coexist with different values according to the protection they provide.
- No land law or land code = arbitrary interpretations regarding the legal basis of tenure rights
- Private ownership rights introduced with insufficient regulatory measures, following years of State monopoly on land

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

- 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 and rapid increases in urban land prices.
- When 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

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

- Currently observed in economies in transition.
- Role of corruption.

4.1.5. Systematic land titling and registration programs

May accelerate market eviction processes if they are not incrementally implemented or accompanied by appropriate measures to provide protection for the poorest households

4.2. Limiting the impact of the market eviction process

4.2.1. Assessing and monitoring market eviction processes

- Need for a better understanding of market eviction or market-driven eviction mechanisms and processes.

- Need for a better understanding of compensation issues in cases of expropriation and evictions.

4.2.2. Policy responses to market evictions

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

- **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.

- **A wide range of alternatives to individual land ownership** should be made available in order to limit market pressure on poor settlements.

- **Incremental processes** should be promoted in relation to tenure upgrading and the provision of infrastructures and services.

- **Planning measures, procedures and tools** limit market pressures on inner-city informal settlements.

- Special zones should be designated with anti-eviction laws
- Settlements declared eligible for upgrading
- Local authorities allowed to intervene in areas of land conflict

- **The action of national and international NGOs must be supported**, and advocacy planning services and legal advice provided to community-based organizations.
