

## Housing and the Abuse of Expropriation: an OSF Working Group meeting April 9, 2013, 12:15-1:30

**Elizabeth Eagen** (Program Manager, Human Rights Data Initiative) introduces the guests, and poses three key questions to keep in mind throughout the presentations and discussion:

1. Who is missing from this group? Who should be included?
2. How can we use OSF's own strategic processes to act on these issues?
3. What connections come to your own mind?

**Acacia Shields** (independent consultant) presents the motivations and major findings of her research, based in part on the collection of cases in an internal blog curated by Laura Guzman.

One motivation of OSF and Acacia's research is to illustrate how an understanding of how state actions on expropriation of land and housing reflect the state-citizen relationship, the level of equality in the government, and the level of protection of human rights.

Acacia points to an initial major finding: there is a set of corresponding rights that orbit housing rights issues, and that can be illuminated by looking at housing rights and expropriations. For example, in the case of expropriations in the lead-up to the World Cup and Olympics in Rio de Janeiro, when homes are taken away individuals also lose their access to services, job markets, transportation networks, and social networks.

Another finding is seen in that if we look even closer at government decision making around the process of expropriations, there are human rights implications beyond the initial set of violations. For example, the way a state makes decisions around a project (be it in planning, offering compensation, or other stages) demonstrates – in a concrete way – things like level of freedom of information, level of racism, etc., in the government.

Related to this, Acacia notes that we can also learn about the ways in which people can respond to the state by looking at cases of expropriation. These cases illustrate access to justice, freedom of speech, and other rights.

Overall, the issue of housing rights elucidates the situation in a country with respect to fundamental civil and political rights.

Acacia notes that on a foundation-level, OSF programs are using housing rights as a lever to act on other human rights and governance issues.

On a broader level, acting on housing rights and expropriations is perceived as a way to bring disparate groups together to form new alliances. Here, there's quite a lot of untapped potential for collaboration, and some initial attempts have fallen apart. There's more work to be done both in and by OSF to bring more coherence to these attempts to collaborate and build alliances. Acacia suggests that this

brownbag is the next step to building coherence, and asks if there are shareable methodologies within OSF that we can all learn from.

**Jane Buchanan** (Associate Director of the Europe and Central Asia Division at Human Rights Watch)

Jane opens by noting that the issue of expropriation is globally-relevant, and is important for what it reveals about respect for human rights as a whole in the government/state in question.

The work she presents comes from two cases, one in Azerbaijan in which there have been an increasing number of illegal expropriations, many related to the Eurovision Song Contest; and a second in Sochi, Russia, in which expropriations are related to the 2014 Winter Olympic Games. In both situations, Jane notes that HRW tried to seize the moment of a mega-event (which brings a lot of national and international attention), to bring attention to the violation of housing rights.

In the case of Azerbaijan, the government has been expropriating and evicting people in the name of development for 4-5 years, and the majority of the affected are middle-class, in historic buildings. The process of expropriation has occurred with very little or no consultation, no publication of plans, and the people affected have lived in confusion and fear. Jane notes that there is no basis in national law for expropriations for development, meaning that the government blatantly violated the process of eminent domain (as outlined in their constitution). Also, compensation was not systematic, and varied widely in amount and application. Finally, some evictions were violent and forced. Regarding the response of the people affected, Jane comments that people did try and use the courts. In many cases, they did win injunctions to stall eviction until the matter was addressed in the court, but the eviction and demolition often went ahead anyway. She was not aware of a single court process decided in favor of the homeowner.

In the case of Sochi, Jane describes a situation in which several thousand families are being removed from their homes in order to build infrastructure and venues in preparation for the Winter Olympics. Though the plans went before the International Olympic Committee (IOC) for approval, they were not shared with the communities to be affected, nor were any concerns raised over the expropriations necessary to enact the plans. In terms of the way in which the evictions were carried out, the process has been marked by unfair compensations, and faulty appraisals. There was also confusion over land titling, as families had been told that they did not need to privatize their land (decades prior). They were thus sued for "illegal construction," even though the state had never before acted upon the illegality of their housing .

Jane notes that there are some commonalities in the two cases. There is reluctance on behalf of the governing organizations like the IOC to become engaged in a substantive way. On this point, HRW has argued that they do have a responsibility, and has seen some progress. The IOC implemented a system in which they share concerns/complaints with the government, but the result is just that the IOC passes the government's response back to HRW (rather than taking a position). Also, an emergent tactic from HRW's work here is on the advocacy front, bringing media attention to the issues and making them

more accessible. This is especially relevant in cases of mega-events. Jane notes that demolitions are very raw/visually-striking, and are thus good for advocacy. She cautions, however, that the issues are complex and process-based, which can be difficult for journalists to accurately represent.

Jane finishes by calling for three things: first, more understanding of the issue among policy-makers, journalists, etc.; second, a non-western approach to property/ownership rights; and finally, increased efforts of global organizations to act in places where there is not much civil society to speak of, and in cases that could be taken to the European Court on Human Rights.

**Ken Hurwitz** (Senior Legal Officer, OSJI) discusses the anti-corruption work that OSJI has taken on seeking to find legal remedies to address the issue of resource extraction. Today, they conceive of resources in the broadest possible manner, and as such have seen land rise to the forefront (though the program originally started to address issues of gold and oil extraction).

In Equatorial Guinea, OSJI's work began in an effort to fight against the abuse of oil revenue and resources. The revenue from oil is spent to fund a corrupt government, government offices, and over a dozen presidential palaces. Currently, there is nearly nothing that the people in Equatorial Guinea can do to fight this exploitation. As such, OSJI filed a case in the African Commission based in Article 21, which outlined the right of the *people* to control national resources, and litigated on the issue of kleptocracy.

One key in the manner in which they addressed the issue of resource exploitation was the connection that resources have to land. Before there was oil, there was coca and forestry. In order to exploit these resources, the government of Equatorial Guinea scared the Spanish (who had been cultivating the resources) away and took their land. With respect to oil, though much of it is offshore, the government still needs to bring the oil to shore to trade and sell it. OSJI, then, came to the conclusion with the court that the tie between all of these resources was the right to land. So they've tried to figure out how to put land expropriation in to a context of a broader resource exploitation discussion, in order to bring it in to article 21.

Before they can move forward in the African Commission, OSJI must pursue their case on a national scale, and that is where they are today.

Ken closes by noting that addressing these issues of right to land, and land expropriation has concretely highlighted the lack of freedom of expression, transparency, and right to seek justice in Equatorial Guinea. It also has connected to other issues, and contextualized non-tangible violations.

**Solomon Greene** (Senior Program Officer, Equality & Opportunity Fund, US Programs) opens noting that their work in USP is a variation on the themes discussed so far, and presents a taxonomy of when the state acts (or when it does not) with respect to one's land or housing.

In the first type of state actions with respect to land/housing, the state explicitly takes land, typically claiming eminent domain. In the United States, this is an ongoing issue, with the same dynamics as what was seen in earlier cases. To demonstrate, the history of eminent domain in the United States cannot be separated from the civil rights movement, or from lines of race, ethnicity and class. Since World War II, about 4 million families have been dislocated as a result of eminent domain, the majority of which have been minority groups living in racially segregated communities/areas. These are politically vulnerable groups, who lack visibility to defend against displacement. As such, expropriations in the US context can highlight the same issues around lack of access to rights, racism, and discrimination that expropriations in other contexts do.

A second type that Solomon discusses is what the state does with the land it already owns, notably affordable housing stock. For example, as a result of the US Department of Housing and Urban Development's (HUD) policy shifts, there has been a focus upon creating mixed-income neighborhoods, rather than concentrated affordable housing. This has led to the demolition of about 150,000 units of affordable housing, with only about 50,000 rebuilt; just 12% of families who were originally displaced went back to the new housing. In response to this, there has been some advocacy for one-to-one replacement of housing, and in Baltimore, they're looking at how to incentivize choice, rather than involuntary disruption.

Finally, Solomon discusses the private-to-private transfer of land, most notably in the recent foreclosure crisis. Currently, the government is a huge player in the crisis, because the private sector has largely backed out. The vast and massive dislocation caused by the crisis has been concentrated in minority and poor neighborhoods, again demonstrating the connection between housing and racial, ethnic, and socioeconomic divides. Furthermore, the government played a role in the lead-up to the crisis, because of changes in policies regulating lending and mortgages. In this case, the harm caused by housing issues stemmed not from explicit government action on housing, but from more systemic and policy-based government actions.

Solomon closes with a particularly revelatory conclusion: the issues around housing and land rights can result from assertive government action (as seen in the case of expropriation), or from government retreat (not putting protections in place, e.g. foreclosure crisis).

**Ken Zimmerman** (Director, US Programs) offers a series of brief comments building upon Solomon's discussion on the work of US Programs. He begins by explaining the equity and equality frame of US Programs. In the US, there has been an emphasis on creation of new homeowners, which has been tied to a desire to increase wealth. However, when you look at the situation, there are huge income *and* wealth disparities that follow the same lines, and are connected to how people access homeownership as a source of wealth. Therefore, what has happened in the foreclosure crisis has been traumatic for poverty in terms of wealth.

Finally, he notes that the conditions that affect what options low-income individuals have with respect to housing are incredibly important. Housing affects access to jobs, resources, education, and more.

Therefore, housing through this policy lens connects to other very significant equity concerns, and touches upon the racial and ethnic dimensions of housing.

### **Q&A, Comments**

Mike Paller (Program Coordinator, SEAI) asks if anyone in the room knows of anyone moving this idea forward as part of a shared framework.

Elizabeth responds that this is an goal and motive of the meeting, and that we would need to identify the time-delimited advocacy that we could work on.

Emily Martinez (Program Director, Human Rights Initiative) comments that the shared framework on food security in Africa may be touching on some of these issues as well.

Julie Hayes (Associate Director, Office of the Director of Programs) suggests we speak with OSISA and ask them to talk about [Operation Murambatsvina](#) in Zimbabwe and UN envoy Anna Tibaijuka's [report](#). She also suggests collaboration with Roma Initiatives and International Migration Initiative.

In response, Elizabeth mentions the possibility of a conference to unite these internal actors, and highlights standout grantees and ideas to promote collaboration.

Johanna Chao Kreilick (Special Assistant to the President , Office of the President) introduces herself, and comments that the shared framework process is exactly what they hope the Souk to be able to support – the ideas going on to the Souk need not be “fully-baked.” She offeres herself as a resource, and encourages the audience to engage with her. She also emphasizes that the Souk can bring in a different group of people, and spur new ideas. She offers to follow up with Elizabeth and Laura for more support.

After the formal conclusion of the discussion, Solomon, Acacia, and Jane discuss the possibilities presented by mega-events, one of them being the creation of a scorecard of cities bidding for events, ranking them on their human rights record.