HOMELESS DURING A PANDEMIC: FORCED EVICTIONS IN KISUMU, MOMBASA AND NAIROBI.
List of Acronyms

AFDB - African Development Bank
AIK - Amnesty International Kenya
CBOs – Community Based Organizations
CESCR - Committee on Economic, Social and Cultural Rights
CIDP – County Integrated Development Plan
EU – European Union
KENHA – Kenya National Highway Authority
KENSUP – Kenyan Slum Upgrading Programme
KISIP - Kenya Informal Settlements Improvement Project
KISUDP - Kisumu Integrated Strategic Urban Development Plan
KHRC – Kenya Human Rights Commission
KNHRC – Kenya National Human Rights Commission
KRC – Kenya Railways Corporation
KURA – Kenya Urban Roads Authority
LAP Trust – Local Authorities Pension Trust
MCA – Member of County Assembly
NAWASCO – Nairobi Water and Sewerage Company
NEMA – National Environmental Management Authority
NLC – National Land Commission
NMS – Nairobi Metropolitan Services
NSUPP - National Slum Upgrading and Prevention Policy
PAPs – Project Affected Persons
PPPs – Public-Private Partnerships
RAPs – Resettlement Action Plans

Homeless during a Pandemic:
Forced Evictions in Kisumu, Mombasa and Nairobi.

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COVER:
Demolition in Dagoretti Corner Railways Reserve,
Photo Credit – Amnesty International Kenya.

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Executive Summary

“I can’t feel my Leg!
I can’t feel my leg!”

In his own words, Kevin (pictured) explains how he sought help to untangle him from the rubble that had fallen on him covering the lower part of his body. The now 22-year-old Kevin Mukoya Wambulwa was born and raised in western Kenya Malava. Kevin’s early life was not as easy, his mother left him in 2013 to start a new life immediately after his father had died while he was still young. In 2017, He decided to move to Nairobi after the loss of his dear grandmother, the closest family he ever had. Alone in this world, he settled in Kariobangi North where he started building a new life by picking odd jobs to raise funds for his upkeep. At times he took construction jobs a clear indicator of an industrious young man he was. Over his period of stay in Kariobangi North, Kevin had saved enough and opened his first business, a Barber Shop commonly referred to as a “Kinyozi” which he ran and operated up until the 4 of May 2020.

That morning saw the end of Kevin’s business, his only source of livelihood and hope of a brighter future, the weather was still chilly from the heavy rain that was pounding most parts of Nairobi. The Nairobi Water and Sewerage Company (NAWASCO) accompanied by a heavy police presence, bulldozers and excavators were busy forcefully evicting over 12,700 households in Kariobangi North. In the rush of things, Kevin was trying to salvage his belongings from his house, as he reached out to pick more, an excavator knocked the wall of his house and it fell on him. The weight of the wall landed on his right leg. The neighbors who were also struggling to recover their properties helped whisk him away to Mama Lucy Hospital.

At Mama Lucy, the doctors examined him after taking scans and referred him to Kenyatta National Hospital for specialized treatment. After an assessment, Kevin was informed that the only way to save his life was to amputate his right leg. That was a weighty decision.
Kevin was not ready to make. Nonetheless, he had no alternative but to consent to the amputation. From the 4 to 30 of May he was in the hospital recuperating while struggling to come to terms with his new physique without one leg.

His hospital bill had accumulated to KSH 79,645.00. Despite that, he was released by the hospital on a special arrangement through the social workers accompanied by the reference letter from Mama Lucy Hospital which indicated he was a needy cause. The condition for release was he pays KSH 2,000.00 every month, an amount he is not able to raise in his current condition. The challenge for Kevin was that he had nowhere to go since all his properties and business had been destroyed during the demolition. He had to start from scratch, without family support, with nothing and nowhere to return to since the place he called home was now surrounded by a wall erected simultaneously as they were evicting and demolishing residents. A friend offered to take him in as he tries to rebuild his new normal. For two months he stayed with the friend he felt like a burden since he had to be assisted in doing everything, he used to do for himself. A lady called Juliana came in and offered to pay his rent till the end of the year. Juliana also secured a well-wisher who procured for Kevin a prosthetic leg to assist him to move around.

Kevin is currently employed at a community laundry popularly known as “Dhobi” where he earns his livelihood trying to escape a bitter moment of his life that left him permanently disabled. As Kevin moved from one place to another his crutches and the weight of his prosthetic leg remind him that life will never be the same again. Kevin has lost friends during this period. While others considered him a bother and looked at him differently, he also felt that he is a bother to many thus keeping his distance. “It’s very difficult for a person who used to do everything for himself and now I have to depend on others to do even the most basic things for my livelihood”.

Kevin’s story is an illustration of the social and economic impact of forced evictions and demolitions which in most cases go untold. This study depicts what happens when some elements of law enforcement decide when to and when not to consider a court order a mere document and cement the impunity of disobeying court orders, a pattern emulated from the highest office of the executive both in the National and County governments.

The study illustrated how the Kenyan legislative environment has significant gaps when it comes to eviction and resettlement of persons in relation to upholding the rights of Kenyans to adequate housing, protection of lives, and loss of properties. It further documents the brutality of the police force who cause physical harm and in cases kill PAPs in their quest to demand their rights. It also illustrates the different techniques that the national and county and private developers use to push for forceful evictions like the use of outlawed gangs and occasionally unexplained fires.

Findings indicate that the agencies of government are not willing to engage with the PAPs. This follows complaints from PAPs on the nature of engagement where it is only lectures from the agencies involved and heavy utilization of police to intimidate and also cause harm. There is a clear contravening of the set local policies, legislative and international standards in dealing with eviction and resettlement of people. In most of the mapped areas where forceful eviction and demolition have occurred due process was not followed. In areas mapped as facing imminent forced eviction, the progress so far indicates that due process is not being followed. This can be supported by failure to honor court orders to halt evictions and acts by agencies of government against their moratorium on eviction during the Covid-19 period. On the social-economic impacts of the evictions, the study found the following to be major despite different mapped areas having their unique impacts as shared in the larger report on a case by case basis.

Findings of the Study

The study revealed that forced evictions and demolitions affect different people regardless of age, ethnicity, class, and other attributes. Forced evictions and demolitions in the marked areas of Kisumu, Mombasa, and Nairobi have immense social and economic impacts that take the shape of physical, emotional, and psychological abuse to the population living on the edge. These actions have been repeated over time especially in informal settlements pushing the urban poor to invisibility that retains them in the cycle of poverty.

Kevin’s story is an illustration of the social and economic impact of forced evictions and demolitions which in most cases go untold. This study depicts what happens when some elements of law enforcement decide when to and when not to consider a court order a mere document and cement the impunity of disobeying court orders, a pattern emulated from the highest office of the executive both in the National and County governments.
The following are a summary of the most common impacts:

- Homelessness and lack of privacy and insecurity
- Loss of property, assets, and businesses
- Rise in cases of violence, physical abuse, threats, harassment, and unlawful detention
- Breakdown of social ties, culture and families
- Psychological disorders including depression and anxiety among PAPs
- Lowering of the standard of living, economic hardship, loss of employment, and livelihood
- Interruption of education
- Loss of lives and disabilities to the PAPs while evicting and demolition

**Recommendations**

**National and County Governments**

- Introduce a bill in Parliament that explicitly prohibits forced evictions and sets out safeguards that must be strictly followed before any eviction is carried out. The law should be in strict compliance with Kenya's Constitution and its international human rights commitments, including in respect of the provision of effective remedies and reparations. Such reparation should include adequate alternative housing for all those who cannot provide for themselves, rehabilitation, compensation for all losses and guarantees of non-repetition.

- Raise public awareness by regularly conducting nationwide information campaigns that explain the eviction and resettlement of persons comprehensively explain the rights of the PAPs, the responsibilities of the law enforcement.

- Adopt a national-level moratorium on mass evictions until adequate legal and procedural safeguards are in place to ensure that all evictions comply with international human rights standards and national laws.

- Instruct relevant law enforcement agencies, such as the Ministry of Interior, the National Land Commission, KEDA, KURA, and other related agencies to halt all projects that have been linked to causing forced evictions and demolitions.

- Improve and foster coordination among relevant government agencies, to ensure a streamlined approach to dealing with evictions when all viable alternatives have been exhausted.

- Ensure adequate funding for the ministries and other relevant government ministries, on national and regional levels, to support projects that lead to evictions and resettlement of persons whose need is.

- In collaboration with relevant ministries and nongovernmental agencies, develop and implement a national strategy to prevent and stop forced evictions and demolitions or displacement of people.

**National Parliament and the County Assembly**

- Introduce a bill in Parliament that explicitly prohibits forced evictions and sets out safeguards that must be strictly followed before any eviction is carried out. The law should be in strict compliance with Kenya's Constitution and its international human rights commitments, including in respect of the provision of effective remedies and reparations. Such reparation should include adequate alternative housing for all those who cannot provide for themselves, rehabilitation, compensation for all losses and guarantees of non-repetition:

  - The law must:
    - Stipulates accountability for perpetrators of forced eviction and demolition;
    - Introduces mandatory training for state officials;
    - Provides for better access to services for PAPs through the establishment and financial and psychological support.
    - Provides for enumeration of affected persons
    - Provides for genuine consultation with affected parties before the eviction
    - Provides for environmental, social and economic assessments and plans
    - Provides for procedures of resettlement after the eviction
    - Is clear in terms of the definition of different types of unlawful occupiers and who would be protected against evictions.
The Office of the Director of Public Prosecutions

Review and ensure compliance of law enforcement officials with Kenya and international human rights standards regarding investigation and prosecution of cases of forced eviction, displacement of persons, and demolition offenses.

Ensure effective oversight over investigations of cases of eviction and demolition by law enforcement.

Train prosecutors to more rigorously oversee investigations of complaints of forced evictions and demolitions and to more effectively prosecute them.

National Land Commission

NLC should initiate an investigation, on its own or a complaint, into present or historical land injustices and recommend appropriate redress especially an eviction and displacement of persons.

NLC should conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value, and the amount of compensation payable to each legitimate claimant.

NLC then convenes a public hearing after the publication of the Notice of Intention to Acquire and undertake extensive public awareness and consultation.

Assist in the remuneration and validation of project affected persons together with other related agencies in accordance with section 134 of the Land Act 2012.

Develop and encourage alternative dispute resolution mechanisms in land dispute handling and management in relation to evictions and displacement of persons.

Assist in the compensation of the claimant by managing and administering the land settlement fund in accordance with section 135 of the Land Act 2012.

Informs the project affected persons of their rights before, during, and after the process of eviction and resettlement.

Ensure that the concerns raised by PAPs regarding resettlement and compensation are promptly addressed by the agency responsible for evicting persons.

Monitor the disbursement of funds to ensure all the PAPs receive their rightful shares.

Continuously monitor and update the inventories of PAPs and affected assets.

Kenya National Commission on Human Rights

Monitor government both national and county together with agencies on abuse of human rights.

On its initiative or individual petitions, investigate grave abuses of human rights in relation to adequate housing, forced evictions and demolition in the country and private estates.

The commission should research and monitor the compliance of human rights norms and standards by the government and its agencies pre-, during and post evictions and replacement and resettlement of persons.

Collaborate with other stakeholders to promote rights to adequate housing through policy, law and practice.

Conduct public awareness to empower the PAPs on human rights and obligations in relation to eviction and resettlement of persons.

Ensure that both the national government and county together with their agencies are compliant with national, regional and international instruments relating to human rights and especially the right to adequate housing, protection from discrimination and forced evictions.

Civil Society Organizations

Civil society organizations should form broad alliances to sustain the fight against forced eviction and demolition and demand the right to adequate housing for most Kenyans.

Civil society should conduct extensive awareness creation on eviction and resettlement of persons across the country so that people know their rights.

Civil society should invest in community organizing in the different mapped areas to mitigate the threat of forced eviction and demolition.

Civil society organizations should continue to monitor and document processes of evictions, especially the abuses of the rights of the PAPs and publish the findings to a greater population.

Civil society should demand the development of a stand-alone law that will protect the PAPs during evictions and sustain the advocacy by shaping and influencing policy change.

Civil society should assist the PAPs in accessing justice by assisting them to prepare their documents and in some cases through public interest litigation (PIL).
Methodology

This report is based on research conducted within November 2020 in Kenya’s three cities of Mombasa, Nairobi, and Kisumu. Additional meetings with the housing coalition, as well as phone and online interviews, were conducted during the same period in adherence with health restriction issued to counter against covid-19 Pandemic.

The mapping of these areas was informed by Pamoja Trust, Amnesty International Kenya, and Cadasta Foundation’s joint visual mapping of the areas marked for eviction and demolition. Cadasta used geospatial technology to perform analysis, mapping out the locations, and estimating the residential areas which could be affected. Through this spatial analysis, Cadasta created maps of each of the locations and identified at-risk residential areas falling within 100, 200, and 500 meters radius from the planned demolition. Locations classified as Extreme Risk (100 m), High Risk (200 m), and Medium Risk (500 m) with those at extreme risk living in the closest vicinity/radius to the planned demolition location. Cadasta used publicly available information from Facebook and The Humanitarian Data Exchange to estimate how many people live in those areas and therefore face the threat of eviction.1

In attempts to assess the social and economic impacts of forced evictions, 107 respondents (45) female & (62) male were interviewed in person in the above-listed cities across Kenya, some via phone and online platforms. The target respondents were mainly PAPs who have experienced forced evictions and/or facing imminent evictions, community leaders, civil society members, and a few government personnel.

The report was primarily qualitative with a literature review on materials produced about forced evictions and demolition within Kenya and globally. The interviews were conducted in both English and Kiswahili, the languages best understood in the different mapped areas. The research team sought the consent of the respondents orally before the commencement of the interview. Due to the threats faced in some context the names of the respondents have been withheld with a mention of a few who further consent was sought to mention them by name within the report.

Factors leading to forced evictions and demolition in Kenya’s three cities of Nairobi, Mombasa & Kisumu.

1) Infrastructure Development.
   a) Roads & Railway upgrading.
   b) Sewer & drainage
   c) Modern Markets
2) Slum Upgrading
3) Urban Renewal & redevelopment
   a) Old estates

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1 Mapping of Areas to be Demolished for Land Reclamation of Nairobi City Water and Sewerage Company Facilities. Pamoja Trust 2020
1.0 Introduction

1.1 Overview

The practice of forced evictions is a growing national problem that threatens lives and livelihoods especially of the most vulnerable and marginalized members of the society including the urban poor, slum dwellers, persons living with a disability, minorities and indigenous groups, women, children and the elderly. According to CESCR, forced eviction is the permanent or temporary removal against their will of individuals, families, and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. Because of the interconnected nature of rights once a forceful eviction takes place other such rights as the right to privacy, family life, fair administrative action, freedom and security of the person, highest standards of health, education and clean water and sanitation are also affected. Forced eviction is one of the most egregious human rights abuses.

Most notable is the country’s land ownership structure that precludes many poor people’s access to land and decent shelter. Over 90% of forced evictions in Kenya occur in urban areas and cities, much of it concentrated in the three big cities of Mombasa, Kisumu, and Nairobi with few cases in emerging cities like Nakuru and Eldoret along the Railway line. Cities today constitute half of the world’s population, a trend projected to increase as cities are expected to absorb nearly all new population growth over the coming decade. The other unspoken population that is constantly facing evictions are the Indigenous people in Kenya living in forests such as the Sengwer Indigenous People of Embobut Forest and Ogiek of Mau Forest. They live in constant fear of repeated forced evictions including through home burnings and arrests in the disguise of environmental conservation.

Unfortunately, forced evictions often go unaddressed partly because the majority of those affected are those with the least political power. These are the same people who are on the losing side of growing inequality in cities around the world and those for whom access to justice and other public services remain elusive. Incidents of forced evictions often reflect the structural and systemic challenges of marginalization, exclusion, and oppression of communities in the cities especially those who live in informal settlements like Kibera, Kariobangi among others.

In Kenya forced eviction has been characterized by uncertainty, lack of public participation and due process, and inadequate or no compensation at all. It is evident that forced evictions have become more violent and, in most cases, leading to death, destruction of properties, and permanent disabilities for the affected. Aggressive tactics may be taken by both government and private developers or other third parties when residents demand their rights before leaving. In some cases, agencies and individuals leading the evictions have cut off water and electricity, used physical threats, or resorted to violence. The forceful nature coupled with corruption has placed eviction has been the cross-section between land rights, corruption, and human rights. These interplays and vested interest have further complicated the implementation of the RAPs thus delaying and compromising the process of compensation for the PAPs.

1.2 Legislative Context

The lack of legislation on evictions and resettlement was noted in the 2004 visit to Kenya by the then United Nations Special Rapporteur on the Right to Adequate Housing Mr. Miloon Kohli. He provided additional recommendations to his report where he noted that Kenya lacked legislative and policy frameworks on the procedures of evictions and recommended that until such a time that such laws were to be passed, there ought to be moratoriums on evictions. The current legislative context in Kenya does not provide for the procedures that must happen before evictions other than the issuance of written notices as per the law. It does not provide for planning or enumeration of affected communities.

There are no concrete laws that provide for genuine consultations between the parties before an eviction is carried out. Section 22 of the Prevention, Protection and Assistance of the Internal Displaced Persons Act was repealed by the Land Value Amendment Act and the repealed provision was the only standing legislation that provided for free prior and informed consent of affected parties before they were internally displaced during projects. Also, the law fails to provide for environmental, social and economic assessments and plans which will assist the government in better understanding the causes of the informality in an area and look for better ways of dealing with the issues than time and again being faced with the same challenges.

The current legislative frameworks do not provide for the important aspect of resettlement after the evictions. Time and again the joint committee tasked with dealing with evictions as well as other members of the National Assembly raised the concern of the lack of legislation on evictions and resettlement procedures, however, nothing concrete was ever done. The Legislature wanted to have laws on evictions and resettlement procedures because it wanted Kenya to meet the international human rights standards of undertaking evictions. In practice, courts have taken a step further to issue justice to the project-affected person who was facing evictions and in one instance in the case of Abdulmajid Ramadhan & 3 others v Kenya Urban Roads Authority & 4 others, the Court required Kenya Urban Roads Authority (KURA) to do a Resettlement Action Plan before evicting the residents of Kibra. It was this court decision, which was delivered on 28 April 2017 that assisted in halting evictions when the KURA failed to carry out its duty and mandate one year later and decided to undertake an eviction after a one-week enumeration which was considered to be insufficient considering it had more than a year to undertake the process which affected thousands of families.
The Land Laws Amendment Act introduced the eviction procedures but failed to provide for a resettlement procedure despite this being a clear principle in the National Land Policy as a remedy for land-related challenges. This can be attributed to the fact that resettlement requires additional responsibilities on the State to ensure that those who will be affected are not rendered homeless and this has monetary implications.

If the law was clear in terms of the definitions of different types of unlawful occupiers and who would be protected against evictions to avoid professional squatters and adequate assessments and plans are carried out as well as well documented and stored enumerations, then the State can use this information to carry out resettlement plans or possible compensation to affected persons and perhaps reduce the rates of increase informality and increased evictions.

The Constitution under Article 43 (b) and policy paved way for the legislature to enact a law that would effect deal with the procedures of not only evictions but resettlement that occurs after evictions. The recommendations in the national land policy, court cases from both the High Court and the Court of Appeal implored the Legislature to enact legislation that would deal with this issue. The Legislature thereafter severally, through members of parliament in the national assembly called for the Ministry of Lands which was already preparing an eviction and resettlement bill to table it before Parliament for it to legislate and enact a law that was in line with the international human rights standards of evictions and resettlement.

The Evictions and Resettlement Procedures Bill, 2012 was an exhaustive and detailed Bill providing for procedures on Evictions and Resettlement which was a private member Bill by Hon. Shabbir Shakeel was introduced in 2012 for the first reading. The object of the Bill was “to set out appropriate procedures applicable to forced evictions; to provide protection, prevention and redress against forced eviction for all persons occupying land including squatters and unlawful occupiers; and to provide for matters incidental and connected thereto. The Bill has however never been passed.

On May 11, 2020, the President through the Cabinet Secretary for Interior and Co-ordination of National Government declared a moratorium on evictions for the period of COVID-19 pandemic. While issuing the moratorium, the CS cited the need to protect the right to adequate housing which is critical to protecting Kenyans from the spread of the Coronavirus and ensuring their recovery. Despite the attempt, it can be noted that the moratorium was meant to reinforce the government directives of staying at home and limiting movement and preserving the partial lockdown of hotspots rather than aimed at stopping forced evictions and homelessness have increased the vulnerability of those affected to COVID-19 and its negative socio-economic impacts.

2.0 Social Economic Impacts of Forced Evictions and Demolitions on Mapped Areas

2.1 Kisumu City Context

Map of Kisumu: Credit of ResearchGate
Kisumu is a Kenyan port city on Lake Victoria. The city of Kisumu was founded as a terminal for the railway and hosts a big railway station, thus linked to other towns along the railway line.18 Kisumu urbanization problems are perpetuated by misguided spatial planning approaches, weak planning policies, and weak implementation.19 Kisumu city’s most cases of eviction are due to the craze for infrastructure development and the demand for land. Land tenure systems in Kisumu are mainly freehold putting the responsibility on the pattern of development to the owners of the land.

In the peri-urban zones, freehold and communal land tenure holding appear to be more widespread. With the growing demand for housing, coupled with limited city growth space private developers have acquired land for housing with little consideration of the physical planning regulations.12 The growing appetite for private developers and the need to improve infrastructures by the city manager coupled with the land tenure systems have predisposed many households to the threat of forced eviction since the majority lack documentation of ownership. Both the national and county governments have spent a great deal of money on improving urban infrastructure to make cities more attractive for investors, including highways, markets, and railway. However, there is also an imminent threat of evictions owned to urban regeneration targeting old estates.

The challenge for Kisumu like other developing cities is that it has been developing against a backdrop of poor urban planning practice. Currently, development is being driven through the Kisumu County Integrated Development Plan (CIDP) 2018-22 and the Kisumu Integrated Strategic Urban Development Plan (KISUDP).

2.1.1 Case I: Kibuye Open Air Market

The first case study focuses on the Kibuye Market which is the largest open-air market in Kisumu city. The market has a capacity above 5,000 traders.20 Plans have been underway to modernize from the current 5,000 capacity to about 11,000. It is projected that in 6 months15 once complete, the market will serve the growing population of city residents better while mitigating the challenges of frequent market fires which have in the past led to losses of properties. The county government had floated a tender for “Proposed Modernization of Kibuye Market Sheds in the City of Kisumu” Contract No: Ck/Ck/70/2018/2019.14 The project is jointly funded by the National Government, the World Bank Group, and the French Government through the Kenya Urban Support Programme and Kisumu Urban Project.17

The county government of Kisumu forcefully evicted and demolished the market on the night of June 7, 2020.10 The eviction affected more than 10,000 traders who lost their properties and structures during the demolition. The traders affected by the forceful eviction claim that the county government had initiated the process of relocating the traders to other market grounds like Moi Stadium, Migosi, Manyatta, and Nyawita within Kisumu. The traders cried foul at how the relocation was done, and they were not given adequate time to move and the county government moved in and started the demolition.

The county government proceeded to forcefully evict and demolish the market traders notwithstanding a temporary injunction by a Kisumu Magistrate court barring the county government from evicting the traders pending the hearing and determination of the suit. The suit was lodged under Civil Suit 239 of 2018 by John Aluma Odeyo & Others Vs Kisumu County Government & City Manager Kisumu County for contempt of court. The court lifted the application which led to the applicants appealing the same in the high court under case no 39 of 2020 and the ruling is slated for 30 of November 2020. The high court withheld the magistrate court ruling that the city manager is not guilty of contempt of court. This then gives a leeway for the county to continue with its development on the piece of land while the main suit continues in court.

**Due Process**

The traders claim that they had not been given enough time to relocate their structures and properties before the eviction took place. They further stated that their rights of participation were violated since the negotiations had not reached an agreement, but the county government went ahead and evicted and demolished their structures. The forced evictions took place during the Covid-19 period and at night. The eviction and demolition took place despite an injunction being issued by the magistrate court and when the grievances of the traders had not been taken into consideration.19

**Social Economic Impact**

- There has been a reduction in the number of people shopping in the market because vendors are now scattered in different sites due to evictions.
- For those who are still on site, their initial income earned has declined by half, leading to strains in the families.
- The traders have been struggling to meet the basic needs that they could meet before such as food, shelter, clothing, and even the children’s education.

- Socially, the men have been affected to an extent that they are forced to leave home to stroll around the town and head back home in the evening as if they are coming from work as it was the norm.
- The evictions have also led to disunity among the different vendors in the market; the vendors relocated to the new site while some of the vendors were not, therefore pitting them against the other who felt favoritism. This has planted a seed of disunity amongst the vendors.
- The eviction has also led to contempt from other established traders and dwellers neighboring the market since they see them as a nuisance and people who are resisting development.
- The evictions have led to friction in the families due to the psychosocial effect resulting from the declined income.

2.1.2 Case II: Nyalenda & Pandpieri

The case of Nyalenda and Pandpieri is unique since the land tenure is freehold. The current residents consider the land ancestral since they have lived there their whole life. The land holds an approximated number of 2,000 residents who have farmed in this land handed to them by their parents. Currently, the area is under the Kisumu Municipality zone. The community in Nyalenda is facing an eviction threat by the government of Kenya through the Kenya Prisons Services. Due to the threat, the residents have written to the National Land Commission laying claim of the contested land under the Historical Land Injustice with a reference number NLC/HJ/012/2017 “Residents of Nyalenda & Pandpieri versus Government of Kenya Prisons Department (Kisumu).” Their experience in seeking justice from the NLC and frequent threats and destruction of farm produce by prison service Kisumu pushed residents to seek legal remedies. They have currently lodged a case in the environment and land court of Kenya in Kisumu, Land case no 59 of 2020. Ben Owkengu, Others and entire Nyalenda A, B, and Pandpieri Community versus Kenya Prison Service, National Land Commission, and Land Registry Kisumu.

**Due Process**

Notwithstanding the above processes, the Prison services got into the land on 26 September 2020 and started cutting trees. They have continued to trespass into the land using the prisoners to cut trees planted by the residents of the area.

Efforts to engage with the Prison Department (Kisumu) have been difficult considering the way they operate by receiving orders from the top. This has been the fashion of public participation a show of might not respecting the residents. The notice to vacate was given to their leadership through the area chief. Apart from the legal remedies that have been sought, the community also organized peaceful demonstrations, it is through this exercise of their rights that eventually enabled the residents to get some documents that included; the land map that enabled them to get a lawyer to represent them in court.

**Social Economic Impact**

- Reduction in their standards of living since the residents no longer receive the rental income that they depended on after the tenants relocated to other areas in fear of the demolitions and the destruction of the crops at the farm.
- Increase in insecurity since the residents are assumed not to have ownership of the land therefore making it accessible to all.
• Families have separated as some members of the family, especially the younger members have opted to relocate to other regions in the bid to protect their children leaving the elderly to remain behind.

• Families have been psychologically affected as a result of the decrease in income and the humiliation from the government through the destruction of the farms and some houses also having beacons installed inside.

• The children are psychologically affected and are afraid that in no time they could be homeless and they, therefore, live in fear.

• Stigmatization of those affected has been rampant as they are ridiculed by others in the name that they do not own the land they are living in.

• The peoples’ privacy has also been compromised since those who did not own land are trespassing claiming that the residents do not own the land and therefore have no authority to question them.

• Disunity among the residents since those who did not own land have taken advantage of the situation and are now trespassing into other peoples’ land.

2.1.3 Case III: Nyamasaria (Mowlem)

Nyamasaria Mowlem area was affected by the ongoing evictions and demolition along the Highway. The forced evictions took place on 26/10/2020. The PAPs claim that the agency behind it was KENHA. The number of persons affected cannot be approximated since they are traders from Ahero to Kisian, a stretch of about 50km. No notice had been issued by KENHA and there was no public participation before the forced eviction/ demolitions. The area has also been affected by demolitions by the County government using goons. Despite that, the county government has distanced itself from the demolition. This has confused the different traders at the Nyamasaria Mowlem area and residents alleged that a private developer is targeting the land near the stage where traders used to occupy. The PAPs have organized themselves into groups that is Mowlem Upcoming Boda-boda Self Help Group, Mowlem Riders Self Help Group and Ragumo Kolwa Central CBO to better address issues and challenges they face within the highway collider.

Due Process

No eviction notice was issued. Information regarding the development was shared through word of mouth and rumors from residents living along the highway. No official communication from KENHA at any given time. The demolitions took place at night. The affected have consulted the Sub-county administration that denied involvement in the evictions. The PAPs have so far formed a committee to deal with the issues regarding the demolitions/evictions and to bridge the information gap and seek compensation for the loss of their properties. No other feasible alternatives, some of the vendors moved to another area which is private property. The traders mobilized themselves and asked for space from the owner where they are temporarily hosted as they look for a more stable solution.

Social Economic Impact

• Lowered living standards due to the decrease in income, venders are unable to provide some basic needs such as food to their families
• Separation of families and eventual divorce due to the strains in providing, men have been left alone in the town as the rest of the family moves to the upcountry.
• Psychological torture is a result of a lack of money to meet basic needs.
• Increase in gender-based violence in homes.
• Reduction in income due to closed businesses.
• Children dropping out of school.
• Inability to pay for loans and for Chama contributions that were previously helping the traders save money.

Map of Mombasa: Credit of ResearchGate
Mombasa's cases of forced eviction and demolition can be traced to its lack of inadequate land for housing the urban poor which is argued to be the greatest contributor to degraded urban environments. The effect of insecurity of land tenure is therefore manifested in urban residential informal settlements. Mombasa County's land challenges lie in the famous "Ten-Mile Coastal Strip", a piece of land approximately ten nautical miles wide from the high watermark of the Indian Ocean.22

Ever since the land tenure system in the Ten-Mile Coastal Strip has been dictated by the changing political circumstances in the area. To complicate matters of Land on the coast, a provision for land claims within the Ten-Mile Coastal strip was therefore made possible in 1908 through the Land Titles Ordinance; which was specifically enacted to adjudicate the land rights in the area to separate private land from crown land.22

Mombasa residents are victims of historical land injustices due to the above past in dealing with land issues. Now and then ruling regimes have used the emotive land subject as a political yardstick to influence the outcome, pitting the rights of the residents of the coastal city. The government is therefore currently faced with a complicated situation where the majority of the indigenous people in the Ten-Mile Coastal strip do not have secure titles to the land while the absentee landlords, who hold the titles, are not residing on the parcels but are charging fees to the occupants on what the indigenous communities consider as their ancestral land.23

This feature has deeply impacted any process to seek negotiation or seek compensation when faced with eviction since the absentee landowners are not present. This context in the coast has overtime hampered development since the county government and national government have to scramble for the limited available land for development. It is such a context that characterizes the cases of forced and imminent evictions in the coastal city.

Under the Mombasa CIDP and the Mombasa Integrated Urban Development Plan (IUDP) that defines a vision for future growth and development of the County over the next 20 years. The county intends to initiate and complete some of its flagship projects around the building of roads, modernization of markets and other infrastructures and the affordable housing project through urban renewal and redevelopment of the old estates. All these processes are to be done in the limited land which is also faced with challenges of security of tenure thus predisposing the residents of the earmarked areas to forced evictions and demolitions.

2.2.1 Case I: Changamwe New Flats

Residents of Changamwe New Flats are living in fear due to threats of eviction by KENHA. The residents are living along the Lot 1 corridor of the Mombasa Mariakani A109 Project. The Mombasa Mariakani A109 total project value is estimated at EUR 250m and is divided into two lots. Lot 1, (11.35 km) fully financed by the African Development Bank (AfDB) and the Government of Kenya (GoK) and governed by the AfDB's social safeguards policy. Lot 1 is currently under implementation, from Kenyatta Avenue Roundabout to Kwa Jomvu Interchange. Lot 2, (28.96 km) is co-financed by KfW and the European Investment Bank (EIB) and the construction has not yet commenced. Lot 2 is governed by the EIB Social and Environmental Standards, from west of Kwa Jomvu Interchange to Mariakani Weighbridge. The number of people affected in Changamwe new flats is approximately 36 households and 50 business premises. A 30 days’ notice was issued to lap trust who are the owners of the properties, they acquired the management of the estate from the Mombasa county government.

The eviction notice was issued to the Local Authority Pension Trust (LAP Trust) for 30 days. As part of the discussions, In Changamwe new flats, the LAP Trust offered compensation of Ksh 46,800 to each of the affected 36 households while the compensation of the businesses was Ksh 30,000 to each of the affected 50 businesses. Out of the 36 households, 10 of them accepted the offer and were given Ksh 15,000 as opposed to the stated Ksh 30,000.25 The residents complained of discrepancies in compensation, for instance, all businesses were compensated equally which was not fair to all as some of the businesses were worth more than others. Additionally, not all of them received the stipulated amount while some did not receive any compensation at all. For the households, 10 of them received Ksh 50,000 against the Ksh 333,000 and Ksh 700, 000 initially demanding since the residents had spent money renovating the houses for the period they had stayed there.

The residents stated that they had started negotiations with LAP Trust and KENHA for them to move to another block of houses that were not earmarked for demolition. However, this was not honored as goons were sent to vandalize those houses and make them inhabitable, the police oversaw the partial demolition of some three blocks that they were supposed to move into.26 This was part of the tactics used by LAP Trust, KENHA to eliminate all the options for alternative settlement instead of eviction of the residents.

These actions above angered the PAPs who organized themselves and protested the acts of vandalizing the alternative settlement site which they considered would have been a win-win situation. The demolition was not the only approach used by the PAPs. They also wrote letters to the project funders about how the process was being handled by the parties concerned. Especially surrounding the compensation and the alternative resettlement for the PAPs. To solidify their claim, the PAPs organized and filed a suit in court concerning the matter.

Due Process

This process had started well, the residents had received notice for eviction from lap trust. However, the notice was not in line with the law in terms of the period of three months. The inadequate time of the notice did not offer an opportunity to engage KENHA and LAP Trust to negotiate and agree on the compensation terms.

Due to malice in the process of negotiation for compensation and the tactics used to eliminate any alternative for settlement. The residents felt threatened and went to court to stop the forced evictions and to ensure that their views are incorporated in the process under Case No 46 Of 2020 Changamwe Residents Vs LAP Trust and Mombasa County. Currently, they are living in the houses marked for eviction and they have not been paying any rent. The participants asserted that they are living in darkness not knowing what tomorrow holds.27

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22 Ibid
23 Ibid
24 Field Interview; Focus group Discussions in Changamwe on 10:00 Am
25 Ibid
26 Ibid
27 A participant in the Focus Group Discussion in Changamwe
Social Economic Impact

- The evictions/demolitions have led to an increase in insecurity in the area, with the wall that surrounded the house from the road was brought down during the demolition of business units and the division among the residents.
- Those that were not affected are discriminating against the PAPs and threatening their lives.
- Lowered standards of living due to the decrease in income for the businesspeople whereby some are yet to open their businesses again.
- Increase in unemployment in the area as a result of the loss of businesses.
- Increase in stress-related illnesses and illnesses caused by exposure to dust during road construction.
- Children have been psychologically affected and live in fear of being homeless while playing outside the site of tractors leaves them asking whether their houses have come to be demolished.
- Women have also been affected since they are not able to provide what they would provide for the family since they lost their businesses additionally, some have become the breadwinners since their husbands lost their jobs, one woman had been widowed. The husband died upon receiving the news of the eviction as a result of stress and pressure.
- Some men have found solace in alcohol and drug abuse since they were psychologically affected.
- Additionally, the men are not able to provide for their families fully since they are afraid of going too far and eventually find their houses demolished.
- The community members facing the eviction have been stigmatized to the extent that they have not been receiving the Covid-19 food aid.
- Some of the houses are along the path marked for demolitions. There are also developments by the authorities. The only meetings held were coincidental, they took place before the commencement of the project. KURA is developing the road and as a result, this has predisposed the community to forced evictions and demolitions. There are also developments by the ministry of water who are installing water pipes and some of the houses are along the path marked for the piping. The Water Resource Authority has argued that it has already negotiated with KURA to continue digging and installing the pipes along the road the demarcated by KURA.

Due Process

The affected persons received a one-month eviction notice. The notices issued did not have specific names of the affected persons, and not all the affected people received the notices. The notices were issued in the presence of police who forced the people to take the notices and sign to confirm that they had received the notice. The notices were issued to the people found present in the household and did not take into consideration whether they were the household head or the owners of the house. Copies were given selectively to the affected people and not to their leaders.

No, compensation or resettlement plan has been stated or offered to the affected persons. The people’s rights have been violated by the Ministry of water since they had the pipes go through some houses claiming that it was public land.

The people through a CBP that had created had followed up with KURA by writing them letters asking that be issued with the RAP. However, KURA did not respond to the letters. The community proceeded to seek help from the office of the ombudsman who after their intervention KURA responded. Unfortunately, the document issued only contained the dimensions of the road that is being constructed.

No meetings for public participation have been held by the authorities. The only meetings held were not planned but were coincidental, they took place after the residents had been issued with the eviction notice. The views/opinions of the people have not been considered until now.

Social Economic Impact

- Decrease in productivity, since some people have closed their business in fear of them being demolished.
- Lower standards of living due to the decrease in income.
- Both men and women are suffering from stress-related illnesses, some are breadwinners in their families, and they have closed the businesses or are either working from home whereby they are not able to generate enough income for their families.
- A decrease in income is occasioned by tenants vacating the business premises and because businesses have been disrupted or closed.
- Children dropping out of school as a result of lack of school fees.
- Some members are unable to meet the medical expenses of those who are ill due to the financial strains.

2.2.2 Case II: Jomvu - Jitoni - Rabai Road

The case of Jomvu – Jitoni- Rabai road is the old Mombasa road to Nairobi. The Kenya Urban Roads Authority (KURA) has started to expand the road under the roads 10,000 program – low volume seal urban roads covering 11.7 km total length in Mombasa and Kilifi counties. This project was launched by the Deputy President on 16th of March 2018 at Jomvu Primary school ground. He ascertained that no person will be evicted without adequately being compensated. The expansion of the road will be 20 meters wide, 10 meters each on both sides. The number of persons affected directly is 600 while approximately 1500 are indirectly affected. A written notice was issued to the residents. 25

According to Kituo cha Sheria, the community risks being evicted by Kenya Urban Roads Authority (KURA) in the construction/improvement of Jomvu, Jitoni Rabai Road. The project is likely to affect over 1000 people in Jomvu Sub County, Mombasa County. Previously some residents had marched to the streets in a peaceful demonstration seeking compensation; they argued that this ought to have been done before the commencement of the project. KURA is developing the road and as a result, this has predisposed the community to forced evictions and demolitions. There are also developments by the ministry of water who are installing water pipes and some of the houses are along the path marked for the piping. The Water Resource Authority has argued that it has already negotiated with KURA to continue digging and installing the pipes along the road the demarcated by KURA.

2.2.3 Case III: BUXTON

The Buxton Housing Project is part of the urban renewal and redevelopment estate targeted by the Mombasa County Government. The project is part of the Integrated Strategic Urban Development Plan dubbed Mombasa Vision (MV) 2035 which will see the rehabilitate old estates such as Khadija, Buxton, Changamwe, Tudor, Likoni, Nyereere, Kaa Chonjo, Tom Mboya, and Motozia to provide “approximately 20,000 modern and affordable housing units. 30 In Buxton, there are 522 households affected of which 356 units belong to tenants paying rent while 166 units belong to the City Council employees as staff quarters. 31

A written 3 months eviction notice was issued to the affected persons on 21st September 2020. The 3 months eviction notice lapsed on 21st December 2020. The residents are not sure what steps the County Government of Mombasa will take in Buxton following the vacation of a court case by Legal Advice Centre, Haki Yetu St. Patrick’s, Transparency International Kenya (TI), and Jack Maina moved to Mombasa High Court. Their petition 39/2016 sought 11 orders, including a permanent injunction to restrain the implementation of the project, which they faulted as exploitive, corrupt, and inviable. In the case, the respondents were Mombasa County Government, County Secretary, and County Executive Committee Member for Land Planning and Housing Department. County Public Rental Estates Council and Kenya National Commission on Human Rights (KNCNR) joined the suit as interested parties. 32

Due Process

A 3 months eviction notice was given to the affected persons and more so to the leaders in the community. The community formed an interim committee to handle the eviction and to represent the community regarding the eviction process. Members were informed of the development plans in February of this year, followed by several meetings to discuss the same. Meetings were held at World Waters Mombasa and another meeting at Tononoka grounds in Mombasa. 33 There were prior meetings held in 2016 to discuss the county’s development plans. The
affected persons have been offered compensation of Ksh 300,000 per household less Ksh 60,000 to be used as a deposit to secure a house in the new estate once completed.

The agreement between the affected persons and the county government in 2016 was that the people would receive Ksh 560,000 for two years to take care of themselves during the construction period, and if the construction is not complete in two years more money will be given to the PAPs till the construction is completed. However, this agreement was not honored by the county government citing financial viability.

Residents confirmed that they had meetings with the county government and the developer to discuss the way forward from the start. They, however, raised concerns since some of their contributions were not considered, the county did not honor their initial agreement of Ksh 560,000 and they instead proposed to give Ksh 240,000 as the compensation allowance to be raised to Ksh 1,000,000. Other than the increase in the compensation money the people also suggested that the relocation allowance is also increased and that the current residents have the right to ownership of the new estate by being given the priority and having the houses affordable for them.

Social Economic Impact

- Psychological effects as a result of stress.
- Residents fear their Inability to pay higher rent in other available areas for relocation especially for those whose income is slightly lower.
- The residents fear that the eviction will force parents to transfer children to other schools some of whom are candidates.
- Disunity among the residents has led to insecurity in the area some residents have had bombs planted in their blocks.
- There has been discrimination of tenants targeting those whose opinions are differ from that of the others, the discrimination has extended to their children whereby they are attacked by other residents.
- Threats to some members of the community via written notes and phone calls by unregistered numbers.

2.2.4 Case IV: BANGLADESH Informal Settlement (Mkupe)

The community in Bangladesh informal settlement in Mkupe ward, Kibarani Location of Jomvu Sub County are facing threats of evictions from Water Resources Authority and they were forcefully evicted during the dualling of Mombasa Mariakani Road by KENHA. On 3rd March 2018 11:26 AM. Approximately 1000 plus people consisting of small scale trader/ venders and 40 households have been affected. The residents were issued with a 7-day notice by the Water Resources Authority on allegations of having occupied riparian land. They were served on 15th December to move by 21st December 2020. According to the Water Resources Authority, the settlement is said to have occupied Mkupe Seasonal Stream.

The communities’ structures were demolished by KENHA during the building of the Mombasa Mariakani A109 highway. The construction and the drilling affected the structures and currently, they are living in unstable structures and some are homeless, housed in a church compound within the settlement. KENHA has continued to intimidate the residents seeking compensation by directing water from the roads to their homes through huge drainage which floods their homes when it rains.

Due Process

No, there has been a multi-stakeholder meeting with NEEMA, KENHA, County Government, and the Water Resource Authority this was done after the eviction notice had been issued. During these meetings, the residents were receiving threats. The notice given was for 7 days, the notices were not given to all the affected persons those who had gone to seek assistance from them in regards to the effects of the construction are the only ones who were issued with the eviction notice, the notice was not given to individuals but was pinned on their doors. The leaders were not given copies of the eviction notice.

Social Economic Impact

- The loss of tenants.
- Exposure to dust leading to respiratory illnesses due to the road construction project taking place. Insecurity since the local leaders are not in support of the affected people.
- Lack of shelter: some residents are living in the church since their houses have been damaged by the construction taking place, injuries such as broken limbs because caused by the construction.
- Lack of food resulting in some sleeping hungry or forced to reduce the number of meals eaten.
- People are living in fear of their lives since the houses could collapse, some houses are already in a bad state could collapse in case of rain or with the continuity of the construction,
- The affected people that have proceeded to the county offices to ask for help are being discriminated against by the area chief and are not receiving Covid-19 aid.
- Separation of families since some have been relocated to other safer areas as some are left behind to seek help and compensation.
- Reduced income as houses have been left vacant by those who were renting, and because businesses were affected.
- Those who were farming had their crops destroyed.
- The residents are unable to access medical services as they have no money yet the dust from the construction is exposing them to respiratory illnesses.
- Previously the residents relied on medicinal trees that were in the area, but they have since been cut down to pave way for the construction.
- Those whose houses collapsed have been forced to go rent thereby increasing their expenses which they are struggling to meet.
- Children have dropped out of school due to lack of school fees money; candidates are yet to go back to school.

34 Field Interview Mkupe, Bangladesh informal settlement on 12/11/2020 @ 15:00 PM
Nairobi City is the largest and capital city of Kenya. The city of Nairobi is situated at the southern end of the agricultural heartland of Kenya. The present administrative boundary covers an area of 696 square kilometers, expanding from 3.84 square kilometers in 1910. Other official physical expansions occurred in the years 1921, 1926, and 1964. It is by far the smallest administrative province in Kenya, but also the most important in terms of the activities and functions it performs. During the last concluded National census, Nairobi emerged as the most populous area with a population of 4,397,073 million living in approximately 1.4 million households. Like many other cities across the globe, rapid urbanization has led to a demand for goods and services.

Nairobi’s infrastructure and service providers have not kept pace with its high urbanization rates. This has created an infrastructure and service-provision backlog, with demand for services far outstripping supply in most urban areas.

Nairobi’s explosive population growth has continued to fuel the fire for demand on infrastructural and service provision for its residents. These demands are pitting a city with a foul start on implementing urban plans pre-independence and practice which was transferred during independence. It is these failures that have come to haunt the city with the largest slum and others springing despite the existence of a National slum upgrading and prevention policy.

With these demands for land for infrastructure development and the influx of private developers, attracted by the PPP model advanced by the government of Kenya to deliver the Big 4 Agendas of Housing, Manufacturing, Food and nutrition, and Universal Health care. The after-action is the due process of evicting and resettlement that would progress to their area but they were informed that their area would not be affected and in case of any changes that they would be informed. The community was not allowed to even be heard. They were denied justice by failure to consult the area Deputy County Commissioner, he informed them that he was not aware of the demolitions/ evictions slotted for the area.

Due Process

No eviction notice was issued to the affected persons. However a week before the demolitions a meeting was held at Lenana School with the people living near the school, after which a Gazette notice that was issued in 2018 was photocopied and further inscribed by hand to indicate that the people had 4 days to vacate the area. This notice was circulated to the people living around Lenana School land. The residents living at the railway’s reserve area received no notices, but from the people at Lenana, No copies were given to the settlement leaders. On consulting the area Deputy County Commissioner, he informed them that he was not aware of the demolitions/ evictions slotted for the area.

The PAPs indicated that the community was not involved in participation geared to genuine engagement. A member of the community indicated that back in 2018 they had enquired whether the demolitions which were happening in Kibera along the reserves would progress to their area but they were informed that their area would not be affected and in case of any changes that they would be informed. The community was not allowed to even be heard. They were denied justice by failure to follow the due process of evicting and resettlement that would progress to their area but they were informed that their area would not be affected and in case of any changes that they would be informed. The community was not allowed to even be heard. They were denied justice by failure to follow the due process of evicting and resettlement.
of persons as per the Kenyan policy and international standards.

**Social Economic Impact**

- Lack of shelter rendered several people homeless. They have been seeking shelter outside (Stage ya Gari Moshi, Ngong Road bridge, Mazeras, and at 45 kwa Njeri) others especially parents who had enrolled their children at Talent Academy were allowed to temporarily stay in the school compound as they look for alternatives once schools are fully reopened.
- Lack of food.
- Reduced standard of living & Increased expenditures.
- Loss of jobs for those who worked in the community businesses and schools that were evicted.
- Destruction of properties, schools, and places of worship.
- Both men and women have been psychologically affected by some suffering from stress-related illnesses that have even led to the death of some community members.
- Separation of families,
- Gender-Based Violence and increased disagreements in the families due to the strain of losses.
- The disabled people in the community were not in a position to quickly leave their houses during the demolitions and were left helpless till their caregivers managed to rescue them and were therefore not able to rescue their property.
- The residents are now required to pay rent in their new areas of residence which is difficult for them.

### 2.3.2 Case II: Deep Sea Settlement

Deep-Sea has faced numerous threats of forced evictions since 2009 when the Kenya Urban Roads Authority (KURA) announced a major road construction. Tagged as the ‘Missing Link’ road by Kenya Urban Roads Authority (KURA) with the funding of the European Union (EU), the road would pass through the trading center and main road at Deep Sea settlement affecting about 2,000 residents. It will be 1.6 km in length built to connect two major roads, Limuru Road and Thika Road.

The threats to forced eviction and demolitions finally manifested on Friday 08th July 2016 affecting 647 households and several businesses along the settlement main road. The demolitions were done with a high presence of policemen guarding the goons who were hired to come and evict the community.

Ever since there have been imminent threats to evict the residents of Deep-sea using unconventional and inhuman ways which over time have led to the loss of lives and destruction of properties. Deep-sea has experienced fires almost annually which have rendered members of the community homeless. Residents believe that some of these fires are meant to intimidate and force them into submission to move and pave way for the construction of the Missing Link road.

On the other hand, private developers have also laid claim to the land where Deep-sea settlement is. This is despite the slum being in existence since 1963. On April 5, 2019, the Deep-sea community received an eviction Order under ELC case No: 620 of 2005 authorizing Sheraton Apartments LTD and Others the right to remove any person bound by the decree who may refuse to vacate the same.

#### Due Process

The process outlawed in the local policies and international instruments is in most cases not adhered to when evicting residents in informal settlements. The same is true with Deep sea where only a verbal eviction notice was issued by the DCC through a Baraza in February 2019. The settlement members recall being invited to a meeting held in 2013. However, the heavy presence of police in the meeting made the environment hostile and the residents were unable to share their opinions. This depicts the already sour relationship between the communities in the settlement with the Kenyan police which is not conducive due to the past violations of the community by the police. Members of the community were hardly allowed to voice their opinions; the meeting was a one-sided lecture which was against the spirit and letter of genuine engagement.

On several occasions, KURA proposed Ksh 5000 compensation which some of the households declined and others accepted. Those that declined were forced to move in together when their shelters were demolished.

#### Social Economic Impact

- Disunity among the community members has resulted in insecurity and arson attacks.
- Reduced standards of living due to reduced income.
- Overcrowding in shelters since some families were forced to move in together when their shelters were demolished.
- Stress-related illnesses have led to the death of some members of the community.
- The frequent arson attacks have also led to death, internal displacement, and destruction of properties.
- Both men and women have been psychologically affected.
- Children have been exposed to child sexual abuse due to the set up at homes whereby three families are living in one house and due to the increased levels of poverty.
- Disabled persons had their clutches and wheelchairs were thrown away and destroyed during the demolitions.
- Rising numbers of youth gangs readily available for hire by those in power to cause conflict in the community like they were engaged to conduct forceful evictions and demolition in 2016.
- Lack of privacy for the families affected by forced
evictions and demolitions since they had to live in make-shifts and others share already limited space.

- Children are living in fear that their houses could be demolished or set on fire at any time.
- Loss of businesses.

2.3.3 Case III: Kariobangi North

The Eviction in Kariobangi happened amidst the Covid-19 pandemic when the government through the ministry of health had issued regulations to stay home and social distance. The forced evictions and demolition were carried out on the 4th of May 2020 by the Nairobi Water and Sewerage Company, which is part of the Nairobi Metropolitan Services Authority. The demolitions and forced eviction affected 8,700 households at Kariobangi Sewerage farmers and 3,700 households were affected in Kariobangi North. No written notice was issued and there was no genuine public participation before the forced evictions.

The residents from both areas stated that they were not informed of any developments that are targeted on the land, a fence was being built on the land concurrently as the demolitions took place. Residents asked what necessitated forceful eviction since until now there have been no other developments on the land. The residents of Kariobangi had been living in the area and they have since processed their land documentation and own Title Deeds for their land. This process was done with the Nairobi City government surveys involved. Some of the PAPs used to work for the same City Government which has now demolished their homes which they got through hard-earned work until their retirement. The Kariobangi eviction is a mark of the travesty of justice for ordinary Kenyans.

Due Process

Like in many places where forced eviction has taken place, The Kariobangi was no exception. The demolitions took place at 5 Am the morning while there was a lockdown in Nairobi. On the same day, there was a heavy downpour which is against the standards for carrying out a lawful eviction and Kenya’s evictions and resettlement guidelines 2009. This eviction took place despite a court order obtained halting the eviction pending a court determination. The day before the eviction, community leaders shared the court order with the police and administration who responded that for today, this court order is just a piece of paper. The KHRC has come on board to support Kariobangi North in filing for a case regarding the demolitions however Kariobangi sewerage farmers have no support from any agency.

Social Economic Impact

- The demolitions led to the loss of lives and disability to some PAPs.
- Homelessness due to lack of shelter.
- Insecurity as some of the affected persons fighting for their rights continue to be threatened, lowered living standards, inability to provide basic needs such as food.
- Loss of property since the residents were not given time to relocate and fetch their properties.
- Trauma to the affected persons has led to stress-related illnesses as some who were independent, but currently need help in fending for themselves and their families.
- Shock to a pregnant lady led to bleeding and shock that eventually led to the birth of an underweight baby.
- Increase in mental health issues among the affected persons.
- Lack of income and psychological torture has led to men fleeing from homes resulting in the separation of families.
- Increase in expenditure since some who were land/homeowners have been forced to now rent houses.
- Loss of investments: a case of an investor who built a talent growth facility for the youth that included a car wash, dancing, and acrobats was demolished.
- Inability to pay loans, inability to contribute to Chama money that enabled them to save.
- Children dropping out of school due to movement to find alternative shelter and their uniforms and reading materials being destroyed together with a few community schools which were demolished.

2.3.4 Case IV: Uthiru Junction

The case of Uthiru junction is complex since no authority is accepting responsibility for forcefully evicting the traders. The Uthiru Junction market has been in existence for the last 17 years. The traders have been doing business claiming that the police from Kabete has always provided security to their properties but, on the morning of 9th November 2020 at 7 am, the police were deployed to watch as eviction and demolition took place. The traders were given 10 minutes to salvage some of their properties. The market was under the leadership which was a registered group with a membership of 101 traders. Both KURA and NMS have distanced themselves from the demolition. A letter of notice that was claimed to come from NMS was also denied.

Due Process

The traders and vendors at the market stated that they were not accorded adequate time to vacate. On the day of the forced eviction, they were only told that they have 10 minutes to collect what they can. There was no genuine consultation and negotiations since the leadership of the market had initiated a process of applying for modern kiosks to the Nairobi Metropolitan Services.

This process had not progressed much, and they were faced with eviction. No alternative site was identified to offer the traders and vendors and no information on the intended use of the area where the market stood.

Social Economic Impact

- There was the destruction of properties of the traders including their shades (kiosks) and stock which was lost through the demolition.
- Threats to the leaders of the traders have increased due to their quest to seek justice for the destruction of their properties.
- Loss of life, some members of the group died due to the shock of losing their livelihood. She was a young girl who used to cook and sell chips and tea at the junction.
- Reduction of income since the traders have no alternative places to do their business, they are now left to hawking their goods.
- The group had a weekly savings group where each member used to contribute but currently, none can raise that weekly fee.
3.0 Successful Strategies and lessons learned in challenging forced evictions

3.1 Legal Action

Legal action is one of the most successful strategies in challenging forced evictions and demolitions in Kenya. Despite its tedious and expensive approach, it finally redresses the injustice and offers room for compensation/restitution. It also sets precedence on how to handle matters relating to abuse of rights, the due process regarding forced evictions and demolitions. The legal action guarantees access to information as ensued in article 35 of the constitution which the government or any related agencies/ institutions had initially withheld from the general public. This reinforces the rights of others who face imminent evictions and lessons to learn when accessing justice on forced eviction.

3.2 Regional human rights law and mechanism

The regional frameworks have now taken precedence in seeking justice, especially in the African context. They offer a ray of hope for persons seeking justice where their national process is frustrating and where justice seems compromised due to interference from other arms or bodies of the state. PAPs need to appreciate the regional institutions especially in seeking justice for forced eviction especially where the national court process has been exhausted. The best case is the Ogiek indigenous community who have sought for their claim through the African Court on Human and Peoples Rights. Despite the process taking a long period and very costly in terms of the impact of the affected population, it eventually worth trying while seeking an alternative to the national access to justice framework like courts and alternative dispute resolutions among others.

The African Court on Human and Peoples Rights, at its 45th session on 26 May 2017 in Arusha, ruled in favor of the Ogiek indigenous peoples in their claim against the Kenyan government, for consistent violations and denial of their land rights. The Court held, following an eight-year process, that the Kenyan government violated seven articles of the African charter.

The Ogiek have been routinely subjected to arbitrary forced evictions by the government from their ancestral land in the Mau Forest, without consultation or compensation. This has had a detrimental impact on the pursuit of their traditional lifestyle, religious and cultural life, access to natural resources and their very existence as indigenous people. Ogiek have a spiritual, emotional and economic attachment to the forest. They rely on it for food, shelter and identity.

3.3 International solidarity and support against evictions

On matters of forced evictions, international solidarity and support to raise awareness and call out governments are important. This strategy works when the different global bodies call out the funders of the infrastructure development projects to address the concerns of the PAPs.

The call by UN Special Rapporteur on the right to adequate housing who on 26 July 2018 condemned the massive eviction of residents of the Kibera informal settlement in southwest Nairobi, and urging the Kenyan authorities to halt all mass evictions until adequate legal and procedural safeguards are in place.

The other process is through the submission to the National Report for the Universal Periodic Review (UPR). Amnesty did a submission condemning the
rise of forced evictions from slums and other informal settlements across the country. These submissions supported by other global bodies who advocate for the right to adequate housing and protection from forced evictions have a long way in reminding nations of the need to protect the rights of their citizens through a periodic review reporting mechanism.

Amnesty International has also raised the case of the Mombasa – Mariakani Road to Africa Development Bank (ADB), KfW, and European Investment Bank (EIB) who stated they were not aware of the imminent evictions caused by the project they were funding. This led to the banks intervening due to the high risk of the entire project and PAPs were compensated. When all these processes are given weight by support from the communities affected, it goes a long way in accessing justice like the case above.

3.4 Community organizing and mobilization

This can take several ways from protest to picketing as guaranteed within the constitution. Protest and picketing are the most effective way of challenging forced evictions when executed well. They require a very well-informed community that is aware of their rights through capacity building and well organized.

However, protests and demonstrations are usually good at achieving short-term wins. That is why when executed alone leaves the community living in fear of when the government might repeat attempts to forcefully evict PAPs. The cases of Jeevanjee housing estate and Deep-sea settlements are an example where picketing was used to halt evictions. However, the threat to evictions still hovers around. There is a need to accompany this approach with other approaches stated above in this report to ensure there are no violations of human rights through repeated attempts to evict persons and demolish their housing and assets.

In conclusion, all the above approaches have in one way or another scored well in their attempts to halt forced eviction by securing the rights of at-risk communities. These approaches ought to be used together and when intertwined, they can offer better results in the fight against forced eviction and demolitions in the country.

4.0 Viable Alternatives to Forced Evictions

Forced evictions are majorly a result of humans rather than a few cases of natural occurrences like floods, earthquakes, tsunami, or volcanic eruptions. The urban areas and cities are facing evictions purely due to human demands for certain public goods and services. While human rights organizations such as Amnesty International and Pamoja Trust recognize and advocate for urban development and planning and acknowledge that this may at times necessitate resettlement, they however strongly emphasize that such resettlement must be a last resort after consideration of all alternatives and must be implemented both in accordance with international human rights law and in a sustainable and socially inclusive manner.

This means that the majority of the acts of forced evictions can be avoided only by finding strategies that allow and recognize the participation of the people to be affected by the development project. This might involve legitimizing their claim and right to stay where they are or relocate them to another location where they will lead productive lives, and this can be done in every place. It is therefore important to develop and implement sustainable alternatives to forced evictions that are grounded in a human rights-based framework.

These are some of the viable alternatives pitting the justification offered by authorities for unlawful evictions. Some of these alternatives were given out by the PAPs and have practically been implemented in Kenya while some are calling on the agencies and government to be innovative and creative in finding solutions to urbanization and demand for scarce resources while undertaking development agendas.

4.1 Water and Sewers

The idea that NAWASCO was forcefully evicting the community because they needed land for expansion of the already existing plant is far from being genuine. According to the residents of Kariobangi, NAWASCO still has the biggest chunk of land in Kariobangi to do the expansion. They also have more land in Ruai for the same. PAPs suggested the need to use modern technology that enables waste to be recycled. The members also suggested building underground tunnels for the drainage system in a way that does not disrupt the usage of land.

According to ISWA Task Force on Globalization and Waste Management within the frame of megacities, globalization and waste management. Management of waste through underground developed infrastructure can be looked at as an important evolution that would allow for the efficient and cost-effective tackling of one of the more pressing needs of modern society.

This innovative approach is practiced in the Scandinavian countries with the Asian nations also taking up the approach. The approach is environmentally friendly in protection and the minimal impacts on the natural and human environment, compared to a respective surface facility, and is attained, as the whole sewage treatment process is taking place underground. This means that there are no visual impacts, while, at the same time, enhanced control of odor problems and noise pollution are achieved.

In a more advanced approach, Singapore has stated tunneling which will transport wastewater via gravity to centralized water reclamation plants for treatment.
and recycling into new water. Its technology that NAWASCO and other agencies in the waste management need to pursue instead of evicting persons. It has more benefits in terms of monitoring and it allows the use of technology which might as well increase revenue in terms of wastage from different neighborhoods being monitored. It is also keen on toxic waste management which the current sewerage system has faced challenges detecting toxic chemicals and industrial effluent being released into our rivers.

4.2 Railway

Instead of forced evictions of the communities in the Dagoretti Railway reserves. The government of Kenya through the Kenya Railways should have extended the same ambitious project which relocated over 10,000 squatters into new housing and business units beside the railway line. This Relocation Action Plan aimed to re-establish an extended safety corridor for railway operations and maintenance in Mukuru and Kibera and act as a buffer zone to minimize the danger posed by accidents or derailments.

The project sought to mitigate against the social, economic, and environmental impact of the relocation by putting in place sustainable development programs and sufficient investment resources to enable the displaced persons to restore their livelihoods as well as the standard of living to pre-displacement levels or even higher. The project will ensure the livelihoods of the Project Affected Persons are improved and safeguarded against long-term hardship. It also ensured alternative adequate housing for the population who previously lived in deplorable conditions.

The other advantage of that project is that it generated revenue for the government. The success of that project was because it involved civil society organizations to be part of the process and Pamoja Trust has experience in advising the government how to implement that to avoid the continued forced evictions on families living in the railway reserves.

4.3 Urban Renewal & Redevelopment

Urban renewal is often presented as a natural process through which the urban environment, viewed as a living entity, transforms. “As the years pass, transformations take place, allowing the city to constantly rejuvenate itself naturally and organically” (Treister, 1987). While Redevelopment consists of the removal of existing buildings and the re-use of cleared land for the implementation of new projects (Miller, 1959). This is a normal phenomenon in cities across the world. The idea that these processes which have been practiced in many cities are leading to forced evictions in Kenya is a matter that needs interrogation.

The PAPs suggested that the county government are supposed to first identify space, build a shelter for resettlement of PAPPs to give room for them to demolish old buildings. After completing the previous tenants should be requested if they want to remain in the new building or the alternative settlement. This is to safeguard them against the uncertainty coupling redevelopment in Kenya where once you are moved there are no guarantees that you all be allocated a house in the newly built blocks.

4.4 Slum Upgrading

UN-HABITAT estimated that the worldwide number of slum dwellers stood at 830 million and is on course to reach 900 million by 2020. In an earlier Report in 2009, the figures were 817 and 889 respectively. The same report also noted that two-thirds of the world’s slum—dwellers live in Africa. In Kenya, it is estimated that roughly over 60% of people in urban areas live in slums.

The role of slum areas in shaping the image of a city is important to its future. On the negative side, where the city appears to make few attempts to improve the overall quality of life, this will be reflected in its image. It is on this foundation that slum upgrading has been anchored. Numerous efforts by the government have rendered the population homeless through forced evictions and demolitions. The Kenyan Slum Upgrading Programme (KENSUP) which was followed by the Kenya Informal Settlements Improvement Project (KISIP) are some of the programs implemented by the government without a comprehensive policy and legal framework. In 2012 the Government through the Ministry of Housing initiated the process of developing the National Slum Upgrading and Prevention Policy (NSUPP).

The document called for the Enactment of a comprehensive slum upgrading and prevention legislation to deal with all the key areas of slum upgrading and prevention issues including security of tenure, tenure regularization, institutional arrangement, regulations, environmental protection, planning and development control, the participation of all stakeholders especially the vulnerable groups, infrastructure development, and maintenance, security, and safety among others. As Kenya works towards tenure regularization, they should also focus on developing various forms of socially controlled land rights combining individual ownership with legal frames and reducing speculation or unacceptable forms of land use. For example, public rent on a long-term basis, cooperatives of/ for landowners, community land ownerships. Regularization of regular settlements always should be accompanied by participative planning of improvements, which even keep develop and public space.

4.5 Social Tenure Domain Model (STDMD)

The study revealed that land management and administration are at the center of the challenges of forced eviction. It further evident that public land tenure, leaseholds, freeholds and community land tenure systems are the most widespread in the mapped areas facing imminent forced evictions and demolitions. In response to the existing gap in the conventional land administration systems such that customary and informal tenure, STDMD can broaden the scope of land administration by providing a land information management framework that would integrate formal, informal, and customary systems and administrative and spatial components. STDMD further supports informal rights such as occupancy, adverse possession, tenancy, use rights, or customary rights, that is, indigenous tenure as well as formal rights.

Acknowledging the challenge of forced evictions and demolitions goes beyond upscaling STDMD to institutionalizing it within the available enabling spaces that exist within the countries’ legislative frameworks. Experience in other areas indicates that the government carries forced evictions and demolitions without due process. This is a call that relying on only one approach will not yield results but rather, opportunities for community organizing in anticipation of imminent evictions should also be pursued.
5.0 Recommendations

5.1 National and County Governments

- Raise public awareness by regularly conducting nationwide information campaigns that explain the eviction and resettlement of persons; comprehensively explain the rights of the PAPs, the responsibilities of law enforcement.
- Adopt a national-level moratorium on mass evictions until adequate legal and procedural safeguards are in place to ensure that all evictions comply with international human rights standards and national laws.
- Instruct relevant law enforcement agencies, such as the Ministry of Interior, the National Land Commission, KENHA, KURA, and other related agencies to halt all projects that have been linked to causing forced evictions and demolitions.
- Improve and foster coordination among relevant government agencies, to ensure a streamlined approach to dealing with evictions when all viable alternatives have been exhausted.
- Ensure adequate funding for the ministries and other relevant government ministries, on national and regional levels, to support projects that lead to eviction and resettlement of persons where need be.
- In collaboration with relevant ministries and nongovernmental agencies, develop and implement a national strategy to prevent and stop forced eviction and demolitions or displacement of people.

5.2 National Parliament and the County Assembly

Introduce a bill in Parliament that explicitly prohibits forced evictions and sets out safeguards that must be strictly followed before any eviction is carried out.

The law should be in strict compliance with Kenya’s Constitution and its international human rights commitments, including in respect of the provision of effective remedies and reparations. Such reparation should include adequate alternative housing for all those who cannot provide for themselves, rehabilitation, compensation for all losses and guarantees of non-repetition:

The law must:
- Stipulates accountability for perpetrators of forced eviction and demolition;
- Introduces mandatory training for state officials;
- Provides for better access to services for PAPs through the establishment and financial and psychological support.
- Provides for enumeration of affected persons
- Provides for genuine consultation with affected parties before the eviction
- Provides for environmental, social and economic assessments and plans
- Provides for procedures of resettlement after the eviction
- Is clear in terms of the definition of different types of unlawful occupiers and who would be protected against evictions.

5.3 The Office of the Director of Public Prosecutions (DPP’s)

- Review and ensure compliance of law enforcement officials with Kenya and international human rights standards regarding investigation and prosecution of cases of forced eviction, displacement of persons, and demolition offenses;
- Ensure effective oversight over investigations of cases of eviction and demolition by law enforcement;
- Train prosecutors to more rigorously oversee investigations of complaints of forced evictions and demolitions and to more effectively prosecute them.

5.4 National Land Commission (NLC)

- NLC should initiate an investigation, on its own or a complaint into present or historical land injustices and recommend appropriate redress especially on eviction and displacement of persons.
- NLC should conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value, and the amount of compensation payable to each legitimate claimant.
- NLC then convenes a public hearing after the publication of the Notice of Intention to Acquire and undertake extensive public awareness and consultation.
5.6 Civil Society Organizations (CSOs)

- Civil society organizations should form broad alliances to sustain the fight against forced eviction and demolition and demand the right to adequate housing for most Kenyans.
- Civil society should conduct extensive awareness creation on eviction and resettlement of persons across the country so that people should know their rights.
- Civil society should invest in community organizing in the different mapped areas to mitigate the threat of forced eviction and demolition.
- Civil society organizations should continue to monitor and document processes of evictions especially the abuses of the rights of the PAPs and publish the findings to a greater population.
- Civil society should demand the development of a stand-alone law that will protect the PAPs during evictions and sustain the advocacy by shaping and influencing policy change.
- Civil society should assist the PAPs in accessing justice by assisting them to prepare their documents and in some cases through public interest litigations (PIL).

5.5 Kenya National Commission on Human Rights (KNCHR)

- Monitor government both national and county together with agencies on abuse of human rights.
- On its initiative or individual petitions, investigate grave abuses of human rights in relation to adequate housing, forced evictions and demolition in the country and provide redress.
- The commission should research and monitor the compliance of human rights norms and standards by the government and its agencies pre, during and post evictions and replacement and resettlement of persons.
- Collaborate with other stakeholders to promote rights to adequate housing through policy, law and practice.
- Conduct public awareness to empower the PAPs on human rights and obligations in relation to eviction and resettlement of persons.
- Ensure that both the national government and county together with their agencies are compliant with national, Regional and international instruments relating to human rights and especially the right to adequate housing, protection from discrimination and forced evictions.

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