



THE ROAD TO HELL: The Kibera evictions and what they portend for human rights and ‘development’

By Dauti Kahura



A responsible government takes care of its poor people until they are strong. - Mwalimu Julius Nyerere: 1922-1999.

On the fifth day after the surprise dawn evictions at the infamous Kibera slums that lay in the path of a new road that is being constructed, I visited the area to witness first-hand the scorched earth policy that the government had employed to rout out the hapless slum dwellers. It was a bright sunny mid-morning with a clear blue skyline above but the area was eerily silent: From the District Officer (DC)'s offices, one could look yonder, as far as the eye could see, where once upon a time, there were structures and those structures housed human beings and their pets - cats, dogs, chicken, doves and rabbits, but now, all one could see was flattened land. The only movement was that of the Caterpillar bulldozer rumbling along like a military tank detecting land mines.

Kibera shares a border with the Nairobi Royal Golf Club, which is near former President Daniel arap Moi's home, Kabarnet Gardens, and runs all the way down towards the Langata area. I met three elderly women who were watching the earthmover as it levelled the land where once stood their structures.

"I have lived here since 1969, and in my close to 50 years, I've never seen such a brutal, cold and calculated demolition from such a cruel government," Mary Gikunda, a landlady whose structures (she declined to say how many she had) were flattened in a matter of seconds. "Those structures were my income, as well as my financial support for my children," reiterated Ms Gikunda, who told me that all her (many) children were born in Kibera. Now in her mid-60s, the landlady seethed with fury against politicians, against state bureaucrats, against the security apparatus, against journalists, against anybody associated with the Jubilee government.

"Why would the government do this to us? I woke up very early to vote for Uhuru Kenyatta, believing and trusting that he would not allow this kind of demolition to occur, but obviously we were duped; we are always duped by these politicians," posed Ms Gikunda. "Trust me, I will never vote again, I'm done. I've ran the course of my voting life. These people should leave me alone now. A road is a good thing - nobody in his right senses would oppose such a development. But is a road worth the wanton destruction you've just witnessed? Is it more important than people's lives?"

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She and the two women were eating dry *githeri* (boiled maize and beans). "I was born here in Kibera," said Josephine Munee. "I've spent all my life in Kibera, I know no other home. In all of my 65 years, we grew up being threatened by demolitions and evictions, but we fought back and we survived. Somehow, the past governments would perhaps think twice and have mercy on us, but this Jubilee government is something else." Ms Munee observed that as the "wretched of the earth", slum dwellers anywhere in Nairobi city were not the "owners of the land", and so, the powerful and the mighty could do whatever they deemed fit, "but at 65-years-old, where would they expect me to go?", she wondered aloud.

Rhoda Muthei, 87, was the oldest among the women: Because of her advanced age, her colleagues had looked for a plastic chair for her to prop up her back and rest on. In her Kikamba mother tongue, she asked them who I was and what is it that I wanted.

"I'm not in a mood to speak to anyone," she told them. Persuaded to talk to me because I was not a state officer, she came to life and said, she came to Kibera via Langata in 1963, settling in her current abode proper in 1972. But now, it was no more and she did not know what to do and where to go. "I witnessed Jomo Kenyatta (the first President of the Republic of Kenya and the father of the current and fourth President Uhuru Kenyatta) being sworn in as the country's first black leader in Langata and we ululated throughout the night, ecstatic in the knowledge that we could now henceforth self-govern ourselves. In the sunset of my years, I have no place to call home because the government does not have time for poor, old and dying women like me."

However, even in the worst of adversity, people can have something to smile and live for. I walked 20 metres from where the three women were, navigating huge boulders to where Rachel Kerubo was, and found her preparing lunch on an open makeshift three-stone hearth. Charming and welcoming, she heartily invited me to lunch: ugali and *omena* (sardines) with *kunde* (indigenous bittersweet greens leaves). A delicious and nutritious dish, eaten mostly in low-income households, the meal is a mouth-watering combination that fills the stomach and is very pocket-friendly.

"I came to Kibera a decade ago after I was displaced by the 2007/2008 post-election violence in the Rift Valley," said Kerubo. "There's no respite for the poor and the weak in this country. Now it looks

like I'm on the run again." Her house in Kibera had been flattened, but she counted herself lucky: She was just in time to rescue her wooden chicken coop, part of her income-generating project when she came to Kibera. Her three-week-old chicks were scrounging the rubble for food with the help of the mother hen. In her mid-50s, Kerubo is as enterprising as they come.

Besides rearing chicken, she grew tomatoes on a 20X10 plot that she had rented next to where she lived. The tomato plants too had been flattened. With a group of other seven residents - five women and two men - Kerubo and her group had fund-raised to buy 10,000- and 5,000-litre plastic water tanks, where they stored water which they would sell to their fellow slum dwellers for a marginal profit. She also used part of the water to grow her tomatoes. "We were given two alternatives - we pour all the water and therefore save our tanks - or the bulldozers crush them," Kerubo narrated to me. I found the water tanks lying on their belly on their raised wooden support, proof indeed that their contents had been rendered to the ground.

Across the field, on the other side of the wall, about 60 metres away, I found Halima Burhan cleaning dishes. Her ageing great aunty and daughter sat close by on the ground crossed-legged, their backs leaning on a semi-demolished mud wall. Tall and ebony black, Halima, at 63-years-old, is as energetic and as active as ever. Looking a little rugged, perhaps because of the vicissitudes of slum life, she still retains a trace of the impossible beauty that Nubian women are known for. "The Monday [July 23, 2018] morning demolition took us by complete surprise," said Halima in proper Kiswahili *sanifu* (formal Kiswahili language).

"On July 16, government officials [these were Kenya Urban Roads Authority (KURA) personnel] descended on our homes, marked them with a red X sign, and told us that all the people who would be affected by the impending evictions would be paid a consolidated three-month payment to move away," said Halima. "We asked them when the eviction notice was due, but they dodged the matter. They assured us nothing untoward would be done without our prior knowledge. Little did we know they had come for a last reconnaissance tour to confirm that all the intended houses and buildings to be demolished were clearly marked, as they duped us that nothing sinister was in the offing." In hindsight, said Halima, it was the calm before the storm.

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The KURA officials had gone down to the three affected villages of Kichinjio, Mashimoni and Lindi that would be razed down on Monday to pave way for the link road between Langata Police Station and Karanja Road in Kibera, ostensibly to enumerate and take the slum dwellers' particulars for what the dwellers were made to believe would result in restitution. Four days later, KURA sent out a WhatsApp message and copied both Amnesty Kenya and the Kenya National Commission on Human Rights (KNCHR). The message read as follows: "A multi agency team has successfully completed the Kibera enumeration process on 20th July 2018. The team is now analysing the data collected and once the process is complete, the Resettlement Action Plan (RAP) report will be availed to the public."

Yet, perhaps, unlike many of her slum mates, Halima should have been aware of the demolitions, "if only I had not brushed away my grandchild's naggings." On Sunday [July 22] evening, her grandson Masud Talib was playing football near the DC's offices, when he saw the bulldozers being parked at

the compound. Eleven-year-old Masud, acting on a child's instincts, ran back home and called out his grandma: "*Bibi, bibi, tutavunjiwa, nimeziona matrekta zikipaki pale kwa DC. Nimewasikia wakisema watabomoa manyumba.*" (Grandma, grandma, they will demolish, I've just seen the bulldozers being parked at the DC's compound and I overheard them saying they will demolish our houses. "*We Masud nawe acha hayo,*" (Please Masud stop that) Halima responded. There was nothing usual about the presence of bulldozers at the DC's place - the road (Karanja Rd) connecting to Ngong Road was still under construction.

About 12 hours later, at around 6.00am, Halima was woken up by earth tremors beneath her house and wondered what possibly that could be. The demolitions had began and people were scampering from their houses. Because her house is 500 metres from the DC's offices, the bulldozers' earthshaking movements were audible from far, and her house was among the first ones to fall under the hammer. "*Alhamudillahi my grandson is alive,*" said Halima in supplication. Inside her house was her 90-year-old great aunty, grandson Masud and her daughter and her 12-week-old newborn baby. "*Since demolitions, we have been sleeping outside, Allahu Akbar [God is great], the elements have so far not affected the baby.*"

"I was raised on my paternal grandfather's land - this land that they have just evicted me from," recalled Halima. She had now stopped doing the dishes and we were standing next to the ramshackle ruins - a crude reminder of what she once called home for more than half a century. Her grandfather, Marjan Sakar, a soldier of the British army, was among the first Nubians to be settled at Kibera.

Nubian origins

Kibera, which for the longest time has been synonymous with the Luo people, owes its existence to Nubians' bravery and diction. Kibera is a corruption of Kibra, Ki-Nubi for forest or a bushy area. The Nubians came from Sudan, around the Nuba Mountains. They were identified first by the Egyptian ruler Emin Pasha and later by the British imperial government as brave soldiers. At different times, they were enlisted by both Pasha and the British to wage wars on their behalf.

Modern Nubian history records them as having been settled in Kibera around 1897, just before Kenya become a British protectorate. Those that were settled in Kibera were part of the 3rd Battalion of the King's African Rifles who formed the bulk of the soldiers who had been deployed to fight for the British Empire. By 1900, Kibera was already a military reserve. This designated area, next to the railway, was surveyed in 1917 and was gazetted the following year. The land was estimated to be 4197.9 acres. From 1912 to 1928, Kibera was administered as a military area under the direct control of the army authorities. Anybody who wanted to settle in the area needed a special pass and one of the requirements was to have served in the army for at least 12 years.

In 1933, the colonial government appointed The Carter Land Commission to study and report on the land problems in Kenya. In reference to Kibera, the commission wrote: "It appears that this area was assigned to the King's African Rifles in 1904, although not gazetted until many years later. There is nothing in the gazette to show for what reasons so large an area was required, but it is common knowledge that one of the objectives was to provide home for the Sudanese ex-askaris."

In 1963, Kibera was fully incorporated into the city boundaries of Nairobi. By 1970, the original area of 4197.9 acres had been reduced to just 500 acres. Today that land is just under 300 acres. Large portions of Kibera were swallowed by middle-class estates, like Ayany, Jamhuri, Langata and Ngei, along Ngong Road, leaving the Nubians to be concentrated at Lindi, Kambi Aluru, Kambi-Lendu, Kambi Muru and Makina and along Karanja Road. In the fullness of time other ethnic communities, such as the Kikuyu, Kamba, Kisii, Luo and Luhya, settled in Kibera.

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"In 2016, Nubian elders took the government to court," Halima told me. "They were seeking to stop the road passing through our land and the intended demolitions and evictions." On August 5, 2016, the "[Abdalmajid Ramadhan & 3 Others V Kenya Urban Roads Authority \(KURA\) & 4 Others](#)" case was filed at the Environment and Land Court in Nairobi (Petition N0.974).

The court ruling

On April 28, 2017, Justice S. Okong'o ruled on the matter and directed KURA as follows: "In the interest of justice and in order to avoid human suffering, I order that the petitioners herein be included in the Langata/Kibera Roads Committee and be actively involved in the Relocation Action Plan (RAP) for the Project of the Affected Persons (PAP). I order further that the 1st, 2nd, and 5th respondents shall not evict or demolish the houses belonging to the petitioners until the agreed resettlement plan for the persons affected by the road project in question is put in place."

In essence, what Justice Okong'o had done in his ruling was to order the Attorney-General, KURA and the road contractors, H.YOUNG, to enter into a preparation of the relocation action plan. From the time of the ruling in April 2017 to July 16, 2018, when KURA showed up with the eviction notice, they did not do anything to obey the court orders: they did not involve the Nubian elders or its committee; they did not come up with a discernable relocation action plan; and, in truth, they did nothing to show that they respected the law of the land.

Then, suddenly, KURA got caught up in a flurry of activities: On July 13, 2018, it requested a meeting with Nubian elders, KNCHR and the Mohammad Swazuri-led National Lands Commission (NLC) at its offices located at the Ministry of Roads offices ostensibly to convince these bodies to come up with the relocation action plan as per Justice Okong'o ruling. An official who attended that meeting told me, "The July 16 enumerations was a way of showing that KURA was keen on honouring the court's ruling with the 'false' promise of giving something small to the people as compensation."

The official told me that it was very odd that KURA would summon, among others, an independent body such as KNCHR to its offices and "KNCHR, unashamedly would troop to another body's offices to scheme on how to bend and obstruct the constitution, while disobeying a court's ruling. I had along chat with KNCHR commission members and I did not mince my words," the official said to me.

"In respect to the brutal evictions in Kibera, the commission punched below its weight. The 2010 Constitution and the KNCHR Act of 2011 grant the commission immense powers to summon state officers, the power to sue for injunction, through the courts, for such violations of human rights, and the power to investigate and prescribe remedies. So far the commission has deployed only a fraction of these powers," added the official. The official explained to me how KNCHR is entrusted with quasi-judicial powers to summon the minister in charge of roads to explain eviction notices. He said the commission can equally go to court to secure an injunction on behalf of an aggrieved party and exercise powers to collect data, and even enforce corrective action.

Forced evictions: A violation of human rights

On my second day in Kibera, I met up with 61-year-old Joseph Omondi. Born and bred in Kibera's Katwekera village, he is tall and sturdy and is always up and about and laughter is his second nature. When elated, he breaks into uproarious laughter and can crack your ribs with his practical jokes. "But on the day they demolished Kichinjio, Mashimoni and Lindi, I broke down and wept," said a reflective Omondi. We were at the backyard of Kabarnet Gardens. At the Administration Police (AP) camp inside the stately home, there is a makeshift food kiosk, where food affordable to the security officers and their retinue is sold.

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In between a meal of ugali and *matumbo* (fried intestines), Omondi told me he had witnessed forced slum demolitions over time in Nairobi - in Soweto (next to Spring Valley suburbs), in Kibagare (next to posh Loresho), in Muoroto (that used to be next to Country Bus Station) and in Mathare 4A. However, according to him, "This Kibera one ranks among the most horrendous, perhaps only to be rivalled by the brutal Muoroto slum eviction which took place at 3.00am and which resulted in some people losing their lives. How can a government be so brutal, merciless and conniving against its own people like this? In a post 2010 new constitution?"

"The state had come prepared to mow down the people in case they resisted or became violent," pointed out Omondi. "But on this day the people did not resist. They watched, dazed, as their structures went down with their earthy belongings, with no time to salvage anything. With a 1000-strong force of regular police, AP, the brutal and inhuman paramilitary GSU (General Service Unit), it was going to be a futile resistance. So the people stood aside, the earthmovers roaring, flattening anything and everything on site, much like a military operation."

I found Oscar Indula and David Lwili, both in their late-20, seated on a bench and pensively looking over the horizon beyond the site that they had once called home as residents of Kichinjio slum. "The state had come fully armed and it was a stealth operation. They had taken us by surprise, there was no time to mobilise. They came at dawn and many people were just waking up. Confused by the attendant commotion and seeing the encroaching excavators, the people panicked. Then, they became lost and bewildered. But even if we could have mobilised, we would have been completely pulverised. It was a full army battalion, we stood no chance. We were gazing down at a massacre."

Omondi told me he could only liken the Kibera evictions to the brutal demolitions that had razed down people's homes and businesses in Zimbabwean cities and towns a dozen years ago. On May 19, 2005, the then Zimbabwe President Robert Mugabe's ZANU-PF government security forces rolled down on the capital city Harare's informal settlements and flattened homes and businesses. It was a violent affair, overseen by the police and army, and soon spread to other major cities and towns.

Operation Murambatsvina (Operation Restore Order) was dubbed "Operation Tsunami" because of the speed and ferociousness with which it attacked the settlements. According to the *"Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlements Issues in Zimbabwe"*, an assessment carried out by Anna Kajumulo Tibaijuka between June 26 and July 8, 2005, about 700,000 people across cities in Zimbabwe lost homes, sources of income and sometimes both.

“The Kibera demolition affected between 30,000 and 35,000 families in the three villages,” George Odhiambo told me. “The exact figures are not known, but for those talking about 30,000, they should know that that is a very conservative estimate.”

Odhiambo is the founder of Adventure Pride Centre, a school that catered for pupils from pre-school to Class VIII and which was located in Kichinjio village. He took me to the precise place where the school had stood. It is difficult to believe that a stone building with a cemented floor once stood erect at Kibera’s ground zero. The only sign that learning used to take place here were the scattered text books and some completely new and unused exercise books. Nothing was spared in the wake of the demolitions.

“Adventure, alongside two other schools - Egesa Children’s Centre and Makina Self-Help Primary School - rested on Nairobi Royal Golf Club’s private land, contrary to the popular belief that everything that was demolished was on government land,” said Odhiambo. “The management of the Club had had an understanding with the schools’ owners to operate on its land, as long as they used the premises as learning institutions.”

I asked Odhiambo what would happen to the Class VIII pupils who will be sitting for the Kenya Certificate of Primary Education (KCPE) this year. “The pupils are very confused, distraught, disturbed and will need counselling,” observed Odhiambo. “Currently, all the pupils are at home, as we think of what to do next. For the Class VIII, we have to quickly find alternative centres where they will sit for their exam. Already, as it is, they learn under some of the harshest conditions that one can possibly imagine and yet have to compete in the same exams, with kids going to exquisite schools, laden with textbooks, learning materials and whose teacher-student ratio is at most 1:15 and where teachers are always present.” In total, there were eight schools in the three villages that were brought down: Adventure Pride Centre, Egesa Children’s Centre, Love Africa Primary School, Mashimoni Primary School, which had been there since the 1970s, Makina Self-Help, Mashimoni Squatters, Mashimoni SDA and Saviour King School.

Josiah Omotto, of the Umande Trust, an NGO that works in the water sector in Kibera, said that between 2008 and 2009, the ministry responsible for housing led a team of experts to scout for best practices on eviction guidelines. The team borrowed from the United Nations and best practices from visits to Brazil, Rwanda, South Africa, Tanzania, Uganda and Zimbabwe.” The result was the compilation of the government’s document: *“Towards Fair and Justifiable Management of Evictions and Resettlement: Land Reform Transformation Unit (LRTU) secretariat.”* Chief among its recommendations were:

1. Evictions should be carried out when appropriate procedural protection are in place
2. These protections are identified by the UN Commission as Economic and Social and Cultural Rights
3. An opportunity for genuine consultation with those affected
4. Adequate and reasonable notice for affected people prior to the eviction
5. Information on the proposed evictions must be fully provided
6. Government officials and/or representatives to be present during the evictions
7. Evictions are not to take place in adverse weather or at night.
8. Government to ensure that no one is rendered homeless or vulnerable to the violation of other human rights as a consequence of evictions
9. Adequate alternative housing and compensation for all losses must be made available to those affected prior to eviction, regardless of whether they rent, own, occupy or lease the land in question.

“The saga of the Kibera-Langata link road is very puzzling. There are too many shortcuts, too many

loose ends and illegalities,” observed Omotto. “And they are being let to pass, while in fact, we have a precedent to follow.” He reminded me of the Kwa Jomvu evictions in 2015 and how the Kenya National Highway Authority (KeNHA) redeemed itself by owning up to orchestrating forceful eviction of the Jomvu houses and business premises without following the due process of the laid out stipulations.

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On May 17, 2015, more than 100 inhabitants of the Kwa Jomvu informal settlement along the Mombasa-Mariakani Highway were woken up by a bulldozer trampling on their structures at night, between 11.00pm and past midnight. The bulldozer, escorted by armed police, flattened their houses and business premises. *“Driven Out For Development: Forced Evictions in Mombasa”*, a report by Amnesty International, says the people complained that they had not been consulted beyond being given a January 2015 eviction notice. They had not received any information on eviction process, resettlement, or compensation.

On August 13, 2015, KeNHA organised a public sensitization meeting and owned up to carrying out the forced demolitions. The roads authority asked the people to form a committee to tabulate their losses and present the same to KeNHA. It also educated the people about the Environment and Social Impact Assessment (ESIA) and Resettlement Action Plan (RAP) for the project. In September 2015, KeNHA took responsibility for the evictions and agreed to pay compensation till the end of 2015.

Then last month, once again, one of the most famous slum colonies in Africa was in the international news: On the days I was there, the slum had attracted its usual voyeuristic suspects - local and international news corps, “development” workers and NGO crusaders, all hoping to share a piece of the slum’s soul.

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