



# HOUSING AND LAND RIGHTS NETWORK

## Habitat International Coalition

Cairo, 5 October 2009

### **Discrimination Everywhere: Housing and Land Rights Violations in 2007–09**

#### *International Housing and Land Rights Day 2009*

On the occasion of World Habitat Day/International Housing and Land Rights Day 2009, HIC-HLRN's annual violation mapping exercise and trend analysis provide insight into *discrimination* as a common factor in violations recorded over the past three years: 2007–09.

This year marks an important milestone among serial events and discussions on discrimination as a perennial root of human rights violations around the world. The culmination of the process was the *Durban Review Conference*, 20–24 April 2009, in Geneva. It was the fourth in a series of international forums to combat racism, racial discrimination, xenophobia and related intolerance. The purpose was “to assess and accelerate progress on implementation of measures adopted at the 2001 World Conference against Racism, including assessment of contemporary forms of racism, racial discrimination, xenophobia and related intolerance.”<sup>1</sup> HIC-HLRN's contribution to that review involved a study of cases involving discrimination as a source of housing and land rights violations from 2001 through 2008.

Despite its benign objectives, the Conference did not achieve the indispensable evaluation of states' commitments, nor did it address the new forms of discrimination emerging since 2001. However, the field of housing and land rights casts needed light on such new and persistent forms that lead to violations of a range of economic, social and cultural rights, in particular, housing and land.

A variety of obstacles ultimately impeded the central function of the *Durban Review* process, mostly due to a lack of political will on the part of the duty holders and the undermining of the discourse by a contingent of ideologically motivated NGOs promoting racism and hate speech. By omission, the *Durban Review* helped emphasize what still needs to be done to come closer to eradicating discrimination, its associated structures and violations.

For its part, UN HABITAT chose “Planning our Urban Future” as its 2009 Habitat Day theme, in order to “raise awareness of the need to improve urban planning to deal with new major challenges of the 21<sup>st</sup> Century.”<sup>2</sup> UN HABITAT recognizes both that the rate of urbanization is significantly affecting the shape of towns and cities globally, and that urban settlements are being affected by “new and powerful forces,” including climate change, resource depletion, food insecurity, population growth and economic instability. UN HABITAT hopes that focusing on the urban future will draw enough attention to the negative outcomes of urbanization such as overcrowding, poverty, slums and inadequate structures to deal with the massive urban migrations. More importantly, the UN's cities agency also expects that, focusing on the “urban agenda,” governments will become more inclined to involve community stakeholders

in the planning of urban systems and, thereby, overcome the growing problems of marginalization and exclusion. HIC-HLRN places this addendum to the UN HABITAT theme at the center of this, its annual reflection.

### *Why Discrimination?*

In its mapping and report, HIC-HLRN identifies these problems as a function of discrimination, which lies at their core. Much of today's urban planning is institutionalizing discrimination through various means of "urban beautification," reconstructing "world class" cities, slum resettlement and unequal and inequitable resource allocations that perpetuate and/or exacerbate disparity in economic and living conditions.

With appreciation for the probable good intentions behind the UN HABITAT theme, HIC-HLRN is distinct in recognizing the urgency of applying the human rights framework as a criterion for problem solving in the sphere of human settlements. We also recognize that the urban context is not the exclusive domain of rights, or their violation. HIC-HLRN does recognize, rather, that urbanization as such is one of the patterns of human production and consumption that embodies—and indeed generates—other grave crises of the day: global warming, increased natural disasters, food scarcity, the financial crisis, privatization of public goods and services, and social conflict. Featured in these daunting challenges are entrenched forms of discrimination on the bases of gender, "race," religion, work and descent, skin color, national origin, income level and residency/migration status, as well as the accelerating dispossession of rural and land-based people, especially indigenous people, worldwide.

### *Discrimination and the City*

Housing discrimination may appear to some as subtle and individually driven. In addition, however, the consequent growth of "gated communities" and their exclusionary equivalents coincide with cynical justifications for segregation that have formulated policy that disingenuously coopts concepts of "natural rights to property," "urban integration" and even "social cohesion," "interethnic harmony" and "demographic balance" in ways that combine with actual dispossession, demographic manipulation, segregation and "apartheid cities."<sup>3</sup> This distortion follows the inversion of older euphemisms of "gentrification" and "urban renewal" that have accompanied and driven segregation and marginalization in earlier decades.

For many years, the requirements of attracting international capital investments for urban development increasingly have assumed precedence over the pursuit of social objectives.<sup>4</sup> The neoliberal priorities of lower taxation, free trade, reduced welfare benefits and spending, and correspondingly selective fiscal constraints consequently have driven a global transformation from an emphasis on state management of the economy and service provision to "an ethos of privatism" in economic life.<sup>5</sup>

In his country missions since 2001, the Special Rapporteur on housing has reported the coincident reduction and privatization of public and social housing in many countries as exacerbated the gap between need and availability. That has created conditions whereby access to adequate housing has become ever-more based on income competition that generates unacceptable discrimination in light of state obligations to respect, protect and fulfill the human right to adequate housing.

### *Discrimination and Economic Forces*

Economic and social forces today combine to escalate xenophobic treatment of peasant and rural people globally, whereas indigenous people and pastoralists remain the constant targets and victims of spatial discrimination, displacement and population transfer. People under occupation and foreign domination endure a particularly virulent form of xenophobia and discrimination where they live, characterized in dispossession, eviction and demographic manipulation, including the illegal implantation of settlers. Diverse causal forces behind many of these violations may vary from military operations, to religion, to tourism.

Coupled with these phenomena is the ongoing economic “downturn,” which is recognized as triggered in large part by the crisis of mortgage defaults. Numerous studies have demonstrated how loan conditions and loan denial have related to race, only explained by ethnic income disparities. Minorities have been found to be the dominant subjects of “subprime” lending and “predatory loans.”<sup>6</sup> The shrinking of the U.S. economy and housing foreclosures are swelling newly created tent cities in places like Fresno, California and Nashville, Tennessee, making their residents into the new pariah.

### *Gender Discrimination*

Gender discrimination and denial of equal rights for women, as compared to men, remain at the base of an unbroken continuum of housing and land rights violations globally. Particularly in light of the other critical challenges identified above, discrimination against women and deprivation of their housing and land rights are present in every phenomenon and sector.

While living conditions are deteriorating for large numbers of people this rapidly urbanizing. Poverty has increased especially for women in slums. Poverty and a lack of social safety nets mean a life of economic, physical and psychological insecurity. Even for women in the developed world, life has become increasingly insecure, with homelessness looming from the widening gaps in social services. Moreover, IDP women, and particularly widows, have found it difficult to own and/or inherit property or land. Consequently, they and their dependents have been deprived of both adequate housing or land and returning to their former homes.<sup>7</sup>

### *Discrimination and Climate Change*

Climate change is increasingly one of the key contexts of violations to housing and land rights globally. The frequency of natural disasters, particularly floods, storms and droughts, is recorded to have doubled from 200 to 400 incidents in the past two decades,<sup>8</sup> and the trend is expected to contribute to an increase in human mobility as a result.<sup>9</sup>

In 2008, natural disaster affected 207,631,038 people. Of these, 36,062,843 people were displaced as a result of both climate change related disasters (i.e., droughts, hurricanes and floods) and sudden-onset natural disasters (i.e., earthquakes and landslides), including the 28,650,653 people who were displaced as a result of complete destruction to their homes and 7,412,190 who were evacuated as their homes became temporarily uninhabitable.<sup>10</sup> Climate-change-related disasters account for the majority of disasters in 2008. In total, those have affected 160,430,350 people, including the displacement of 20,293,413 persons, or 56% of the total displacement.

The four key drivers of climate-change-related migration and displacement are (1) hydro-meteorological extreme hazard events, (2) environmental degradation and/or slow onset extreme hazard events; (3) significant permanent losses in state territory as a result of sea level rise and (4) armed conflicts over shrinking resources.<sup>11</sup> As seen in the postdisaster treatment of affected communities, government policies, investment patterns and

nonparticipatory reconstruction processes have discriminated against entire communities, ethnic groups, people engaged in certain livelihoods, and women, such as those post-tsunami cases found in Sumatra, Tamil Nadu, Andaman and Nicobar Islands and elsewhere.

### *Rural and Agricultural People and Communities*

The Brazilian government increasingly has worked to repress and criminalize members of the Landless Rural Workers Movement (MST). In 2008, 300 persons were evicted in the vicinity of Fazenda Guerra from their legally occupied camps. The Attorney General's office in Rio Grande do Sul publically has characterized the MST as a threat to national security and, thus, called for its dismantling. In Egypt, neoliberal legislation and a conspiracy of police, officials and private interests have been evicting farmers as part of a trend that has cost the productive land and livelihood of an estimated one-quarter of the country's farmers. Meanwhile, farmland grabbing is a relatively new phenomenon that has hit Africa particularly hard, with agricultural land tenure diverting to external investors for food export purposes.

### *Descent-based and Work-based Discrimination*

The caste system and descent-based and work-based discrimination, though some Asian and Middle Eastern states deny its existence, is a continual fixture of the ongoing of the discriminatory systems of social stratification in the region. Adequate attention to resolving it is still wanting.

As HIC-HLRN parallel reporting on India attests, displacement of Dalits and Adivasis and dispossessed groups is rooted in official's refusal to recognize their ownership and control of land. Dalit and Adivasi dispossession also swells the number of the urban homeless and under-housed. Some land reforms intended to benefit rural Dalits previously prevented from owning the land they cultivated.

In Yemen, 800 persons of the Akhdam, or untouchable, population were evicted from homes by the Government of Yemen in 2008. This follows a pattern of subjecting Akhdam to forced eviction and deliberate physical endangerment, including burning of their homes with impunity, in a context of entrenched social discrimination and "untouchability."<sup>12</sup>

### *Discrimination and Indigenous Peoples' Lands*

Indigenous and land-based peoples, always at particular risk, have been a target of various government campaigns to remove them from historically held lands and, consequently, destroy their ways of life. Dramatic examples in the 2007–09 period include a series of incidents culminating on 26 August 2009, when members of the Colombian army killed 11 people from the Awa indigenous minority while sleeping in their homes. 110 men, women and children were forced to flee their homes in the village of Narino, where the murders took place, for fear of new attacks. This recent incident brings the total number of murders of the Awa people by the Colombian army in 2009 to 38. In Botswana, the San (Bushmen) have struggled against government efforts for over a decade to dispossess them of their Kalahari habitat in order to facilitate private diamond mining.

### *Travelers and Roma*

In many countries, residency status with a fixed address is a requisite for the enjoyment of human rights. Assumed to be naturally nomadic and resented for their lifestyle, Roma/Sinti populations have been, and continue to be subject to discrimination across Europe. Ranging from racist policies against them (e.g., Italy), to mass raids as part of "urban transformation"

schemes (e.g., Turkey), the Roma are consistently and increasingly having the housing rights violated and, often, with State collusion.

Among the worst European violators of Roma rights, successive Italian governments have instituted increasingly racist policies against them. Moreover, encouraged by the government's lack of protections for the Roma, locals have also been increasingly involved in violence against the Roma. In 2000–06, various state authorities evicted 15,000 Roma their homes throughout the Italy. In 2007, Italian authorities evicted 6,000 Roma and expelled many of them from the country. The evictions were frequently both unauthorized and involved the total destruction of Roma property.

The Italian government reportedly has made no attempts to intervene. Most recently, in 2008, 2,100 Roma were evicted from their homes in campaigns instigated by both local authorities and the civilian population. These campaigns are becoming increasingly systemized, especially under the right-wing coalition government since April 2008, coinciding with growing expressions of racism and xenophobia against the Roma and increasingly against other minority groups, particularly immigrants.

However, Italy, has not been alone in its mistreatment of the Roma. Between 2007 and 2009, for example, evictions of Roma in Greece affected 2,215; in Romania, made 110 Roma homeless; in France, displaced 520; and in Turkey, authorities completed the forced eviction and demolition of the Sulukule community in 2009. Officials in England also evicted 720 residents of Dale Farms under the guise of inadequate residency. However, this eviction is part of state policies against Traveler communities and is not unique. Previously, the British government evicted approximately 750 Travelers in 2004 citing lack of proper planning documents.

### *Discrimination and Migrants*

Other forms of discriminatory policies have led to the mass evictions of other minority and migrant communities in all regions. In Tanzania, the government expelled 15,000 immigrants in 2006 with the aim of reducing the number of illegal immigrants in the country. However, the Tanzanian Government has also expelled naturalized Tanzanian citizens, registered refugees living in refugee camps and persons who have an apparently valid claim to asylum, but reside outside of camps. Some have lived in Tanzania for decades or were born there and have never lived elsewhere. According to Tanzanian officials, the operation is targeting a total of 60,000 persons of Rwandan origin and a yet unspecified number of persons of Burundian origin.

This year in Spain, high unemployment rates, at 21%, in the Andalucía region has forced many Spaniards to work in the countryside in places such as Huelva, a major strawberry growing region. The economic downturn has affected, as well, African migrants who frequent the region as seasonal laborers in areas like Huelva. The increase in the number of Spaniards looking for work in the countryside has not only lowered the available salaries for the 35,000 migrant workers in the country, but, also, limited the possible opportunities for work and housing. Often these migrants are forced to squat on public lands, such as forests. Moreover, migrants are often at risk and have no state protection because of their noncitizenship or "illegal" status.

### *Discrimination and Conflict*

Discrimination in the context of conflict and war continues to be a major source of land and housing rights violations globally. Racism and discrimination have combined with struggles

over natural resources on the continent, erupting into armed conflict that crosses borders and burdens the humanitarian and peace-keeping efforts of the international system. The total population of forcibly displaced persons as result of armed conflicts and violence, including IDPs and refugees, is 42 million, with 4.6 million newly internally displaced in 2008 alone.<sup>13</sup>

Ten new large-scale displacements of at least 200,000 people took place in 2008. Three countries with a particularly high incidence of internally displaced persons account for 45% of the world's IDPs; these are: Sudan (4.9 million), Colombia (2,650,000-4,360,000) and Iraq (2,840,000).<sup>14</sup> The colonization and occupation of Palestine form the context of large number of VDB entries in 2007–09, while continuous dispossession and displacement characterize the persons affected by conflict, occupation and war in country situations as diverse as Tibet, Western Sahara, Guatemala, Timor-Leste, Cyprus, Georgia and Angola.

### *Conclusion*

This year HIC's annual Habitat Day report focuses on discrimination as the most constant source of violation to housing and habitat in 2007–2009, as borne out by cases cited here and detailed in the HIC-HLRN Violation Database (VDB). Racism and various forms of discrimination and intolerance are a historically continuous problem that requires greater diligence and will on the part of states to overcome them through international cooperation.

Based on the VDB findings, violations as a consequence of these specific forms of discrimination are rapidly increasing, contrary to positive international legal and social norms. They may arise from a combination of causes, including market forces, social attitudes, official discrimination between or among categories of citizens, class bias, military occupation/alien domination, economic decline, competition over natural resources, distinction in residency status, incompatible life styles, selective service delivery, including denial of information or participation to particular groups (enforcing their marginality). Those social groups—as, indeed, entire countries—that are presently marginalized, will suffer disproportionately from the looming challenges cited above. Understanding and addressing the imbedded forms of discrimination in our societies—as made visible through this analysis of the housing and land rights sphere—will be essential to avoiding greater disparities that bring social upheaval and conflict.

## Endnotes

- <sup>1</sup> Durban Review Conference Background, at: <http://www.un.org/durbanreview2009/background.shtml>
- <sup>2</sup> "World Habitat Day", *UN HABITAT*, at: <http://www.unhabitat.org/content.asp?cid=6598&catid=588&typeid=24&subMenuId=0>
- <sup>3</sup> The inverted interpretation of the concept of "social cohesion" of individual communities as a basis for legalized segregation and material discrimination between different classes of citizens is exemplified in decisions of the Israel Lands Administration Council (Decision No. 1015). See Suhad Bishara, "On Class and Nationality in Housing Rights," Adalah's Newsletter, Volume 11 (March 2005), p. 1, at: <http://www.adalah.org/newsletter/eng/mar05/ar1.pdf>. See also HIC-HLRN (in conjunction with Sajha Manch) *Restructuring New Delhi's Urban Habitat: Building an Apartheid City?* Fact-finding Report No. 5 [on the resettlement process of Delhi, India] (New Delhi: HIC-HLRN, South Asia Regional Program—SARP, 2001)
- <sup>4</sup> George Soros, *The Bubble of American Supremacy: Correcting the Misuse of American Power* (New York: Public Affairs, 2003).
- <sup>5</sup> Gavin W. Anderson, *Constitutional Rights after Globalization* (Oxford: Hart Publishing, 2005).
- <sup>6</sup> John H. Carr and Lopa Kolluri, "Predatory Lending: An Overview," Fannie Mae Foundation, August 2001; Christopher A. Richardson, *Predatory Lending and Housing Disinvestment* (May 2002), available at: <http://ssrn.com/abstract=338660>.
- <sup>7</sup> *Ibid.*
- <sup>8</sup> *Ibid.*
- <sup>9</sup> UNOCHA and IDMC, *Monitoring Disaster Displacement in the Context of Climate Change*, September 2009, p. 4, at: [http://www.internal-displacement.org/8025708F004CFA06/\(httpPublications\)/451D224B41C04246C12576390031FF63?OpenDocument](http://www.internal-displacement.org/8025708F004CFA06/(httpPublications)/451D224B41C04246C12576390031FF63?OpenDocument).
- <sup>10</sup> *Ibid.*
- <sup>11</sup> *Ibid.*, p.6
- <sup>12</sup> HIC-HLRN, "The Human Right to Adequate Housing in the case of al-Akhdam (Yemen)" [submission to CERD], (2006); also "Concluding observations of the Committee on the Elimination of Racial Discrimination: Yemen," ERD/C/YEM/CO/16, 19 October 2006, paras. 8–9, 11, 15–17.
- <sup>13</sup> UNOCHA and IDMC, *op. cit.*
- <sup>14</sup> *Internal Displacement: Global Overview of Trends and Developments in 2008*, IDMC, April 2009, p.9, at: [http://www.internal-displacement.org/idmc/website/resources.nsf/\(httpPublications\)/0605361027488A28C12575A90042305B?OpenDocument](http://www.internal-displacement.org/idmc/website/resources.nsf/(httpPublications)/0605361027488A28C12575A90042305B?OpenDocument).

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