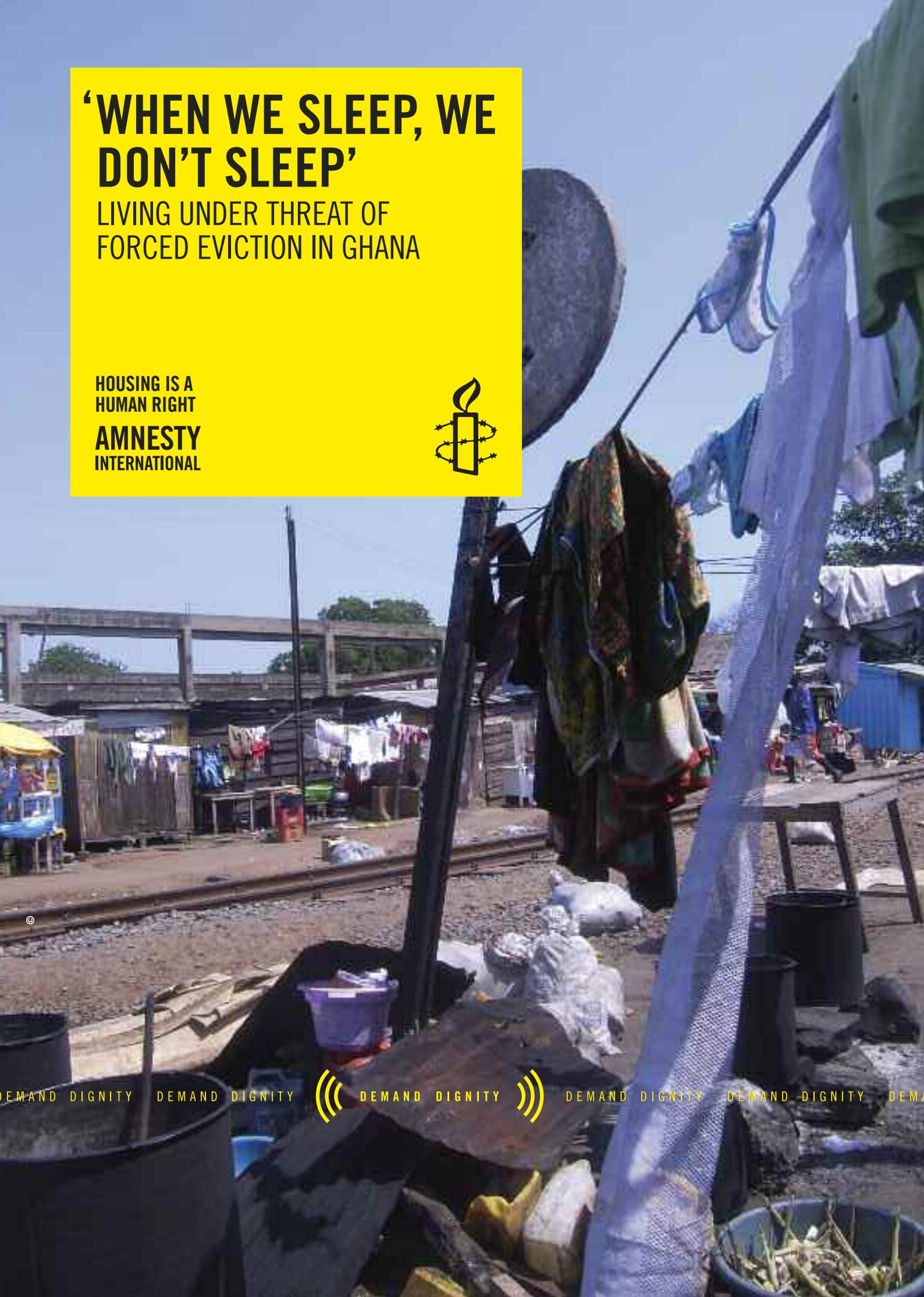


# 'WHEN WE SLEEP, WE DON'T SLEEP'

LIVING UNDER THREAT OF FORCED EVICTION IN GHANA

HOUSING IS A HUMAN RIGHT

AMNESTY INTERNATIONAL



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***“One day they will just stand up and come and demolish. Perhaps tomorrow they will come. When we sleep, we don’t sleep.”***

Coffie Nissar, who lives by the railway line in Agbobbloshie slum, Accra

Tens of thousands of people living in informal settlements are at risk of forced eviction in Ghana.

Thousands of people living and working next to railway lines across Ghana are to be evicted to make way for the redevelopment of the railway system. Known as the railway dwellers, the men, women and children who live and trade in kiosks and small structures built along the railway lines face homelessness and destitution if they are evicted from their homes.

In Old Fadama, Ghana’s biggest informal settlement, between 55,000 and 79,000 people live without security of tenure and under the constant threat of forced eviction.

Ghana’s laws do not provide adequate protection against forced eviction and the authorities have failed to put in place adequate safeguards to prevent people being forcibly evicted in violation of their human rights. Officials often deny that they have any responsibility towards residents of

informal settlements, claiming that they are there “illegally”.

Ghana is obliged under a range of international human rights treaties to respect, protect and fulfil the right to adequate housing, and to prevent and refrain from carrying out forced evictions. However, the government of Ghana has not implemented laws and other measures to ensure the progressive realization of the right to adequate housing.

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***Right: Saratu Abdullah lives with her two children and her husband in Old Fadama, Accra. They have two rooms – one of which they use to sell fabrics. If they are evicted, they will have nowhere to go. “We came because we had no money. Now they want to evict us. Where can we go?”***

***Front cover: Living and working alongside Ghana’s disused railway tracks, thousands of people at are risk of imminent forced eviction.***  
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This document is based on interviews and research carried out between October 2009 and February 2011. Amnesty International delegates visited slums and informal settlements in Accra in November 2010 and met families whose homes were at risk of demolition. They also met the Accra Metropolitan Assembly (AMA) and officials from the Ministry of Water, Works and Housing and the Ministry of Local Government. They spoke to lawyers, human rights NGOs, community-based organizations and tenant associations.



## WHAT IS A FORCED EVICTION?

A forced eviction is the removal of people against their will from the homes or land they occupy without legal protections and other safeguards.

Under international law, evictions may be carried out only as a last resort, once all feasible alternatives have been explored, and only if procedural and legal safeguards are in place. These include genuine consultation with the affected people, prior adequate and reasonable notice, adequate alternative housing and compensation for all losses, safeguards on how evictions are carried out, and access to legal remedies and procedures, including access to legal aid where necessary. Governments are also required to ensure that no one is rendered homeless or vulnerable to other human rights violations as a consequence of an eviction.

Not every eviction that is carried out by force constitutes a forced eviction – if all the legal safeguards and protections required under international law are complied with, and if the use of force is proportionate and reasonable, then the eviction would not violate the prohibition on forced evictions.

## WIDESPREAD HOUSING PROBLEMS

Approximately 4.8 million people live in slums in Ghana, 45 per cent of the country's total urban population. In Accra, with an estimated population of 4.5 million people, approximately one third of the city's residents live in slums.

Slum communities, where residents live, work and raise their children, are characterized by grossly inadequate housing and living conditions, lack of basic services, overcrowding and insecurity of tenure. Insecurity of tenure leaves people vulnerable to forced eviction.

Forced evictions have compounded Ghana's housing shortage, increased the number of homeless people and driven them further into poverty. When forcibly evicted, people face homelessness and destitution and have no choice but to live in the ruins of their former homes or move to another slum area.



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Old Fadama, Accra, Ghana's largest informal settlement with a population estimated at between 55,000 and 79,000. Its residents live with the constant threat of being forcibly evicted from their homes.



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Mushalatu Ayesha is 24 years old and lives with her brothers and sister next to the railway line near Agboghloshie market in Accra. She has lived there for six years. They have one room where they sleep and where they cook and sell rice to passers-by. One day in October 2010, people they believe to be from the Ghana Railway Development Authority came to their home and painted on the side of it, with a demolition date in 40 days' time. They told Mushalatu Ayesha that by this date she should move. There was no

further explanation and she has nowhere to go if her home and business are demolished. She told Amnesty International:

*"There's no work in [my] home town so if I go back, I don't have anything. We work, and we give money to our parents, so if they demolish, we will have nothing and we will have nothing to give to our parents. If they gave us some place, then I would go, but apart from that, I don't have anywhere to go, I will come back."*



The exact number of railway dwellers is unknown because the government has not gathered information about people living along the railway lines. The collection of detailed information about individuals in a community, including tenants, landlords, women, men and children, is known locally as enumeration. Enumeration enables the authorities to assess the services needed in a community, such as health clinics and schools. In the context of planned evictions, enumeration is necessary to enable the authorities to determine the number and circumstances of people to be affected by an eviction.

## THE RAILWAY DWELLERS

Thousands of railway dwellers in Accra are to be evicted to make way for the redevelopment of the railway system. Many of those facing eviction have nowhere else to go and will be left homeless if the evictions go ahead. Some have lived alongside the railway lines in Accra for more than 17 years.

The people living and working alongside the railway lines have often been branded “illegal” by officials, despite the fact that many have been paying fees to the Ghanaian railway authorities for years.

In November 2010, the government of Ghana signed a US\$6 billion deal with a Chinese company to redevelop the country’s little-used railway system. Part of the country’s “Better Ghana Agenda”, the declared aim is to improve living standards for all Ghanaians.

The railway plans have been developed without consulting the railway dwellers on how they will be affected and there are no plans for resettlement or compensation.

**Thousands of people live and work alongside the railway lines – they face homelessness and destitution if they are forcibly evicted from their homes.**

In February 2011, a spokesperson for the Ghana Railway Development Authority is reported to have announced, “We will sack them all and there would be no compensation”. The Accra Metropolitan Assembly (AMA), the body responsible for planning and development within Accra including demolitions and evictions, confirmed to Amnesty International that they have no intention to provide alternative accommodation or compensation to the affected communities.

The plans place thousands of people at risk of being forcibly evicted from their homes and vulnerable to other human rights violations.



## NO CONSULTATION, INADEQUATE NOTICE

There has been a total absence of consultation with railway dwellers. The AMA and the Ghana Railway Development Authority have failed to give adequate notice to residents. Many residents told Amnesty International that because they did not know if or when their buildings might be demolished, they were extremely anxious and insecure.

On 1 December 2010, the AMA sent vans with megaphones to informal settlements located next to railway lines in Agbogbloshie, Accra. AMA officials ordered people to dismantle their homes and businesses and vacate the area within two weeks. The announcement warned that any remaining structures would be demolished. This was not the first time the railway dwellers had been threatened with eviction. The previous month, homes had been marked for demolition with instructions to vacate by 11 November 2010. On 7 December, the AMA stated on its website that structures along the railway lines in

Accra would be demolished as part of nationwide plans to redevelop Ghana's railway system. These evictions did not take place.

On 21 January 2011, officials from the AMA and the Ghana Railway Development Authority visited communities along Accra's railway lines. They measured the distance between structures and the railway lines and again warned people living within 160 metres of the tracks that they had to leave their homes.

Although people were not told when they would be evicted, the Chief Executive of the AMA stated that homes and businesses would be demolished in time for construction work to begin in February. On 25 January, buildings were painted with the words "Remove by January 25 2011 by AMA".

In early February 2011, the authorities renewed their eviction threats. On 1 February 2011 the Chief Executive of the AMA and the Chairman of the Ghana Railway Development Authority visited

**Kofi Adom, railway dweller and shoemaker at his home and shop next to the railway lines in Accra. The red "X" means that his home has been marked for demolition.**

Agbogbloshie community in Accra. Driving in a convoy of vans, the Chief Executive of the AMA announced that the people must leave the area within two weeks or face eviction. Although exact numbers are not known, thousands of people live along the railway lines in the Agbogbloshie area.

A notice period of just a few weeks to vacate an area is not adequate. The way in which the railway dwellers have been given notice – coupled with the lack of consultation or any suggestion of relocation – has also deepened their fear and uncertainty.



## OLD FADAMA

Old Fadama is Ghana's biggest informal settlement. Situated in the middle of Accra, it is estimated that between 55,000 and 79,000 people live there.

Housing the Masses, a non-governmental community-based organization, carried out a community-led enumeration of Old Fadama in 2009 which estimates the population at 79,684 occupying 31.3 hectares of land.

Old Fadama is home to one of Accra's biggest markets and is a centre for "bulk breaking" activities, where food coming in from around the country is sold on in smaller quantities. It attracts many people who earn their living in the informal sector.

The government has not provided residents of Old Fadama with drinking water, electricity or sanitation. Raw sewage flows between the shacks into a nearby lagoon.

The government has not taken measures to enable the people living in Old Fadama to

acquire legal title to the land they live on. The authorities say the residents are "illegal". This leaves residents without security of tenure and permanently vulnerable to forced eviction.

According to the AMA, "That place is an illegal settlement because there weren't any plans for people to reside there." Old Fadama is commonly nicknamed "Sodom and Gomorrah" and seen as a place of crime and vice. Residents told Amnesty International that they were often stigmatized because of where they live.

Abu Haruna, a resident of Old Fadama, told Amnesty International:

*"We are porters, truck pushers, food vendors, shoe shiners, traders in scrap, yam, onions, and sawdust. We sell all kinds of products at the market. In our community, people own provision stores, chop bars, barbershops... Yet we are referred to as the worst illegal connection in Ghana."*

The AMA has repeatedly announced plans to demolish Old Fadama. In 2002, it issued

eviction notices but the evictions were not carried out. In August 2009, the AMA announced that the settlements would be demolished and residents would not be relocated or compensated. Residents organized and in November 2009, the government indicated that Old Fadama residents would be relocated to an adjoining municipality, Adjen Kotoku, but no further details were given. The evictions did not go ahead.

The Community Chief of Old Fadama told Amnesty International:

*"It's quiet now, it's sleeping, but we don't know what next, perhaps they're slumbering and it will come back. We met them about one year ago. That's when the evictions were called off. Since then [we've received] nothing officially – only rumours. We want relocation."*

Residents of Old Fadama do not know what will happen next. They have also heard rumours that the AMA will give them money to "go home".

The residents of Old Fadama, Ghana's biggest informal settlement, do not have any security of tenure and live under the constant threat of forced eviction.

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Philip Kuma, a resident of Old Fadama, told Amnesty International:

*"We are open to a plan of the government to being relocated or have slum upgrading... The suggestion that we will get transportation money to go back to where we originally came from three decades ago is impossible to execute: in all those years we have been living in the community, we intermarried, our children were born and raised in Accra, and so how is an Ewe man, who got married in Old Fadama to a Ga woman and got children together going back? Going back to where?"*

The threat to evict people from their homes without measures to ensure that those affected do not become homeless constitutes a violation of the right to adequate housing. The AMA should consult residents of Old Fadama about proposed evictions, and give them all relevant information. It should give assurances that residents will not be evicted unless all feasible alternatives have been explored. All the procedural safeguards required under international human rights law should be in

place, including the requirements for consultation, adequate notice, adequate alternative housing, compensation and access to legal remedies.

The AMA told Amnesty International in October 2010 that there had been some problems with the Adjen Kotoku relocation site, and they now only plan to relocate the market from Old Fadama there.

Representatives said that transferring the market to a new location would also attract residents to move there. The government's duty to provide safeguards against forced eviction – including ensuring alternative accommodation – is not discharged by providing an alternative site for the market. They must ensure that people have access to adequate alternative housing; access to livelihood is only one component.

The AMA must also ensure that Old Fadama residents have adequate access to food, drinking water and sanitation, as well as medical care and education facilities.

The AMA has not collected detailed information about the individuals living in Old Fadama. Without carrying out an enumeration, the AMA has no way of knowing who they are evicting. For example, AMA officials told Amnesty International that they do not know how many children live in Old Fadama. Without this information the authorities cannot ensure the provision of basic services, such as health clinics and schools, either for the people of Old Fadama or at any relocation site.



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## GHANA'S CONSTITUTION

Ghana's 1992 Constitution does not explicitly provide for the right to adequate housing. Most economic, social and cultural rights are set out in Chapter 6 as directive principles which are not justiciable in a court.

However, Chapter 5 protects the right to privacy, the right of non-interference with the privacy of one's home, and the right to freedom from arbitrary deprivation of property. Rights in chapter 5 are justiciable.

In addition, Article 33(5) states that the rights specifically mentioned "shall not be regarded as excluding others... inherent in a democracy and intended to secure the freedom and dignity of man." Given that the right to adequate housing has been explicitly recognized as a human right in international treaties, including several to which Ghana is party, the right to adequate housing could be read into Article 33(5).

## LACK OF LEGAL PROTECTION

In Ghana, there are currently no laws to protect slum dwellers from forced eviction.

There is no reference to housing rights in the Constitution and the Constitution fails to make social and economic rights enforceable in the courts.

In a 2002 case against the AMA brought in the High Court of Justice of Ghana by residents of Old Fadama, the lack of legal protection was confirmed. The judgement stated: "*the defendants are under no obligation to resettle or relocate or compensate plaintiffs in any way before evicting them from their illegal occupations... The mere eviction of plaintiffs who are trespassers, from the land they have trespassed onto, does not in any way amount to an infringement on their rights as human beings.*"

This court ruling reflects the absence of Constitutional or legal provisions that would give effect to Ghana's international legal obligations in relation to economic, social and cultural rights, including the right to adequate housing and the prohibition of forced evictions.

## GHANA'S INTERNATIONAL OBLIGATIONS

Ghana is obliged under a range of international human rights treaties to respect, protect and fulfil the right to adequate housing, and to prevent and refrain from carrying out forced evictions.

Forced evictions contravene the following treaties, which Ghana has agreed to be bound by:

- the International Covenant on Economic, Social and Cultural Rights
- the Convention on the Rights of the Child
- the Convention on the Elimination of All Forms of Discrimination against Women
- the International Convention on the Elimination of All Forms of Racial Discrimination
- the African Charter on Human and Peoples' Rights
- the African Charter on the Rights and Welfare of the Child

Old Fadama is situated beside a rubbish dump and a polluted lagoon. Its tens of thousands of residents lack adequate access to water, electricity and sanitation.



■ the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Governments are obliged under the International Covenant on Economic, Social and Cultural Rights to take "whatever steps are necessary" to realize the right to adequate housing. This includes legislative measures that provide the greatest possible security of tenure to occupiers of houses and land, and that strictly control the circumstances under which evictions may be carried out, stipulating all required safeguards.

Before international treaties can be incorporated into national law in Ghana, specific legislation is needed to domesticate them. Ghana ratified the International Covenant on Economic, Social and Cultural Rights in 2000, more than 10 years ago, but has not fully incorporated it into national law. Furthermore, although states are required to submit reports every five years on the measures they have taken to ensure compliance with the treaty, Ghana has never submitted a report to the Committee on Economic, Social and Cultural Rights.

Both its first and second reports are now long overdue.

### WHAT IS TO BE DONE?

The government of Ghana must ensure that development is taken forward in ways that do not leave people who are already living in poverty out of the process and do not force them deeper into poverty. Any development programme should be carried out in a manner that protects the rights of all people who may be affected.

Evictions must be carried out only as a last resort, after all feasible alternatives have been explored. Human rights law requires a number of procedural safeguards, in particular consultation, the provision of adequate notice, adequate alternative housing, compensation and access to legal remedies. Everyone is entitled to this protection, irrespective of whether they own their homes or land.

The UN Basic Principles and Guidelines on Development-based Evictions and Displacement specify that: "At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and child care facilities."

A meeting organized by Amnesty International Ghana, 2 November 2010. Residents of Old Fadama calls for greater legal protection against forced evictions.



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## RECOMMENDATIONS

**Amnesty International calls on the government of Ghana to:**

- Enact and enforce a law prohibiting forced evictions.
- Amend the Constitution to protect housing rights and to ensure that economic, social and cultural rights can be enforced by the courts.
- Develop and adopt guidelines for evictions that are based on the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement and that comply with international human rights law.
- Develop and adopt effective measures to ensure that the entire population has a minimum degree of security of tenure sufficient, at least, to protect people from forced evictions.

- Incorporate the International Covenant on Economic, Social and Cultural Rights into Ghana's domestic law.

- Submit all overdue reports to the UN Committee on Economic, Social and Cultural Rights.

**Amnesty International calls on the Ghana Railway Development Authority and the Chief Executive of the Accra Metropolitan Assembly to:**

- Immediately halt the planned demolition of structures along the railway lines in Accra.
- Adopt a moratorium on all evictions until all necessary safeguards are put in place to ensure that evictions are carried out in accordance with international and regional human rights standards, including the

development of a resettlement plan to provide adequate alternative housing to residents.

- Respect the rights of all victims of forced evictions to an effective remedy, including access to justice and the right to reparations including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.
- Undertake enumeration of affected communities.
- Undertake genuine consultation with residents of Old Fadama and all people living along the railway lines.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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