

# **Promoting Social Inclusion in Urban Areas. Policies and Practices.**

**6<sup>th</sup> N-AERUS Research Conference on Cities in the South.  
Lund, 16-17 September 2005**

## **MARKET-DRIVEN DISPLACEMENTS AND THE PERPETUATION OF INFORMAL SETTLEMENTS IN DEVELOPING CITIES**

Alain Durand-Lasserve. Centre National de la Recherche Scientifique, France  
<[a.durand-lasserve@numericable.fr](mailto:a.durand-lasserve@numericable.fr)>

A draft version of this paper was presented at the Third Urban Research Symposium on “Land Development, Urban Policy and Poverty Reduction” (Brasilia, 4-6 April 2005) under the title “How to deal with market eviction processes in developing countries”.

Part of this draft had been previously discussed in the Workshop organised by the University of Witwatersrand, Johannesburg, in November 8-10, 2004, on “The Perpetuating Challenge of Informal Settlements”.

The above revised version will be published by the Cape Town University Press, South Africa, in November 2005.

This paper is mainly based on observations made by the author in 2004 and 2005 in Phnom Penh, Cambodia, and Kigali, Rwanda.

## **FORCED EVICTIONS AND MARKET EVICTIONS**

### **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 are from low and middle-income countries (Millennium Project, 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) (Lopez Moreno, 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 in existing informal settlements; (ii) evictions followed by 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 slum policies are simply treating the symptoms and cannot be considered as structural and sustainable policies. The Millennium Development Goal is to achieve a significant improvement in the lives of 100 million slum dwellers by 2020 (Millennium Project, 2005). This target would represent only 6% of the slum population in 2020.

### **Negotiated displacements and market-driven eviction processes**

This paper, based on a series of observations made in a large number of developing cities throughout sub-Saharan Africa, South and South-East Asia and Latin America over the last two decades put emphasis on two recent case studies in Kigali, Rwanda, and Phnom Penh, Cambodia. It does not deal with “forced eviction” processes, but with particular forms of displacements, usually under the pressure of market forces.

Current dynamics accompanying 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 (World Bank, 2003) are increasing the market pressure 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.

Many of the evictions that are resulting from these dynamics 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 households, regardless of how fair and equitable this compensation may be. This frequently results in a deterioration of their economic and housing conditions, and ultimately in the formation of new slums. This is what we call “market-driven displacements” or, in some circumstances, “market-driven evictions”. It concerns primarily informal settlements, and especially “slums” as defined by the United Nations (UN-Habitat, 2002). It encompasses all situations where displacements are the direct or indirect consequences of a development aiming to make a more profitable use of the land.

Forced evictions as well as negotiated “market-driven displacements” are closely linked with 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 and/or unsuitable for urbanization).

Although no reliable figure is available, in most cities the scale of market-driven displacements or evictions clearly overrides that of forced evictions.

In the case of formal settlements, whether the occupant is a tenant or the owner of his dwelling unit, evictions may take place if the occupant does not comply with an administrative or a court expropriation decision. In such cases, 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.

Occupants in informal settlements are in a different situation: their irregular situation regarding planning, development and/or construction norms (in the case of informal commercial land subdivisions) and, more importantly, their tenure status, means that they are not entitled to claim compensation for the replacement cost of their land and dwelling unit. They can be evicted with or without compensations or resettlements options. Evictions may follow formal/legal procedures. However, empirical observations show that many evictions do not have full legal basis, or are not carried out according to legal procedures.

The level of tenure security depends on evidence the occupants of any settlement can provide. Occupants in informal settlements do not usually have any real rights such as a property title or a lease. In many cases, other documents such as administrative permits, deeds of sale, receipts, invoices, ration cards, may be accepted as evidence of quasi-ownership, but with a lower value than real rights or leaseholds.

In some cases, the terms of the negotiations between communities living in informal settlements, public authorities and land owners or developers can be considered as being fair: compensation paid or alternative resettlement options offered to the households concerned do not result in any significant deterioration in their housing conditions or expenditures. This is usually the case when concerned communities enjoy already some form of *de facto* security of tenure, have access to information, benefit of political protection, and is able to mobilize resources to protect their interests.

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, the terms of the negotiation are distorted: their negotiating/bargaining capacity is weakened and they tend to accept arrangements that will result in a deterioration of their housing situation and welfare.

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.

## **INFORMAL SETTLEMENTS, MARKET-DRIVEN DISPLACEMENTS AND EVICTIONS : CURRENT AND TRENDS AT GLOBAL LEVEL**

Eviction mechanisms and trends must be analysed with reference to the global context of the persistent imbalance between demand and the 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 evictions and market-driven displacements or evictions, each has its own specific characteristics.

The most common cases of forced evictions in developing cities are commonly observed in the following situations:

- A landowner who has, in the past, authorized tenants to settle on his land now wants to develop it or to 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.
- Public authorities launch an expropriation procedure, by power of eminent domain, in order to build infrastructure or carry out urban renewal, or a redevelopment scheme, or a beautification project.
- Public authorities sell to private investors land from the State private domain which is already occupied by tenants or squatters (case of cities in transition where land is being privatized, with pressure of emerging land markets). The sale of public land aims to increase their revenues in the absence of land taxation and other fiscal resources. The Kigali and Phnom Penh case studies are a good illustration of such methods.
- Public authorities recover land that had been allocated to occupants under a temporary PTO regime, in order to carry out a development project, usually in partnership with private investors (case of sub-Saharan African cities where the PTO regime still prevails).

In all these cases, occupants of the land will be ultimately exposed to forced evictions. However, *de facto* security of tenure in informal settlements usually provides protection against forced evictions which may compromise the success of legal actions to evict occupants, and may force private investors or public authorities to negotiate.

Negotiated market-driven displacements or evictions are usually the result of an actual or anticipated investment in a property which is already informally occupied, and which cannot be developed as long as it is occupied. The aim 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 (this is the most common case); the tenure status of the land being transferred is uncertain, and obtaining a real right may require time and financial resources; the land is not suitable for development because of its physical characteristics, or existing land use regulations preclude development. If the investors succeed in obtaining the required land 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.

Market-driven displacements may also result from *in situ* tenure regularization, settlement upgrading and basic service provision without community organization or appropriate accompanying social and economic measures (such as credit facilities, advisory planning or capacity building at community level) and this may give rise to increases in housing expenditure that the poorest segment of the settlement population is not able to meet. When combined with increases in land values and market pressures resulting from tenure regularization, the poorest households will be tempted to sell their property and settle in a location where accommodation costs are less. This commonly observed progressive form of displacement results in the gradual gentrification of inner city and suburban low-income settlements.

Market-driven displacements are frequently observed when several types of property rights coexist, and each has a different value, depending on the type of protection it affords, with the result that the economically weaker households are exposed to market pressures. This usually happens when tenure situations are covered by a dual legal system, with various forms of reinterpreted “customary” laws and practices inherited from the pre-colonial period coexisting 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 other types of document with varying degrees of legitimacy, such as administrative permits to occupy, deeds of sale, bills, ration cards, registration books, etc.).

Such situations are common when there are no appropriate land records or land registers, or when existing land-related information systems are not available, or no longer operate because they have not been updated or have been destroyed), thus leaving the way open to arbitrary interpretations as to the legal basis of tenure rights. This happens, for instance, when urban land and houses have been occupied in a post-war emergency context by refugees or returnees without proper government control, and 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, etc.).

Compared with forced evictions, market evictions are usually a longstanding process. However, they may also take place in a very short period of time. The systematic land titling and registration programs currently being promoted in many developing countries, with the objective of setting up mortgage finance systems, securing investments and mobilizing “dead capital”, may accelerate market eviction processes if they are not incrementally implemented or accompanied by appropriate measures to provide protection for the poorest households.

Settlements exposed to market eviction may be located on private or public land. Those living on 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. In all cases, households headed by women are more vulnerable to market-driven forms of displacements or evictions than those headed by men.

There are no figures for market evictions. Although forced evictions are well documented by an efficient network of NGOs and slum dwellers’ associations – the Center on Housing Rights and Evictions’ Global Survey on forced evictions in 60 countries found that 6.7 million people were

evicted from their homes between 2000-2002 and that 6.3 million were under threat of forced eviction in 2003) (COHRE 2004) – there are no figures for the scale of market-driven displacements. Yet in cases that have been documented, the number of market-driven evictions is much higher than the number of forced evictions. Market-driven evictions are usually seen as a normal consequence 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, 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).

## **TWO CASE STUDIES: KIGALI (RWANDA) AND PHNOM PENH (CAMBODIA)**

**Historical, social and economic backgrounds are different in the two cities, but they share some similarities.**

Cambodia and Rwanda have a national population of respectively 13 millions and 8 millions, predominantly a rural population. Urban population represents only 20% of the total population of Cambodia, and 16% in Rwanda. In 2004, capital cities have a population of 1.2 million (Phnom Penh) and 0,7 million (Kigali). The rate of urban population growth is around 3,5% to 4% in Phnom Penh and 7% Kigali.

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

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

The two countries are characterised by the gradual re-introduction of property rights in a post-war / post-genocide context (Cambodia between 1971 and 1975, Rwanda in 1994), which resulted in both cases by the destruction of land registers and records. Following the war and the genocide, these two cities have been confronted with the massive arrival of “returnees”/war refugees. This phenomenon has had a major impact on the tenure and occupancy status of the population. In both 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 and is expected to be completed within 5 to 6 years. In Kigali emphasis is being put on 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 by the government under the “permit to occupy” regime. The State retains the eminent ownership of the land and is entitled to take it back if leaseholders of plots of land for housing in urban or suburban areas cannot develop the land within 5 years, according to construction standards set out by public authorities. In rural and 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 rise in the 1980s and early 1990s to the rapid extension of large urban low-income settlements. In 1994, 80% to 85% of the population of Kigali was living in these so-called “precarious” settlements. The

adoption of the new Land Law in November 2004 did not put an end to the State monopoly of land, but recognised private land ownership, and opened 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 Khmer Rouge the city was gradually reoccupied. All property rights prior to 1979 were abolished. Those working for the new government were allowed to settle in vacant land and abandoned buildings in Phnom Penh with their families. They were granted only a right of use but were allowed to transfer their land or dwelling unit by inheritance. They did not have to pay rent, but they had – in principle – to register with the government authorities and they received a “card” that authenticated the legitimacy of their occupation. The land and house 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 1980s, one could 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, led to the accelerated development of squatter settlements in Phnom Penh.

### **Market-driven displacements and evictions in Kigali**

Between 1991 and 2002, the proportion of the urban population 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 (Perouse de Montclos, 2000).

Each year, during the last five years, about 48,000 people settle in Kigali. This would require an annual provision of 8,500 dwelling units, in addition 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” on the urban fringe. Government authorities tolerated these practices and, especially in the late 1980s and early 1990s, tried to streamline and regulate them by implementing some regularization projects (République Rwandaise, 1987). The new Government that came into power following the 1994 genocide did not recognise the customary land market but did not suggest any alternative policy for housing the poor, and took series of actions to prevent the formation of new slums. This situation is now resulting in a growing pressure on existing informal settlements, mainly for rental housing (République du Rwanda, 2004 b).

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 administrative boundaries, of the City of Kigali, which allocates land required for any development project (République 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 National Housing Policy defined by the

government (Republique du Rwanda, 2004a), the only settlements recognised as legal are “planned” settlements, as opposed to “spontaneous” ones (Republique du Rwanda, 2004 d). In urban areas, any development must be based on an approved “development plan”. Any other development is considered illegal. Individual housing constructions are authorized on land leased by public authorities, provided they conform to the same set of norms and standards. Few households can manage this, and most have no choice but to rely on informal land markets, and are thus 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.

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).

Expropriations and evictions result from the combined intervention of public authorities and private investors. The city of Kigali evicts households from irregular settlements in order to carry out infrastructure, development and urban renewal projects, especially in the central part of the city. Expropriation can also take place in formal settlements that have not been developed according to official norms and standards.

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: informal settlements may be the target of a development project initiated by private investors (individuals, associations, cooperatives, developers) who can obtain approval from City Hall for a development project on a site already informally occupied, and negotiate the “voluntary departure” of the occupants or their eviction. City Hall only intervenes if the parties cannot reach agreement on the amount of compensation to be paid. Compensation paid by private investors will later be deducted from the price of the land investors will have to pay to obtain a land title, after the development project is completed.

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. 80% of households in Kigali are thus potentially exposed to this form of expropriations or market-driven evictions.

According to official sources, about 1,280 households were evicted and paid compensation by City Hall in 2003 and 2004. If the number of households evicted by City Hall represents only 1/3 to 1/4 of displacements following private investor interventions, as estimated by the City authorities, then the total number of evicted households over the last two years would be in the range of 3,840 to 5,120, corresponding to a population of 17,300 to 23,000 persons.

The compensation issue is a key dimension of market eviction processes. The compensation paid to households corresponds to the cost of the dwelling unit built on the plot, as assessed by the City Council, but not the cost of land, which remains the property of the State or of the City of Kigali. In the case of eviction by public authorities, or of displacement initiated and negotiated by private investors, the compensation paid is based on the rate laid down by the City Council in 1996, and not updated in December 2004.

The resettlement of displaced or evicted households on serviced plots might be an appropriate response. However, the provision of serviced plots does not meet the demand. In cases where resettlement 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.

Low compensation are paid to households displaced or evicted from informal settlements, as it only takes account the cost of the development (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, in 2004, the minimum cost of a dwelling unit constructed according to the minimal norms recognised by the authorities is 3 millions 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 million Frw.

If the rate were to be revaluated, the city of Kigali would not have the required 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 privatisation 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 investors, thus increasing the risks of massive market-driven evictions.

The registration systems currently used, which give a much higher priority to the question of tenure regularisation and access to ownership than to security of land tenure, is tending to worsen the situation. There is therefore a risk that it will only be accessible to those who can afford it, thus benefiting 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. **3.2.6.**

Limited resettlement alternatives offered to evicted households are worsening the impact of market eviction processes. The practice of eviction without fair compensation or without offering resettlement options is creating a population of homeless families. 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 City of 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 ; 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.

## **Market-driven eviction processes 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. (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, and households to obtain ownership titles to residential plots of up to 2,000 sq. metres.

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; 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".

There are in practice only two types of document 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". "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). Sale agreements that are signed and stamped by District 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 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, while 71% of those surveyed indicated that they owned their land, only 5.4% had a land certificate. 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." (Chan and Sarthi, 2002).  
dwelling unit (Clerc and Rachmuhl, 2004).

Since 1992, the number of households living in informal settlements has rapidly increased, thus limiting their capacity to accommodate any additional population. Three surveys over the last ten years by Solidarity for the Urban Poor Federation (SUPF, 2003), a local CBO, confirm this trend: 130,000 people were living in 187 poor communities in 1994; 375,000 were living in 569 communities in 2003. Poor communities include squatter settlements on public or private land, and settlements where low income families have a recognised occupancy status that give them some security of tenure but no ownership rights.

Geoff Payne (2004) identifies, from the least to the most secure, 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.

Although most 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 in 1994 by the Urban Survey Group (USG), a local NGO, for the Municipality of Phnom Penh, indicates that 58% of the households in informal settlements had paid to be allowed to settle. 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 (Clerc & Rachmuhl, 2004).

The first forced evictions carried out by the Municipality of Phnom Penh for the construction of infrastructure or city beautification projects accompanied the development of squatter settlements in Phnom Penh between 1990 and 1996. Evicted families were rarely given compensation or resettlement options. 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 they were able to provide. This procedure involved thousands of families, combining forced evictions and market-driven displacements processes.

The attitude of the public authorities gradually evolved under pressure from local and international NGOs. Between 1996 and 2001, more than 6,000 households benefited from 160 small-scale upgrading projects. A new “concerted resettlement policy” was gradually defined and implemented by the Municipality of Phnom Penh between 1998 and 2003. About 9,000 households were relocated to 21 sites on the urban fringe of the city. Land was provided by the Government or the Municipality of Phnom Penh, and infrastructure construction and service provision 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 poor settlements in Phnom Penh.

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

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 five-year period. This would mean that nearly all of the 569 poor settlements identified in Phnom Penh in 2003 would benefit from this programme. This announcement 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 a & b).

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 took much longer than expected. Profitability objectives were pushed to the fore, to the detriment of social priorities, and land sharing turned into a form of public-private development partnership.

Over the last five years, intense land speculation and a spiralling increase in the market price of land in urban and suburban areas have accelerated large-scale market-driven displacements or evictions at city level.

The sub-decree on Social land concession would – in principle – enable displaced 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-driven displacements and evictions are taking place in a context where the Government and the Municipality of Phnom Penh have no defined policy regarding public land reserves, and where public land cannot be made available in sufficient quantities for low-cost land or housing development.

The 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 (Ministry of Land Management, 2003). 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. In many cases, the proceeds of the sale of land of the private domain of the State 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, investors are exerting steady pressure on Municipal authorities 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 displacement of the community. This can be an eviction, but it is usually presented as a voluntary or negotiated displacement. The terms of the deal will then depend on the negotiating ability of the community or households concerned (including its organizational and lobbying capacity, its political protection, and its tenure status). A recent illustration of pressures brought to bear on informal settlements concerns the case of the Koh Pich area Community, which lives on public land that the Canadia 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 US \$24-26 per square meter, the current offer by the city to compensate residents is at the rate of US \$2.50 per square meter (East-West Management Institute's Human Rights in Cambodia, 2005). With no 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, in fact had an unexpectedly perverse effect by restricting access opportunities to alternative resettlement sites.

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.

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.

## **MAIN IMPLICATIONS AND POLICY RESPONSES TO MARKET EVICTIONS**

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 (they also concern rural populations, especially when titling programmes are implemented).

Disguising a forced eviction as a “negotiated displacement” 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.

In this context, there is a need for a better understanding of the mechanisms and processes involved in market eviction or market-driven eviction. 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. In order to assess policy responses to market evictions, it is necessary to identify those mechanisms and legal and regulatory frameworks and tools that could help to limit or streamline market eviction processes.

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. Although no figure is available at global level, empirical information clearly indicates that the magnitude of various forms of market-driven displacements now surpasses that of forced evictions. This can be seen and interpreted as a normal phenomenon: it forms part of the natural dynamics of change in every city. The arrival of better-off households in poor urban settlements may have a positive impact on local economic development, may generate new employment opportunities and increase potential for further community-driven development.

At city level, a high rate of economic growth may have two contrasting/conflicting types of impact on urban informal settlements. On the one hand, new employment opportunities and increases in earned income must be considered as a precondition for poverty reduction and consequently for improving the housing situation for the urban poor. On the other hand, it may have a negative impact as it is usually accompanied by rapid increases in land prices, and market pressures on informal settlements located in urban areas suitable for development, thus accelerating the pace of market-driven displacements or evictions. 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 any room for manoeuvre available for housing the urban poor. 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 do not, they are vulnerable to pressures from investors and will be in a weak position to negotiate and obtain fair compensation.

Without proper resettlement options, fair compensation and/or appropriate accompanying measures, market-driven displacements or evictions have two main impacts: (i) they lead to the establishment of new informal settlements on the periphery of cities, far away from city centres, where informal land markets still operate and can provide low-cost accommodation arrangements; (ii) they tend to increase population pressure and density in informal inner-city settlements that are not – or not yet – targeted for development. This usually results in a deterioration in housing conditions and/or increases in housing expenditure and commuting costs for displaced households. Thus policy responses to market-driven displacements and eviction

processes should focus on three main sets of issues: access to land for resettlement programmes, compensation, and accompanying measures for communities benefiting from in situ upgrading programmes.

So far, little attention has been paid to making land for resettlement programmes available to displaced or evicted households. One major bottleneck is the availability of land – especially of publicly owned land – for resettlement. In most cities, lack of transparency in the management, use and allocation of public land reserves favours the upper segments of the demand, to the detriment of the low-income groups, through various forms of public-private developments where commercial objectives override socially oriented goals.

The issue of compensation is at the core of market eviction processes and 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, and (iv) the role of NGOs and CBOs. The amounts of compensation paid should be reassessed in a context of accelerated commodification of land markets and increases in urban land values. In most cases, resettlement grants or compensation paid to displaced or evicted households do not correspond to the replacement cost of the dwelling unit, but on its value as assessed by government. This rarely incorporate the cost of land, nor does it take into account the actual market value of land in alternative resettlement sites in suburban areas.

Planning measures, procedures and tools can limit market pressures on informal inner-city settlements. These include various forms of protection against forced and market-driven evictions (such as the Special zones of social interest in Brazilian cities), simplified planning procedures and a revision of norms and standards. Especially in informal settlement upgrading (tenure upgrading and the provision of infrastructures and services), incremental processes should be promoted as they leave communities time to adapt to new situations and be less vulnerable to market pressures, (United Nations, 2003 a, Christiansen and Werner, 1999).

In both resettlement programmes and in situ upgrading, particular emphasis should be placed on tenure issues. Security of land tenure must be dissociated from access to land ownership, and 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). In many cases, 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).

Community organisation is a key element for limiting the negative impact of market pressure on poor communities, as it usually gives them better negotiating or bargaining powers at settlement and city levels. It is a prerequisite for participatory planning and for the implementation of accompanying measures in cases of slum upgrading or of displacement and resettlement. In this respect, the action of national and international NGOs is of particular importance for the advocacy planning services and legal advice they provide to community-based organizations (Mitlin & Satterthwaite, 2004, Imperato and Ruster, 2003).

## REFERENCES

- Center on Housing Rights and Evictions (COHRE), February 2004. Media Release. Forced evictions reach crisis levels leaving millions homeless worldwide.
- Chan Sophal & Sarthi Acharya. 2002. *Land Transactions in Cambodia. An Analysis of Transfers and Transaction Records.. Working paper N° 22. Cambodia Development Resources Institute. 46 p.*
- Christensen, S.F., P.D. Hoejgaard and W. Werner. 1999. Innovative land surveying and land registration in Namibia. DPU-UCL Working paper N° 93. May 1999. 73 p.
- Clerc, Valérie et Rachmuhl, Virginie. 2004. Les marchés fanceis et immobiliers des quartiers informels à Phnom Penh. Rapport intermédiaire. GRET, Paris. 96 p.
- Cohen M. 2004. proposed Argument for the UN Habitat Global Report on Financing Urban Development. A discussion paper presented at the Global Research Network on Human Settlements (HS-Net). Nairobi, 1-3 November, 2004
- *Community News*. 2003 a. A publication of the UPDF in Phnom Penh. *Housing breakthrough for Phnom Penh's Poor*. Issue n° 2, june 2003.
- *Community News*. 2003 b. A publication of the UPDF in Phnom Penh. *Government gives land for first five on-site upgrading projects*. Issue n° 3, july 2003
- Durand-Lasserve, A. and Royston L. 2002. (Eds) 2002. *Holding their Ground: Secure Land Tenure for the Urban in Developing Countries*, Earthscan Publications, London. 264 p.
- Durand-Lasserve, A., Fernandes, E., Payne, G. Smolka, M. 2002 b. *Secure Tenure for the Urban Poor*. In: *CIVIS - Cities Alliance. Learning from Cities*. Cities Alliance. Cities without Slums. Issue 3, September 2002. 8 P.
- Fallavier P. 2003. Understanding Slums. The case of Phnom Penh. Acase studies for the Global Report on Human Settlements. 24 p.
- Geoff Payne and Associates. 2004. Increasing tenure security and options for new housing in Phnom Penh, Cambodia. Draft final report submitted to the Ministry of Land Management, Urbanisation and Construction, Royal Government of Cambodia. Phnom Penh Municipality, Cities Alliance, UN-Habitat & GTZ Cambodia. Prepared by Geoff Payne and Associates with Din Somethearith and B.S. Khemro. 42 p.
- Imperato, I. And Ruster, J. 2003. Slum Upgrading and Participation. Lessons from Latin America. *Directions in Development*. The World Bank, Washington DC.
- Kreibich, V. and Olima, W. H. A. (Editors) 2002. *Urban Land management in Africa*. Spring Research Series. University of Dortmund, Germany, and University of Science and Technologies, Kumasi, Ghana, 377 p.
- Lopez Moreno, E. June 2003. Slums in the World: the Face of Urban Poverty in the New Millennium. Monitoring the Millennium Development Goals, Target 11- World-wide Slum Dwellers Estimations. UN-Habitat. The Global Urban Observatory, 47 p.
- Millennium Project. Task Force “Improving the Lives of Slum Dwellers”. A home in the city. Achieving the Millennium Development Goals. Earthscan, London, 2005, 157 p.
- Ministry of Land management, Urban Planning and Construction (MLMUPC) and UNDP / UN-ESCAP / UN-Habitat (CMB/02/022). 2003. *Housing Situational Study Survey and Case Studies* 2003. A report submitted by CamConsult CO. Ltd and Urban Development Fund. 2 September 2003, 43 p.
- Ministry of Land management, Urban Planning and Construction (MLMUPC) and UNDP / UN-ESCAP / UN-Habitat (CMB/02/022). 2004. *Summary of Task Force Activities for the Preparation of a Draft National Housing Policy*. Prepared through

- assistance from UNDP/ESCAP/UN-Habitat, by the Draft National Housing Policy MLMUPC Task Force (revised). 61. p.
- Mitlin, D. and Satterthwaite, D. (Editors) 2004. Empowering Squatter Citizen. Local Government, Civil Society and Urban Poverty Reduction.
  - Payne, G. (Eds.) 2002 . Land, Rights and Innovation. Improving Security of tenure for the Urban Poor. ITDG Publishing. 331 p.
  - Pérouse de Montclos, M.A. 2000. *Kigali après la guerre : la question foncière et l'accès au logement*. Centre Français sur la Population et le Développement. Dossier du CEPED N° 57. Février 2000, 40 p.
  - République Rwandaise. Ministère des Travaux Publics et de l'Énergie. *Étude de factibilité de la restructuration des quartiers spontanés de Kigali. Rapport définitif. Mai 1987. Avant projet sommaire*. Volume 2. Bureau National d'Études de Projets (BUNEP) et CNUEH. 451 p.
  - Republic of Rwanda, City of Kigali. 2002. *Kigali Economic Development Strategy*. August 2002. 95 p.
  - République du Rwanda, Ministère des Infrastructures. 2004 a. *Politique nationale de l'habitat au Rwanda*. Kigali, janvier 2004. 45 p.
  - République du Rwanda. 2004 b. Ministère des Infrastructures. Programme d'Infrastructure et de Gestion Urbaine. Définition d'éléments pour une politique nationale d'urbanisation. Urbaplan. Lausanne-Kigali. Novembre 2004
  - République du Rwanda, 2004 c. Ministère des Terres, de l'Environnement, des Forêts, de l'Eau et des Ressources Naturelles. *Projet de politique nationale foncière*. 52 p. 2004. Kigali, version janvier 2004.
  - République du Rwanda, 2004 d Ministère des Infrastructures. Avant-projet de Loi N° .../2004 du ... portant organisation de l'Habitat. Janvier 2004. 27 p.
  - Royal Government of Cambodia. 2003. Sub-Decree on Social Concession 2003, 13 p., "Social land concession" is a legal mechanism to transfer private state land for social purposes to the poor who lack land for residential and/or family farming purposes.
  - Sik Boreak. 2000. *Land Ownership, Sales and Concentration in Cambodia. A preliminary Review of Secondary Data and primary Data from Four Recent Surveys*. Working paper N° 16. Cambodia Development Resources Institute. 49 p
  - Solidarity for the Urban Poor Federation (SUPF), UPDF, URC, ACHR. 2003. Phnom Penh: An information booklet on the city's development and the settlements of the urban poor. A summary of information collected as part of the CDS process conducted in Phnom Penh and jointly organised with the MPP, supported by Cities Alliance in Association with UNCHS, 2001-2003. Mai 2003. 35 p.
  - United Nations -Habitat, 2002. Expert Group Meeting on Urban Indicators. Secure Tenure, Slums and Global Sample of Cities. Revised Draft Report. Urban Secretariat and Shelter Branch. Nairobi, 28-30 October 2002.
  - United Nations - Habitat 2003 a. Handbook on Best Practices. Security of tenure and Access to Land. Implementation of the Habitat Agenda.
  - United Nations – Habitat 2003 b. The Challenge of Slums/ Global Report on Human Settlements 2003. UN-Habitat, Earthscan.
  - World Bank, 2003: Land Policies for Growth and Poverty Reduction. A World Bank Policy Research Paper