



# Struggling against Impunity

The Annual Report of Findings from the HIC-HLRN Violation Database, 2012



By the time that the UN Commission on Human Rights convened its 67th meeting in 1993, it already had considered numerous cases of forced eviction and their economic, social and cultural consequences. Considering the causes and effects of forced eviction, the Commission based its deliberations on the already-codified human right to adequate housing in current human rights treaties, in particular the International Covenant on Economic, Social and Cultural Rights (Article 11).

Two years before, in 1991, the treaty body monitoring that Covenant, the Committee on Economic, Social and Cultural Rights (CESCR), had specified the normative content of the human right to adequate housing and the corresponding State obligations arising from it (General Comment No. 4). With that legal framework and ample reports and testimonies of the consequences of forced evictions arbitrarily carried out at varying scales and in every region, the Commission adopted resolution 1993/77 by acclamation, affirming that:

“the practice of forced evictions constitutes a gross violations of human rights, in particular the right to adequate housing”

In this annual report on the violations of the right to adequate housing registered in its Violation Database (VDB), the Habitat International Coalition's Housing and Land Rights Network has recorded 289 major violations of housing and land rights around the globe over 2009–12. That averages one entry every five days. While many of these cases involve multiple and ongoing violations, including forced eviction, the number of actual instances is actually much higher.

### *The Numbers*

Since the VDB captures four types of violations (forced eviction, demolition/destruction, dispossession/confiscation and violations arising from privatization), many of the entered cases involve a combination of these. Of all cases in the 2009–12 review period, at least 198 involved multiple forced evictions. Over half (156 cases) also involved demolition or other destruction of homes and lands, while arbitrary dispossession/confiscation characterized 122 cases during the period.

Due to the continuing lack of reliable data resulting from most monitoring and documentation of such cases, we cannot report with any confidence to number of human victims or the volume of economic, social and cultural losses as a result. However, the few reports from monitors that address such consequences reveal that these major housing and land rights violations have affected at least 51,486,712 persons. Of these, at least 18,488,825 persons were subjected to direct forced evictions.

These figures are not exhaustive. Would that the quality of monitoring and documentation record the actual human and other material consequences in all cases, the global numbers may be far larger, and the lost values/costs/damages would be astronomical.

The lack of sufficient documentation and precise numbers does not diminish the suffering and loss of those human persons subject to forced eviction, dispossession, destruction and violations arising from privatization of habitat goods and services. Indeed, the want of sufficient documentation of such evidence remains a major challenge in determining the level of remedy and reparations to which victims of gross violations of human rights and grave breaches of international humanitarian law (IHL) are entitled.<sup>1</sup>

No shortcoming in the precision as to the level and types of entitled remedies deflects from the liability of perpetrators—and primarily States—to effect reparations for persons and communities who have endured harm from these abuses. However, the paucity of such data to establish corresponding liabilities constitutes a call for monitors to redouble efforts and develop their methods to determine accountability and substantiate the logic of sweeping claims that forced eviction and dispossession deepen poverty.

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<sup>1</sup> UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 16 December 2005, A/RES/60/147.

## Cases Unresolved

It is remarkable also that, despite the legal finding that such violations constitute “gross violations,” no single case recorded in the VDB has resulted in accountability of the perpetrators for their violations. This is dramatically evident whether these are supposedly development-based evictions such as the [Bois des Singes](#) district evictions in Yaoundé, Cameroon (June 2010) and [forced eviction in a road-widening project](#) in The Philippines (March 2010).

Demolitions caused the most social conflict and public discontent in Chinese society in 2010.<sup>2</sup> Of 180,000 recently studied incidents of mass protest in China, some 65% are attributed to grievances over the policy and practice of eviction, both urban and rural, for “development.”<sup>3</sup> Notable examples include the December 2011 protests in the village of [Wukan](#), Guangdong Province, which resulted in the temporary expulsion of Communist Party authorities. That resistance trend has led to the promulgation of a new law to mitigate these violations, which comes into force this year.<sup>4</sup>

Impunity has prevailed, too, in the many cases of land grabs that have deprived small producers of their livelihoods. These cases range from [massive land grabbing](#) by corrupt officials in Afghanistan to the combined evictions, village demolitions and land dispossession by Israeli forces in the West Bank and the Naqab (southern Israel).

Situations of conflict, occupation and war involved large-scale eviction of civilians as seen during and after [Operation Moshtarak](#) to “pacify” rebel infiltrated Helmand Province in Afghanistan, the Jewish [settler-colonists bulldozing Palestinian lands](#) in Sa`ir village, north of al-Khalil (Hebron) in the occupied West Bank (July 2011), and the gratuitous violence of [Jumma villages burnt by army and settlers](#) in the Chittagong Hill Tracts of Bangladesh (February 2010).

Urban and suburban evictions have dominated in the number of victims during the review period. These have involved localized contexts such as the “[beautification](#)” of the City of Baku in advance of this year’s EuroVision contest.

Meanwhile, the effects of the mortgage meltdown and [subprime mortgage lending crisis](#) have defied attempts to provide precise numbers of victims. However, the total of evicted persons through foreclosure has reached into the millions, with some 8.3 million children currently affected by homelessness in the ongoing crisis in the United States. While some foreclosure assistance measures are in place and law suits are pending, until this writing no responsible party has been held accountable for the policies,

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<sup>2</sup> “Demolitions cause most social unrest,” *China Daily* (27 June 2011), at: [http://www.chinadaily.com.cn/2011-06/27/content\\_12819896.htm](http://www.chinadaily.com.cn/2011-06/27/content_12819896.htm).

<sup>3</sup> Elizabeth C. Economy, “A Land Grab Epidemic: China’s Wonderful World of Wukans,” *Council on Foreign Relations*, 7 February 2012, at: <http://blogs.cfr.org/asia/2012/02/07/a-land-grab-epidemic-chinas-wonderful-world-of-wukans/>.

<sup>4</sup> Chris Hogg, “China law to limit home demolitions and evictions,” *BBC News* (1 July 2011), at: <http://www.bbc.co.uk/news/world-asia-pacific-13986456>.

practices and resulting national debt burden that have accompanied this massive form of nation-wide eviction.

The Spanish property bubble burst during this period, too. The massive growth of real estate price speculation from 1985 to 2008 almost tripled prices. When the speculative bubble popped, Spain and its citizens were among the worst affected, leaving a massive real-estate debt, bank bail-outs and austerity that harms the most vulnerable. No banking official, financial institution or policy maker has been held accountable for the consequences of their causative actions.

This review period opened also with the dramatic case of mass displacement, partial or fully destruction of 11,135 homes, 209 industrial premises, 724 commercial establishments and 6,271 dunams (627.1 hectares) of agricultural land by [Israel's war on the Gaza Strip](#) (27 December 2008–19 January 2009). Despite ample documentation, most notably in the *United Nation Fact Finding Mission on the Gaza Conflict* (A/HRC/12/48, 24 September 2009), and dismissing the international calls for accountability, the international community, the Fourth Geneva Convention depositary government and the International Criminal Court, within his authority, have failed to pursue legally the war crimes and crimes against humanity committed in Gaza.

Such crimes remain without statute of limitations, as do the forced eviction and population transfer carried out against the people of Palestine in 1948. Impunity prevails for those crimes despite their prohibition in the Allied Declaration on German War Crimes (1942), their adjudication in the Nuremberg Tribunal (1945–46) and their codification in the Rome Statute on the International Criminal Court.

### *Pursuing Justice*

Certain other cases found in the VDB exemplify the monitoring and documentation required to make the case, and illustrate the issues involved and values at stake in reparations for victims.

On 23–24 March 2011, in India, Delhi Development Authority (DDA) authored a large-scale demolition of some 1,000 homes in [Baljeet Nagar](#). The illegal operation involved five bulldozers and hundreds of armed Delhi police officers dispossessing over 4,000 residents. A group of housing rights organizations, including HLRN, entreated the Delhi High Court to halt further illegal evictions and demolitions. However, the perpetrators have not been brought to justice, nor has reparation been made for the victims, despite the meticulous record and quantification of the consequences.

A case in Kenya involved the involuntary eviction of the century-old [Muthurwa Estates](#) by using bulldozers to flatten the housing blocks of residents, destroying also their sanitary and cooking facilities. The authors of the violent October 2010 eviction were officials of the Kenya Railways Staff Retirement Benefits Scheme and Rift Valley Railways Ltd., who sought to use the land for investment in a development project.

Petitioners in the public interest have sued successfully in civil court to end the eviction and demolition and seek alternative housing for the residents, while Mazingira Institute has quantified the losses, costs and damages that the affected persons have incurred. Even though this case has been well documented and the eviction has been found illegal, the perpetrators have not yet held criminally liable for their actions.

Victims' families, their defenders and a public prosecutor sought justice and accountability in the destruction of the informal neighborhood of [Duwayqa](#) in east Cairo, Egypt. There a predictable rockslide had destroyed some 97 homes and an untold number of lives in September 2008, when drainage from the planned settlement above finally eroded the cliff to create the disaster. A Cairo court sentenced the vice-governor of Cairo to five years in prison, and seven other Cairo Governorate officials to three years' imprisonment for negligent homicide of the Duwayqa residents. Freed on bail, two were acquitted and the rest received reduced sentences on appeal. Meanwhile, the discrimination that lies at the root of Cairo's "unsafe areas" remains insufficiently investigated.

Throughout the review period of 2009–12, the 289 violations recorded in the Violation Database reveal gross violations that constitute crime, the elements of which include great material and moral loss and deep suffering. In their most-dramatic examples, these violations also constitute crimes against humanity and war crimes, when carried out in the context of occupation and conflict. Quantifying the dimensions of these gross violations and crimes, the documentary effort forms just one measure to establish accountability. However, despite the norms developed in international human rights and humanitarian law, the practice of forced eviction, dispossession and destruction are characterized by the impunity of those who continue to order them and carry them out. On this World Habitat Day (World Housing and Land Rights Day), we renew the call to justice for the violations, including reparations for their victims. In doing so, we also renew the struggle against impunity.



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Photo: A woman holding her daughter in Manaus, Brazil, trying to resist the forced eviction of her people.  
Source: Luiz Vasconcelos