



Housing and Land Rights Network
Habitat International Coalition

Centre on
Housing Rights
and Evictions



A home scheduled for demolition in a Shanghai redevelopment zone. Photo: Reuters.

Joint Parallel Report¹ on Government of China's Implementation of the Human Right to Adequate Housing (Article 11 of the Covenant)

In response to the list of issues to be taken up in connection with consideration of the initial report of the People's Republic of China (E/1990/5/Add.59) concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights



Photo: Reuters.

¹ This report is also endorsed by the Tibetan Centre for Human Rights and Democracy (TCHRD).



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Joint Parallel Report on Government of China's Implementation of the Human Right to Adequate Housing (Article 11 of the Covenant)

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Joint HIC-HLRN / COHRE Parallel Report

Answers to the Committee's Questions (reproduced in text boxes)

30. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living reported the demolition of historic buildings and housing complexes in Lhasa, Tibet, and the forced eviction of residents, mostly indigenous Tibetans (E/CN.4/2003/5, para. 25). Please provide an update on the situation.

The forced eviction of indigenous Tibetans

As early as 20 December 1961, in its Resolution 1723 (XVI), the UN General Assembly solemnly called "for the cessation of practices which deprive the Tibetan people of their fundamental human rights and freedoms, including their right to self-determination". However, since the People's Liberation Army invaded and occupied Tibet in 1949, China has been dividing the historic Tibetan territory,² transferring Han Chinese population into Tibet and forcibly evicting indigenous Tibetans, thus *de facto* preventing the Tibetan people from exercising its right to self-determination.

Beijing has facilitated the implantation of Han Chinese settlers in Tibet through a variety of coordinated measures, including transferring its cadres and officials into Tibet; construction units laborers as Tibetan workers are systematically refused from most Beijing-led projects; financial incentives and market opportunities for settlers; and installation of infrastructure such as the current Gormu-Lhasa railway line. In addition to these pull factors, the Chinese authorities have conducted numerous evictions of Tibetans over the past decades. As a result, the Chinese population currently outnumbers the Tibetans in the country by 7.6 million inhabitants to 6.1 million; and "in Lhasa, the capital of Tibet, Chinese civilians and militia are estimated to outnumber Tibetans almost two to one,"³ as Commission for Planning and Development in Tibet's Vice President Jin Shixun confirmed for the first time in 2002, telling *Agence France Presse* journalists that "there are currently 200,000 inhabitants in Lhasa, and half are Tibetans."⁴

The greatest proportion of settlers is in Kham, but forced resettlement of Tibetans has multiplied in all parts of Tibet. This exemplifies how forced evictions and demolitions have evolved under various pretexts in Tibet's rural areas, where approximately 90 percent of the Tibetan population lives. On 16 April 2003, for example, the Chinese government issued a directive for the planned resettlement of 27,679 nomads living in the Golog and Yushu Tibet Autonomous Prefectures (Qinghai Province) to a fenced-off area of 1,540 mu (103,180 km²) in Amdo. Officials premised the forced removal on the claim that 70%

² "When we refer to Tibet, we mean the Tibetan provinces of Kham, Amdo and U-Tsang. The Chinese authorities have divided Tibet into the Tibetan Autonomous Region ("TAR") (about 40 percent of historical Tibet) and a number of Tibetan prefectures (or districts) that have been subsumed into the Chinese provinces of Sichuan, Qinghai, Yunnan and Gansu. "Alternative Report on Tibet," submitted by Tibet Support Group-Nederland to the UN Committee on Economic, Social and Cultural Rights, January 2005.

³ "The Relationship between Environmental Management and Human Rights in Tibet," a report prepared for Mrs. Fatma Zohra Ksentini, Special Rapporteur, for the study of Human Rights and the Environment pursuant to resolutions 1990/7 and 1990/27 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Tibet Justice Centre, July 1992; accessible at: http://www.tibetjustice.org/reports/env_human_rights.html.

⁴ *Alternative Report on Tibet*, Tibet Support Group-Nederland, op. cit.

of the grasslands in Matoe County of Golog (TAP) are now barren. The newspaper *China Daily* already had reported that authorities moved nearly 1,000 families out of Chamdo a bit earlier, and according to Xinhua News Agency, Chinese authorities evicted 948 people (148 families) from Gonjo County, in Chamdo Prefecture, to Bomi, Nyingtri and Menling counties in December 2001.⁵

The main pretexts used to evict indigenous Tibetans and demolish their traditional homes are (1) lack of building permits that are very difficult for Tibetans to obtain from the local Communist Party representatives; and (2) “development”, including claims of “environmental protection,” “reforestation” and “poverty alleviation,” also sometimes called “beautification” or “hygienic” measures to respond to the unhealthy and insecure state of many old and historic Tibetan buildings, that actually have degraded because of years of neglect. As human rights monitors have reported, “From their ruins grow the ubiquitous Chinese concrete precincts composed of units of residential housing rented or sold at double the price of the old units, therefore out of reach of the average Tibetan family.”⁶

While Tibetan cultural life revolves around Buddhism, the well-known destruction of monasteries and convents for the past five decades has resulted in the forced eviction of thousands of nuns and monks. Since 1959, when there were more than 6,200 monasteries, convents and temples, with almost 600,000 monks and nuns, only eight had escaped Chinese destruction by 1976. Some have been reconstructed later, albeit through a permit system favoring tourist attractions. Others still have been harshly targeted recently as a function of measures for the control of religion. The most famous case has been that of the Serthar Institute, at Karze (Chinese: Ganzi) Autonomous Prefecture, in Sichuan Province. It was set up in 1980 and counted 7,000 residents. In 2001, Chinese authorities demolished most homes and expelled some monks and most nuns.

These evictions and housing policies have led to very poor housing conditions for many Tibetans, but also to homelessness, for which it is very difficult to obtain any reliable figures. The phenomenon is not officially recognised in China; however, reports of city “clean-ups” of their homeless people are available, indicating a second level of forced eviction. As common occurrence before international events such as the upcoming Olympic Games in China, there is a high risk that Lhasa, which the Chinese Government is especially promoting as a tourist destination, will be “cleansed” of its homeless people, beggars and street vendors, who, perforce, are mainly Tibetans.

The demolition of historic homes, structures and Tibetan culture in Lhasa

Naturally, as noted in General Comment No. 4,⁷ the form, style and layout of housing are designed to serve unique cultural needs. In some countries, such as Tibet, home also typically serves as the place of daily religious practice. Destruction of housing, therefore, threatens the whole fabric and cultural underpinnings of a community and society.⁸ This

⁵ OMCT/HIC-HLRN JOINT URGENT ACTION APPEAL: China forcibly resettles thousands of Tibetan nomad families to “protect the environment”; Case TIB-FE 011203; from the information of and in partnership with the Tibetan Center for Human Rights and Democracy (TCHRD); see Appendix 1 to this report.

⁶ Tibetan Centre for Human Rights and Democracy, *Dispossessed. Land and Housing Rights in Tibet*, , Section II. 8 – 5: “Urban Reconstruction causing Forced Evictions”, p.81, Dharamsala, August 2002.

⁷ Para. 8 (e) on cultural appropriateness as an element of adequacy in the human right to adequate housing. “General comment No. 4: The right to adequate housing (art. 11 (1) of the Covenant),” E/1992/23, *Official Records of the General Assembly, Forty-third Session, Supplement No. 8*, addendum (A/43/8/Add.1), reprinted in HRI/GEN/1/Rev.7, 12 May 2004, pp. 19–24, at. 21–22.

⁸ Herzer and Rabgay, *Housing Rights Violations in Occupied Tibet* (Berkeley CA: International Committee of Lawyers for Tibet, May 1996).

destructive process has been particularly harsh in Lhasa, as it represents Tibet geographical, cultural and religious capital.⁹

As already recognized in 1992 Secretary General's report on the situation in Tibet, Lhasa's traditional housing and road structure have been completely altered under Chinese occupation, mostly bulldozed and be replaced by Chinese style buildings and wide roads easily accessible to the Chinese military forces and matériel.¹⁰ Consequently, the remaining Tibetan part of Lhasa now constitutes only 2 per cent of the total area of the town, which is currently characterized by modern Chinese commercial buildings and dormitory blocks.¹¹ Since 1994, Lhasa has been reconstructed at a high pace, and the Chinese authorities already could claim in 1998 that "since the 1980s, more than 300,000 square metres of old residential houses have been rebuilt in Lhasa, and 5,226 households have moved to new dwellings."¹²

This was a result of the "Lhasa Development Plan" launched in 1980, and actually has meant mass eviction of Tibetan residents. Over ten percent of central Lhasa's then remaining Tibetan housing was destroyed in early 1990 alone and, in the same year, China displaced 3,500 Tibetans by replacing 50 traditional Tibetan residential compounds in the heart of city.¹³

The evicted Tibetans have had no available remedy against the Residential Management Committee's orders. No consultations have taken place concerning resettlement options. No compensation has been provided or offered to tenants and only insufficient compensation was offered to home-owners, and the alternative housing does not meet the spatial standards of the original housing at any comparable cost.¹⁴

The right to participate in one's culture and human right to adequate housing:

Besides destroying the culturally significant structures, the process also has broken down the indigenous Tibetan way of life. On one hand, for most Tibetans, the new housing units do not meet the standard of affordability set forth in General Comment No. 4.¹⁵ The resettlement housing also does not comply with the adequacy standards for "location" and "availability of services, materials, facilities and infrastructure,"¹⁶ where Tibetans are relocated to places without adequate access to services, including water and electricity. Moreover, most new buildings are Chinese style and accommodate the Chinese living habits of the high number of Han settlers, who are guaranteed a housing unit upon arrival in Lhasa.¹⁷

Besides traditional habitat, the Tibetan and Buddhist cultures have been very seriously depleted. Through the Lhasa Development Plan the Chinese authorities, affirm the protection of cultural heritage as a priority. However, they have demolished over 470 historic buildings in the process. In 1994, they razed the historic, 17th Century village of

⁹ While it used to be Tibet political capital too, the Tibetan political representation moved to Dharamsala, India, when H.H. the Dalai Lama sought refuge there and created the Tibetan Government in exile.

¹⁰ For more details, see UN Document E/CN.4/1992/37, Annex II.3, Paragraph 13. Road enlargement is particularly meaningful when understood as a response to the 1970s insurgencies, when countering them for the Chinese military proved all the more difficult since the Tibetans could easily escape in the maze of traditional Lhasa streets.

¹¹ Ibid, paragraph 15.

¹² *New Progress in Human Rights in the Tibet Autonomous Region*, Beijing: Information Office of the State Council of the PRC, February 1998, p. 11.

¹³ Herzer and Rabgay, op. cit.]

¹⁴ *Dispossessed. Land and Housing Rights in Tibet*, op cit., chapter 8.5: "Urban reconstruction causing forced evictions," p. 86.

¹⁵ General Comment No. 4, op. cit., at 21.

¹⁶ Ibid., p. 21.

¹⁷ UN Document E/CN.4/1992/37, Annex II.3, Paragraph 10.

Shoel, which lies at the foot of the Potala (traditional seat of the Dalai Lama and the Tibetan Government) to make room for a gigantic Chinese plaza.”¹⁸ In 2002, further demolition of traditional buildings was reported around the Jokhang, the Potala Palace and Norbulinka (the summer residence of the Dalai Lama), which the United Nations Educational, Scientific and Cultural Organization (UNESCO) has classified all together as a World Heritage Site.

In some cases, the authorities have attempted to retain some cosmetic, traditional architectural features, imitating Tibetan motifs; in others, century-old buildings are simply replaced by sterile, modern ones.¹⁹

Despite the authorities’ care to implement changes behind the official site perimeters as much as possible, the World Heritage Committee of UNESCO has expressed its concerns. In April 2002, the authorities even demolished a building complex under UNESCO protection in the traditional Tibetan area close to the Jokhang Temple. In 2004, the World Heritage Committee of UNESCO adopted in its 28th session a decision encouraging the Chinese authorities to develop an articulated strategic programme for the conservation and rehabilitation of the historic fabric of Lhasa. It also requested that the Chinese Government make efforts to mitigate the negative impact that this development pressure would have on the World Heritage value of this property.²⁰ In order to respond to these concerns and temper criticism, authorities began in autumn 2004 to implement in central Lhasa “facelift with ‘Tibetan characteristics’.” carrying out renovation along the main tourist streets of the Potala area. The renovation remains superficial though, and mainly consists of hiding the new façades with Tibetan-style moulded fascias.²¹ The project even does not employ Tibetan companies or workers, but Chinese migrant workers, as in the vast majority of the construction work in the Tibetan Autonomous Region.

31. Please provide detailed information on the extent of homelessness in China, and information regarding forced evictions and demolitions (*chaiqian*) of people's homes in China's cities by State and private actors.

Homelessness in China: a phenomenon linked to discrimination

In 2002, there was still no official definition of homelessness in China, and the PRC policies used to claim that “every citizen has an identified place to stay.”²² If some changes might have been noted since then, it is still impossible to find any comprehensive figure, if at all, on the phenomenon. Nonetheless, the empirical and anecdotal evidence is compelling as an indicator of a housing-rights problem that deserves official attention.

Practically, homelessness is closely related to forced evictions (treated below) and discrimination, especially against migrant workers, but also women and minorities.

¹⁸ Herzer and Rabgay, op. cit.

¹⁹ For a full report of the 2002 destruction drive, see Tibetan Information Network special report: “*Rebuilding and Renovation in Lhasa*.” <http://www.tibetinfo.net/news-updates/2002/1009.htm>

²⁰ Decision 28 COM15B 55 of UNESCO World Heritage Committee, p. 108, at <http://whc.unesco.org/archive/2004/whc04-28com-26e.pdf>.

²¹ TIN News Update / 30th December 2004: “Central Lhasa gets facelift with ‘Tibetan characteristics’.”

²² Hou Li, “The Nature, Extent and Eradication of Homelessness in China,” draft final report for the Centre for Architectural Research and Development Overseas (CARD), University of Newcastle-upon-Tyne, July 2002, p. 7; quoted in *Dispossessed. Land and Housing Rights in Tibet*, op. cit., Section III. 10: “Causes of homelessness in Tibet”, p. 100.

Discrimination in housing manifests in procedural practices and abuses affecting inhabitants of non-Han (non-Chinese) regions such as the Tibetans, Mongolians and Uyghurs²³ These communities face all the more difficulties to defend themselves as most of them face linguistic and other barriers in accessing Chinese courts.

Besides these entire peoples, institutionalized discrimination severely affects the millions of migrants who leave the rural areas to try and survive. Most Chinese Central Government investments are allotted to the modernization of cities, and the people in the rural areas, where 80 percent of the population used to live, are abandoning the vast countryside. Consequently, 120 million former rural residents have migrated to cities since the launch of Deng Xiaoping's reforms; 150 million are currently on the move, and the government estimates that, by 2010, 13 million new migrants will settle in the cities every year."²⁴

The rural migrants' presence in the cities is regulated by the *hukou* system, since Chinese citizens do not have the right freely to choose their place of residence in the country. This system ties individuals and families to a particular place, but also divides them into nonagricultural (urban) or agricultural (rural) categories, which constitutes discrimination on birth and descent,²⁵ and an easy basis for local authorities to mistreat and abuse them.²⁶ Each local authority has installed its own system. This has become increasingly complicated to the extent that migrants might have to carry up to 15 permits to be considered legal.²⁷ Local authorities have an incentive for retaining this system, because permit issuance and fines for illegality constitute a huge and increasing source of revenue for them from the growing number of migrants. From arbitrary refusal to issue temporary permits to arbitrary fines and side-payments, the system allows all possible abuses of power, and socially excludes poor migrants.

The right to choose one's own place of residence and the human right to adequate housing:

The part of this "floating population" that lacks even a temporary permit is often derogatorily called *mangliu*, the "blindly floating population."²⁸ Yet, "International research examining homelessness in Chinese cities such as Shanghai have found that most identifiably homeless people--e.g., those sleeping in the streets or in makeshift shelters--fall into the category of "blindly floating population."²⁹ For the Chinese authorities, homeless people and beggars are only a threat to social stability. As such, they are systemically targeted by any "beautification" and "development" programmes, and directly affected by the "Custody and Repatriation" (C&R) regulations that allow police officers to arrest them and deport them back to their place of origin.

It is worth noting that even external migrants are denied any right to housing. In 2004, the government of Ningde City, Fujian Province, has forcibly confiscated land originally set

²³ If Beijing considers these three groups as minorities, it is worth-mentioned here that, as in the Tibetan example referred to above, they actually represent distinct peoples whose lands have been either annexed to the Chinese territory when China was an expansionist empire, or occupied and *de facto* annexed too at an later period.

²⁴ Nicolas Becquelin, "More than half measures needed on migrants," *China Rights Forum*, No 1 (2003).

²⁵ For more details, see "Implementation of the International Convention on the Elimination of all Forms of Discrimination in the People's Republic of China," a report by Human Rights in China, July 2001.

²⁶ Intimidation, violence and abusive "clean-ups" of migrant areas have been extensively reported. See "Institutionalized Exclusion," *China Rights Forum*, No 1 (2003).

²⁷ *Ibid.*

²⁸ Hou Li, "The Nature, Extent and Eradication of Homelessness in China", *op. cit.*] p. 13, quoted in *Dispossessed. Land and Housing Rights in Tibet*, *op. cit.*, Section III. 10: "Causes of homelessness in Tibet," p. 101.

²⁹ *Dispossessed. Land and Housing Rights in Tibet*, *op. cit.*, p. 101.

aside for overseas Chinese seeking refuge in China, rendering thousands of these refugees homeless.³⁰

To deter migrants and their families from settling in the cities, the Chinese authorities also deny education to their children, and even have closed down schools that migrants had set up for their own children. By doing so, the Government is currently denying covenanted rights to some of the poorest children in China's cities³¹ and discriminates against the already most-disadvantaged children in the country, adding to the phenomenon of street children. Migrant women are also particularly affected by the registration system. They are "required to carry special population planning certificates, without which they cannot obtain a temporary residence permit or rent housing. Landlords who rent to migrants must ensure that their tenants are following population-planning policies, and report noncompliant residents to local street committees in order that those who do not comply may be expelled from the cities."³²

Forced evictions and house demolitions

Since the 1988 legal reform that allowed private property, and especially for the past ten years, rapid economic growth, skyrocketing land prices and urban renewal, have coincided with the large-scale redevelopment and expansion of China's urban centers. This rapid urban expansion and development has resulted in massive forced evictions and demolitions of a large number of houses. *The People's Daily*, the official paper of the Chinese Communist Party, reported that 40 million farmers have lost their land as rapid industrialization and urbanization fuels China's breathless economic growth³³ Fu Wenjuan, the vice minister of the Construction Ministry acknowledged that "half the current demand for real estate in China is being met by local government-backed demolitions and evictions."³⁴

The reported cases, included in Appendix 1 to this report, represent only a tiny fraction of the stories of 40 million farmers and an unknown number of city dwellers whose housing and other rights have been violated in the name of development. They highlight various diverse and similar experiences of farmers and city residents, ranging from state requisition of rural land for sale for development,³⁵ automobile factories,³⁶ road and dam construction,³⁷ a major pipeline³⁸ and a university town³⁹ and eviction in urban areas for development ahead of the 2008 Beijing Olympics⁴⁰ and property development in Shanghai.⁴¹

From 1991 to 2003, Shanghai city authorities relocated nearly 900,000 households, or 1.2 million people. In Beijing, the preparation of the Olympic Games has exacerbated this

³⁰ See Human Rights In China press statement in "Refugee Land Confiscation Leaves Thousands Homeless", *L'express.mu* (11 June 2004).

³¹ *Shutting out the poorest: Discrimination against the most disadvantaged migrant children in city schools*, a Human Rights in China report, 8 May 2002.

³² Human Rights in China, Asia Monitor Resource Centre, China Labour Bulletin, Hong Kong Christian Industrial Committee, "Report on the Implementation of CEDAW in the People's Republic of China," December 1998. The report continues: "For example, in the fall of 1996, the Shenzhen authorities ordered over 700 female migrant workers with more than one child to leave the city, as a punishment for violating the population control policy."

³³ Jennifer Chou, 'Peasant Danger; China's Rural Troubles are Migrating to Beijing', *The Weekly Standard*, 30 Aug 2004.

³⁴ *Ibid.*

³⁵ Case No 1

³⁶ Case No 2.

³⁷ Case No 3.

³⁸ Case No 4.

³⁹ Case No 11.

⁴⁰ Case No 7.

⁴¹ Case No 9.

situation. Reports indicate that 300,000 people have evicted from their homes as a consequence. Senior officials in Beijing have denied these reports and stated that, though a large number of households (400,000) have been relocated since 1991, the housing area has increased per family on average and only some cases have involved forced eviction and demolitions.⁴²

These forced evictions mostly mean the complete demolition of poor people's houses to make way for new commercial buildings or residences with rents much too high for the original residents to inhabit. They are relocated far from their communities and places of work. Moreover, compensation is low because it is calculated only on the basis of the market value of the original structures and land-use rights. Most of the value of urban property lies in the land itself, the ownership of which the state has assumed, not in the modest dwelling on it, nor always limited land use rights, if any. Consequently, most people can only afford homes in less well-located areas.

Some residents were attracted by the prospect of being evicted and relocated in order to obtain better housing. However, many have been too poorly compensated, uninformed of their rights and the inadequate conditions of their relocation, increasingly subjected to forcible evictions, and relocated at great distances with poor transportation networks. In most cases, officials simply informed residents that they will be relocated, and give them a limited time to negotiate compensation and move. Residents may challenge the amount of compensation offered, but cannot stop the demolition process once government arbitration panels rule on compensation disputes, even if they appeal the arbitration decision to a people's court.⁴³

While abuses during the eviction processes have multiplied, methods also have worsened. In some cases, developers and demolition personnel have cut off water and electricity, used physical threats and other forms of intimidation, and resorted to violence to deal with residents who refused to move or asked for additional compensation. Although the central government has issued several notices against such practices, and prosecuted some companies and individuals for abuses, various forms of violations and violence continue to be reported.

Urban expansion, and the subsequent evictions and house demolitions, have reached such a scale that it has had direct consequences on the rural areas surrounding the cities. According to official estimates, nearly five percent of the country's arable land has been lost as a result of urbanization and development over the past seven years, and over than 40 million peasants thus have been displaced over the past 20 years.⁴⁴ This trend has alarmed Chinese authorities, who view landless, unemployed peasants as they consider homeless people: a threat to social stability. As peasants face still harder educational and informational barriers, and rural courts do not always accept land-confiscation cases, abuses over compensation processes have very severely affected them. Vice Chairman of the NPC Standing Committee Sheng Huaren has noted that farmers are owed at least 9.88 billion yuan (US\$1.2 million) in unpaid land requisition compensation and relocation fees.⁴⁵

⁴² China Daily, "Beijing Relocation, Not Eviction" (11 March 2004).

⁴³ Congressional Executive Commission on China, "Forced Evictions and Land Requisitions," *Annual Report 2004*: <http://www.cecc.gov/pages/virtualAcad/rol/property2004.php>.

⁴⁴ Ibid.

⁴⁵ Ibid.

Domestic provisions affecting land and housing rights, and forced evictions

It is important to note that China has yet to adopt a Housing Act. Protection of the right, however limited, is found in the 1982 Constitution⁴⁶ and the 2004 Constitutional Amendment,⁴⁷ recognizing the citizens' right to own housing,⁴⁸ and 1986 Civil Law Act,⁴⁹ which provides that a citizen's personal property shall include housing.⁵⁰

However, individuals in China currently have no right to own land. Consequently, the right to housing in China is defined by the right to own private property other than land. The 1998 Land Administration Law⁵¹ provides each rural household shall own one piece of land for housing, the size of which accords with standards set by the respective province, autonomous region or municipality.⁵² Article 4 of the 1994 Law on Urban Real Administration⁵³ provides that the State "in accordance with the social and economic development level, supports construction of residential houses gradually to improve the conditions of local residents." Housing, especially for the ordinary residents is not a priority in the 1990 City Planning Law of the People's Republic of China.⁵⁴ Housing is briefly mentioned in Article 27 such that "The residential and transportation conditions in the existing urban areas shall be improved step by step."

Government officials and officers of collective organizations have inordinate power over land under their control, which affects legal security of tenure for farmers and city residents. Hence, foreign and local developers court these officials and collective officers. Thus, problems of security of tenure may be traced to the provision of state ownership of urban land and collective ownership of rural land in the 1982 Constitution,⁵⁵ which provisions are elaborated in the 1998 Land Administration Law⁵⁶ and the 2004 Land Administration Law.⁵⁷ These legal sources provide the greatest authority over the transferability of land use rights⁵⁸ under the Constitution. The 2004 Land Administration Law⁵⁹ continues the provision under the 1998 Land Administration Law for the conversion of farm land to construction use in rural areas.⁶⁰ The 1982 Constitution provides for the requisition of land by the state in the public interest in accordance with law while the 1998 Land Administration Law sanctions state requisition of land owned by collectives in the public interest.⁶¹ Roads, pipes and large infrastructure projects requiring conversion of farm land to construction use must be approved by the State Council as well as requisition of basic farmland, land over 35 hectares outside basic farmland and other land

⁴⁶ Adopted at the 5th Session of the 5th National People's Congress and effective as of 4 December 1982.

⁴⁷ Adopted at the 2nd Session of the 10th National People's Congress on 14 March 2004 and effective as of the same date.

⁴⁸ Art 13[1] in the 1982 Constitution protects right to own housing and in the 2004 Constitution, provides that lawful private property of citizens shall not be encroached upon.

⁴⁹ Adopted at the 4th Session of the 6th National People's Congress and promulgated by Order No 37 of the President on 12 April 1985 and effective as of 1987.

⁵⁰ art 75.

⁵¹ Revised and adopted at the 4th Session of the Standing Committee of the 9th National People's Congress on 29 August 1998 and effective as of 1 January 1999.

⁵² Art 62[1].

⁵³ Adopted at 8th Meeting of the Standing Committee of the 8th National People's Congress on 5 July 1994 and effective as of 1 January 1995.

⁵⁴ Adopted at 11th Meeting of the Standing Committee of the 7th National People's Congress on 26 December 1989, promulgated by Order No. 23 of the President of the People's Republic of China on 26 December 1989 and effective as of 1 April 1990.

⁵⁵ Art 10[1] and [2] respectively.

⁵⁶ Art 8[1] and [2] respectively.

⁵⁷ Art 8[1] and [2] respectively.

⁵⁸ Art 10[4].

⁵⁹ Revised and adopted at the 11th Session of the Standing Committee of the 10th National People's Congress, 28 August 2004.

⁶⁰ Art 4[4] defines land for farm use and land for construction use.

⁶¹ Art 10[3] and art 2[5] respectively.

over 75 hectares.⁶² Other land requisitions are to be approved by provincial, regional and municipal governments and recorded by the State Council.⁶³

Procedures for development in both rural and urban areas do not include consultation with those affected at any stage before requisition, compensation and resettlement plans have been finalized. While involvement of experts and government departments, especially those concerned with land administration,⁶⁴ is important, the inclusion of those affected is equally necessary. Compensation and resettlement are also often inadequate, especially for farmers who have lost their livelihood to development projects. Thus, the evicted farmers and residents are enraged at the exorbitant sums paid by developers or pocketed by corrupt officials under entirely separate development contracts. The 1998 Land Administration Law and the 2004 Land Administration Law provide for compensation for land requisitions or expropriations according to the original purpose of the land.⁶⁵ Government authorities at county or higher levels announce and organize implementation of State requisition after the land requisition has been approved through legal channels.⁶⁶ Land owners or users have a limited time within which to register for compensation provided they hold land certificates. The State Council sets compensation and resettlement standards for large and medium-scale water conservancy projects and hydroelectric power projects;⁶⁷ provincial, regional and municipal governments set standards for other projects.⁶⁸ Compensation includes land compensation fees, resettlement fees and compensation for attachments to or green crops on land.⁶⁹ Land compensation fees are set at between six to ten times the average output value of the three years preceding land requisition of cultivated land. Resettlement fees depend on the number of agricultural population to be resettled; resettlement fees for each person is four to six times the average annual output value of the three years before requisition, the resettlement fee per hectare being capped at 15 times the average annual output value of three years before requisition.⁷⁰ Furthermore, total land compensation and resettlement fees should not exceed 30 times the average output value of three years before requisition. Rural economic organizations and farmers may voice their opinions after compensation plans have been finalized and announced.⁷¹ There is no provision for any modification to the compensation plans after hearing their opinions.

National Regulations for the Management of Urban Residential Demolition and Evictions specify the procedures to evict residents. Developers who wish to build on a site must apply for and obtain a series of permits from the demolition and eviction management department. These departments are responsible for processing applications, collecting necessary fees and for the process of demolition and eviction. The developer or the department are required by law to approach the existing residents, advise them of their eviction and negotiate compensation. Once a compensation agreement is signed, the resident must relocate either with the help of the department or by him/herself. The department can also arbitrate disputes between developers and residents over compensation and may give developers approval to proceed with “forced demolition and evictions” (*qiangzhi chaiqian*).

⁶² Art 44[2] and art 45[1] respectively of both 1998 Land Administration Law and 2004 Land Administration Law.

⁶³ Art 45[2] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁶⁴ Art 52[2] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁶⁵ Art 47[1] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁶⁶ Art 46[1] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁶⁷ Art 51 of both 1998 Land Administration Law and 2004 Land Administration Law.

⁶⁸ Art 47[6] and [7] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁶⁹ Art 47[2] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁷⁰ Art 47 [2],[3],[4] and [5] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁷¹ Art 48.

Most local legislatures have passed implementing regulations that generally copy the language of the national regulations with only minor modifications.⁷² The Beijing Municipality's 2001 Measures for the Administration of Urban Houses Demolition⁷³ provides for a one-year period for demolition to be carried out,⁷⁴ such period may be extended for a period of six months upon application to the relevant land and housing administration authority 15 days before the expiry of the period for demolition.⁷⁵ The regulation provides for a time period for removal which is the period for owners or tenants to enter into compensation and resettlement agreements with the demolition licensee,⁷⁶ but does not provide for reasonable and adequate notice of when the eviction would take place. Neither does it make any provisions in line with the requirements in GC 7. The regulation also provides for eviction to be proceeded with if alternative housing has been provided for the owners or the tenants even if an action has been commenced in court.⁷⁷ The demolition may be enforced by the relevant departments on the orders of the district or county government or the court if the owners or tenants refuse to move after time for removal has expired.⁷⁸

There are no provisions for legal remedies for those affected to prevent forced evictions and assert housing rights, because land requisitions and expropriations are legal. Consequently evictions and resettlements are assumed to be similarly legal, and no provisions are made for inadequate compensation or unsuitable resettlement and few provisions are made for property restitution. Under the national regulations and corresponding local regulations, residents may seek arbitration by the municipal demolition and eviction department. However, this process is deeply flawed as the officials involved may have conflicts of interests, as mentioned above. They issue permission for the demolition in a context of extracting fees and often close connections with the investors and companies that carry out the demolitions.

This has led to allegations of corruption and improper financial interests. As recourse, evictees can take cases to court if they fail to find redress through the arbitration, but they have to be able to find and afford a qualified and willing lawyer to represent them. Courts, in many instances, refuse to hear cases brought by evicted residents and China's judicial structure permits local Communist Party Committees to decide which cases are and are not heard by courts. There is also no procedure to obtain a judicial injunction so that, even if a plaintiff were to win his or her case, demolitions may already have proceeded while the case was ongoing. The relevant national regulations state that "during a lawsuit, the implementation of demolition and evictions will not be stopped."⁷⁹

There are criminal provisions against corrupt officials but few appropriate remedies for farmers and residents who have lost land and homes to development, big and small. Even where land transfers are illegal, legal remedies are not provided for those affected. For example, proceeds of illegal transfers of land through trade or other forms are confiscated by land administrative departments of local governments at and above county levels under the 1998 and 2004 Land Administration Law.⁸⁰ The Land Administration Law of 1998 and 2004 provide that persons in charge and persons directly responsible for

⁷² Human Rights Watch, "Demolished: Forced Evictions and the Tenant's Rights Movement in China," Vol. 16, No. 4 (March 2004), pp. 6–8.

⁷³ Ordinance No 87 of the People's Government of Beijing Municipality, passed by the 40th Standing Meeting of the People's Government of Beijing Municipality on 29 October 2001 and effective as of 1 November 2001.

⁷⁴ Art 11[2].

⁷⁵ Art 11[3].

⁷⁶ Art 10[3].

⁷⁷ Art 15[4] and [5].

⁷⁸ Art 16.

⁷⁹ Human Rights Watch, *Demolished: Forced Evictions and the Tenant's Rights Movement in China*, Vol. 16, No. 4 (March 2004), pp. 15–17.

⁸⁰ Art 73[1].

these acts will face administrative punishment or criminal charges where appropriate.⁸¹ There is a provision that where agricultural land has been converted to construction use in violation of general plans for land use, new buildings or facilities illegally built on land illegally transferred will be dismantled and the land restored to its original state; but where there is no violation of the general plan of land use, such buildings and facilities on land illegally transferred will be confiscated and a fine may be imposed.⁸² Even if such cases are rare, the question is whether this provision will be applied in the appropriate case. Restoration of land to its original state also may not imply that it will be returned to the farmers who lost it through such illegal transfer.

From the official recognition of the problems to local corruption and the violent oppression of an increasing number of protests

The Central Authority seems to be aware of these problems arising from urban development. Given the scope of the protests, the Government has issued several notices addressing some of them. If these documents officially recognize that very serious abuses exist, they demonstrate a lack of attention to remedies and mechanisms for victims of violations to obtain, as well as adequately compensation or restitution for the abuses they suffered. No such mechanisms exist, which give to local authorities and private actors all the freedom needed to abuse the residents. Nor does the central authority condone any protests, and instead violently suppresses them.

In a 2003, an urgent notice on housing demolition and relocation, the Chinese Central Authority explained that "since the beginning of th[e] year, inappropriate work methods and the failure of some work units to deliver demolition compensation or to implement resettlement have resulted in an increasing number of disputes and collective petitions sparked by housing demolitions in cities and towns and even triggered some terrible incidents". The main concern of the authorities, though, has been that these disputes and incidents could "influenc[e] social stability and the normal order of production and life." While this official position does not reflect understanding of the distinction between the symptom and the actual cause of the problem, it promotes an unconscionable equation between maintaining unremedied housing demolition/forced eviction and "safeguarding social stability."⁸³

Some passages in the urgent notice were encouraging in that they asked the authorities at all levels to "protect the legal rights and interests of the masses in practice" (paragraph 2); and detail that "prior to the examination and approval of plans, the appropriate forms of notice should be given, and the opinions of persons subject to demolition and others whose interests are affected should be heard" (paragraph 3). However, no responsible officials or legal remedies are in place to ensure that these good intentions be implemented.

Respective responsibilities of local and central authorities:

In 2003, the Central Authority was still fully relying on the local authorities to regulate local practices so that entities commissioned to carry out demolition and relocation refrain from tactics such as intimidation, coercion, or cutting off water, electricity, gas, or heat, and from practicing forced demolitions and relocations without authorization. Local authorities bore the responsibility to punish offenders in accordance with the law.⁸⁴

⁸¹ Art 73[3].

⁸² Art 73[2] of both 1998 Land Administration Law and 2004 Land Administration Law.

⁸³ "Urgent Notice on Housing Demolition and Relocation Work in Cities and Towns and Safeguarding Social Stability," No. 42 (2003).

⁸⁴ Urban Housing Demolition and Relocation Administrative Adjudication Work Rules, 23 December 2003, Article 24.

In its latest notice, entitled “Controlling the Scope of Housing Demolition and Relocation in Cities and Towns and Tightening up Demolition and Relocation Management,” the Central Authority recognized that “some local governments have not taken a correct view of official achievement and have blindly enlarged the scope of demolition.” It further noted that “some cities have failed to implement adequate measures for housing demolition compensation and resettlement and artificially reduced standards for compensation and resettlement; some have even abused official power and illegally engaged in forced demolitions.”⁸⁵ Without being more specific on the actors responsible for implementing the notice, it calls “each locale” to take actions. While not offering remedies or addressing grievances, the notice warns that “[f]or the minority that demands an exorbitant price and willfully stirs up trouble, we must uphold principles and not compromise. The minority of individuals subject to demolition that openly assemble and create disturbances or take to the streets to block traffic or attack government organs must be promptly and severely punished in accordance with the law” (paragraph 7). The references to “exorbitant price” and “public interest” in this and other notices is nowhere defined and, thus, remains arbitrary and subjective.

Concerning rural-to-urban migrants, the Chinese government also issued a directive, but it does not take into account that “migration is no longer controlled by the central Government, but rather is in the hands of local municipalities.”⁸⁶ Moreover, this directive, as all other notices, is not binding. Migrants have thus no recourse.

Analyses of some other apparently positive regulations mention the same disjuncture between the central rules and the actual actors responsible for the violations. In 2004, People’s Assembly amended the Constitution to provide greater recognition for individual property rights, providing that “lawful private property of citizens may not be encroached on.” However, as Chinese constitutional law is not usually judiciable without implementing legislation, constitutional reforms will be of little immediate value.⁸⁷

While in rural areas, the State transfers of land create significant incentives for corruption. The collectives in charge of the municipal land retain much of the compensation that the State provides when it requisitions arable land, leaving the dispossessed farmers in the cities unemployed and without any income.⁸⁸ Rich local private actors can also easily find partners in the local authorities to implement their plans.

Farmers deprived of their livelihood by government land acquisitions and city dwellers with similar complaints are two major groups of petitioners who seek redress for grievances in Beijing.⁸⁹ Fu also revealed that 4,000 groups⁹⁰ and 18,620 individuals lodged petitions over allegedly illicit land transfers in the first six months of 2004,⁹¹ compared with 18,071 complaints in all 2003, when more than 1,500 incidents of violence, suicide and demonstration related to demolitions and relocations occurred across the country.⁹² The number of complaints to the Construction Ministry in the first quarter of 2004 also had increased three times over the same period in 2003.⁹³

⁸⁵ “Notice on Controlling the Scope of Housing Demolition and Relocation in Cities and Towns and Tightening Up Demolition and Relocation Management,” No. 46 (2004).

⁸⁶ Nicolas Becquelin, “More than half measures needed on migrants,” *China Rights Forum*, No.1 (2003).

⁸⁷ Human Rights Watch op. cit., p. 34.

⁸⁸ Congressional Executive Commission on China, op. cit.

⁸⁹ Ibid.

⁹⁰ “China’s Land Grabs Raise Specter of Popular Unrest,” *Washington Post* (5 October 2004); “Shanghai Police Harass, Detain Eviction Protesters,” *Radio Free Asia* (23 Aug 2004), at: <http://origin.rfaweb.org/front/article.html?service=eng&encoding=10&id=143854>.

⁹¹ “Complaints on Home Demolitions Soar,” *China Daily* (6 July 2004), at: http://new.xinhuanet.com/English/2004-07/06/content_1576039.htm.

⁹² Congressional Executive Commission on China, op. cit.

⁹³ Ibid.

Incidences of self-immolation include a peasant from Anhui protesting against his forced eviction (15 September 2003), a Beijing resident facing imminent eviction harming himself in front of the property developer which resulted in both of them being injured (26 September 2003), as well as threat of mass suicide by a group of 50-60 protesters from northeast China due to grievances over land transactions (14 July 2004). This underscores the relative lack of access that ordinary citizens have to get their concerns taken seriously by an authority figure.

Treatment of organised groups residents who travel to government departments in order to voice their complaints also bear witness to this dismissive attitude. In 2003, residents who gathered outside the Shanghai municipal government complaining against unfair sale of their dwellings were either detained or arrested by the police on grounds of disturbing public order or similar charges.

Frustrated in their attempts to obtain redress through the bureaucracy and judicial system, farmers and city residents have exercised their constitutional right to protest.⁹⁴ They were among the three million people involved in 50,000 public protests that, according to the Chinese media, took place in 2003.⁹⁵ On February 26, 2003, nearly 22,000 Beijing residents signed an open letter to President Hu Jintao and senior government officials, and from September to December 2003, Beijing saw almost daily protests against demolition and eviction in Tiananmen Square and in front of the Zhongnanhai compound.⁹⁶

Permission to hold protest rallies are hard to obtain. For example, Chinese protesters planning a 10,000 person march on 1 July 2004 against illegal land seizures, forced evictions and police brutality had hoped to overturn government ban on rally.⁹⁷ Police refused to give written refusal to their request because it could be used if they decided to seek judicial redress against police.⁹⁸ The police apparently rejected the application because it listed 15 government wrongdoings.⁹⁹ Nevertheless, the organizers went ahead and between 300–400 people from Northeastern China held banners and handed out antigovernment leaflets in the square.¹⁰⁰ At least 30 people were detained, many were ordinary residents whose homes were demolished by the government, without compensation, to make way for real estate developments.¹⁰¹ 10 people, including an older woman were hauled into a police van after attempting to distribute leaflets.¹⁰² A disabled man climbed over the rope fencing off the Chinese flag, threw his crutches aside and lay down as his wife dropped to her knees near him.¹⁰³ Their home had been demolished and his legs broken because he refused to pay bribes to local officials.¹⁰⁴ Three women from Jilin Province attempted to break through the barriers surrounding the national flag to bring it down but were restrained by the police and taken away.¹⁰⁵

On 6 March 2004, residents who filed protests related to property disputes were reportedly placed under house arrest in Shanghai and Beijing. Attempts by residents

⁹⁴ Art 35.

⁹⁵ "China: Protests Block Old House Demolitions," ANSA English Media Service (15 June 2004).

⁹⁶ Human Rights Watch, *op. cit.*

⁹⁷ "Chinese Protesters Seek Go-Ahead for 10,000-Strong Rally" (4 July 2004), at <http://www.afxnews.com> or <http://www.afxpress.com>.

⁹⁸ *Ibid.*

⁹⁹ John Chan, "China Police Round up Protesters in Tianamen Square" (10 July 2004) <http://www.wsws.org/articles/2004/jul2004/chin-j10.shtml>.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

arriving in Beijing to make contact with central government figures have been similarly obstructed.

Confrontations between protesters and police or other authorities occasionally result in violence and brutality. In December 2003, violence between the police and protesters to the construction of a railway line in Luohe City left four killed and seven injured. An elderly woman was physically assaulted on 30 May 2004 due to her refusal to leave her house (30 May 2004), and a forcible land seizure led to the kidnap of local officials by angry farmers in Zhejiang Province, culminating in conflict with the police (10 December 2003). In Wanli village of Fujian Province, government authorities deployed, on 10 September 2004, convicted criminals to demolish the homes of peasants and the remaining resistant residents were arrested by the police.¹⁰⁶

Police harassment and brutality are also not uncommon when farmers and residents such as Lin Zhengxu of Shishan Village¹⁰⁷ try to protect their homes, their land or resist evictions¹⁰⁸ or protect the homes, the land and the rights of others.¹⁰⁹ Xiao Xiangjin and Wu Zhong Kai were arrested for supporting the farmers around Qingkou, Fujian, the former sent to labour reeducation camp.¹¹⁰

Housing rights defenders supporting the evictees also have been severely targeted, so that fewer lawyers accept to take up forced eviction cases. In 2003, a lawyer, Zheng Enchong, was arrested, charged for allegedly disclosing state secrets and sentenced to four years jail eight days after filing the case of the 2,160 Shanghai residents in court. Even Communist party officials such as Huang Jingao of Lianjiang, who try to fight against corruption within their ranks are suppressed or silenced from within.¹¹¹ In the Shanghai redevelopment case, in October 2003, central authorities denounced a dozen persons who had repeatedly engaged in protests against the plan, to be soon sentenced to Reeducation tThrough Labor (RTL) on charges of “illegal assembly.”¹¹² In a rare instance, the Shaanxi Provincial Government ordered the return of illegally acquired land or the payment of compensation to affected residents.¹¹³ It would be useful to know whether the order has been carried out.

The Xinhua News Agency reported that Zhang Geng, vice head of Supreme People’s Procurator promised “severe punishment” for officials whose negligence leads to rights abuses when farmland is expropriated or homes demolished.¹¹⁴ He made this promise in the wake of suicide and suicide attempts by people officials had ordered to move to make way for new projects.¹¹⁵ However, such promises are not enough unless land is returned or given to farmers and city residents are adequately compensated and resettled.

¹⁰⁶ “China sends convicted criminals to do dirty work in forced evictions” *Agence France Presse* (10 September 2004)..

¹⁰⁷ Case 1.

¹⁰⁸ Cases No 1, 4, 10, 11, 12 13 and 14.

¹⁰⁹ Case No 2.

¹¹⁰ Case No 2.

¹¹¹ Case No 3.

¹¹² “Shanghai Redevelopment Petitioners Face “Re-education,” *South China Morning Post* (20 October 2003), according to information received by Human Rights in China.

¹¹³ Case No 5.

¹¹⁴ “China Vows to Curb Rights Abuses over Forced Evictions,” *Agence France Presse* (29 September 2004).

¹¹⁵ *Ibid.*

Dam projects typify how so-called “development” projects are run in China, except that the victims find themselves especially defenseless, since the Central Authority plans and leads these megaprojects, and international companies and funders, including the World Bank, support them.¹¹⁶ The Bank used to present China as a model of good practice, ignoring the numerous violations of human rights perpetrated in the name of “development.”¹¹⁷ In this way, regulations plan lower levels of compensation for people displaced by dams than any other projects. If the Three Gorges Project is the most well-known, because it constitutes the world’s largest hydroelectric dam, it is also only one example among many. Since 1949, more than ten million people have been moved because of water-control projects in China.¹¹⁸

In 1949, the People's Republic of China had no more than 40 small hydroelectric stations. By 1985, it had built more than 80,000 reservoirs and 70,000 hydroelectric stations. In 1989, the Ministry of Agriculture’s poverty relief office acknowledged that roughly 70 percent of the country's 10.2 million “reservoir relocatees” were still living in “extreme poverty.” “By 1992, the year when the Three Gorges Dam project was officially approved, China had 369 large-scale reservoirs with capacity exceeding 100 million cubic meters. In 1994, a World Bank report cited the Chinese government as saying that 46 percent of China's resettlers displaced for water control projects had yet to be “properly resettled” and that they “were at great risk of poverty.” Today, China's dam-building effort is reaching new heights with 15 gigantic hydropower stations.¹¹⁹

32. Please describe the positive measures taken to sustain adequate living standards, including livelihood opportunities, for people who have been resettled to make way for large dam projects such as the Three Gorges Project.

The Three Gorges Dam alone implies the displacement of one-to-two million people,¹²⁰ and many abuses have been registered since the beginning of the project, including “official cover-ups of inadequacies and failures in resettlement programs; falsification of figures...endemic corruption and misuse of resettlement funds; systematic discrimination against rural residents in the allocation of resettlement resources, and a lack of proper efforts to inform.”¹²¹ About half of the people displaced will be rural residents, and while they are institutionally discriminated against, they constitute the most affected because they lose not only their houses, but also and above all their source of livelihood. They will need either new farmland or urban jobs to restart their lives. Yet, both have proved illusionary. The five years before reaching the 135-meter height of the reservoir water level, in 2003, required the relocation of more than 500,000 people. By 2009, when the entire dam structure is scheduled to be completed, the water will be raised to 175 meters, requiring that at least another half million people be moved.¹²²

¹¹⁶ *Major Problems Found in Three Gorges Dam Resettlement Program*, a field report issued by Human Rights in China and International Rivers Network (1998), p.1.

¹¹⁷ “The World Bank ignores its own guidelines in involuntary resettlement for China projects,” Human Rights in China Press Advisory, 12 June 2000.

¹¹⁸ Human Rights in China and International Rivers Network report, op. cit., p.1.

¹¹⁹ Ibid.

¹²⁰ The Chinese Government says 1.2 million but critics estimate that between 1.6 and 1.9 million people will have to be relocated.

¹²¹ Human Rights in China and International Rivers Network report, op. cit., pp. 1 & 2.

¹²² Ibid, Section 2: “A field report by Wu Ming,” p. 2.

Besides common restrictions on freedom of association that prevent victims from collectively protest to defend their rights, as in other eviction cases, people have been arrested, and some jailed. The resettled residents have petitioned various levels of the government dozens of times since the 1990s. None of their applications for the case to be taken up in court has been accepted. During that period, the local government repeatedly subjected the protests leaders to suppressive actions, and detained and interrogated dozens. It imprisoned two of them (Gao Qizhang and Yang Xingfu) and sentenced to Reeducation Through Labor another one (Ma Deyang). In May 2004, five petitioners, Wang Xidong, Liu Zhengzhen, Xia Chenghu, Wu Yansheng and Qin Wenjun were detained and are currently awaiting sentencing.¹²³

In October 2004, 650 resettled people sent an urgent appeal for assistance in obtaining appropriate compensation to be heard by the international community. While their leader was facing high risks of detention for its activism, the signers claimed that an agreement signed by then-Premier Li Peng originally promised them compensation of a minimum of 56,000 *yuan* per *mu* of land, and that they should be paid compensation for a period of 15 years. They actually received from the local officials only 1,408 *yuan* per *mu*, and for only one year. The government had also set a resettlement payment of 30,000 *yuan* for each villager, but they only received 5,000 *yuan*. The petition claimed that “the villagers have suffered losses totaling more than 2 million *yuan*, and that their living conditions under resettlement are greatly inferior to what they originally enjoyed.”¹²⁴

33. Please provide information on the availability and accessibility of institutions for older persons, such as old-age homes and day centres, and on their enjoyment of social security and insurance benefits.

While China is an aging society, the migration phenomenon, in particular, has a serious impact on older people in rural areas. Now too old to work, they used to depend on their children for care and financial support. However, because of the poverty in the rural areas and the disproportionate State investments in the urban areas, many working-age children migrate to cities to try and find meanings of subsistence. Therefore, the older people are left alone, having sometimes to take care of their grand children, while they lack income and care themselves, and “feel lonely and insecure.”¹²⁵

Older farm workers are particularly affected because they always have been out of the social protection and assistance system. Beijing announced very recently that they would enjoy access to social assistance this year.¹²⁶ However, given the already noticed fundamental problems of implementation at the local level, the Central authority will have to create strict implementing mechanisms actually to bring this about.

¹²³ “Three Gorges Villagers in International Appeal,” *South China Morning Post*, 26 October 2004 according to information received by Human Rights in China.

¹²⁴ *Ibid.*

¹²⁵ Xiuwen Jin, “Rural China lacks caring older persons” *Qian Long News Net* (12 April 2003).

¹²⁶ See “China: There is breakthrough in extending the social protection system to farm workers; this year (2005) they will enjoy access to social protection,” on *Global Aging* website, 27 January 2005: <http://www.globalaging.org/ruralaging/world>.

In general, as Chinese social habits change, older people find themselves more often alone. They are called “empty nesters”¹²⁷ and they live alone after their children migrated from their homes. Of an estimated 23.4 million, 67% of these senior citizens rely on their pensions (93% of elderly urban dwellers, and only 14% of the rural older people can rely on pensions so far.¹²⁸

A major concern for implementation of covenanted Article 11 rights relates to standards of living, housing conditions and nutrition for older persons. As China’s older population soon will grow very fast, many special services and institutions need to be created within the coming 15 years. With a current population of at least 134 million people over the age of 60, by 2020, projections foresee 240 million senior citizens in China. By 2050, the number should reach 400 million to 450 million.¹²⁹

Meanwhile, China's social-security umbrella is far too small for its intended beneficiary population. Reporting on the implementation of the right to social security (Article 9 of the Covenant), the Government of China noted that, since its 1997 beginning, 147 million people have joined the old-age pension system. However, only 36.08 million are currently receiving benefits.¹³⁰ That means that at least three out of four elderly Chinese (75.5 percent) do not have pension benefits.¹³¹

¹²⁷ Feng Jianhua, “Facing an Empty Nest,” (April 2004), *Beijing Review* at: [http://www.bjreview.com.cn/200404/Nation-200404\(B\).htm](http://www.bjreview.com.cn/200404/Nation-200404(B).htm).

¹²⁸ Ibid.

¹²⁹ Tim Johnson, “China is on a Long, Steady March to Becoming an Aged Society”, in *Knight Ridder Newspapers* (7 February 2005).

¹³⁰ Implementation of the International Covenant on Economic, Social and Cultural Rights, initial report submitted by States parties under articles 16 and 17 of the Covenant Addendum: People’s Republic of China, E/1990/5/Add.59, 4 March 2004, para. 84.

¹³¹ Ibid.

Observations and Recommendations

Observations

- The government has not provided information adequate to determine level of enjoyment of the human right to adequate housing, or of government efforts to respect, protect, promote and fulfill that right in critical segments of the population. The government should provide figures that show especially microeconomic and gender-specific data concerning homelessness, forced evictions and related problems, and violations of housing and land rights. This is a subject of particular concern, because the government already has recognized the existence of certain violations, while the absence of information about vulnerable groups indicates a lack of diligence at the fundamental duty of monitoring and reporting. This contradiction is striking also in such geographical regions as the TAR, East Turkestan and Inner Mongolia, where the features of its indigenous peoples and their housing rights conditions have gone unreported. In addition to needed data on housing and living conditions of social segments such as women, children and migrant workers, as well as in the contexts of dam construction and redevelopment schemes.
- The law and practice in China considers the human rights to adequate housing within a narrow context, omitting the corresponding land rights and tenure protections as a resource element of the right, or as a basic increment of livelihood toward the progressive realization of covenanted rights in Article 11, including adequate housing and food.
- China is in violation of its ICESCR (Article 1, paras. 1–3, and Article 11.1) and other human rights and humanitarian norms by its colonization of Tibet. The dispossession of lands and properties belonging to the indigenous people, as well as the implantation of Han settlers, constitute populations transfer with the consequence of violating the range of human rights under the Covenant.
- As per the instructions of the UN Comprehensive Human Rights Guidelines on Development-based Displacement, the Chinese government has yet to provide detailed information on its compliance with the Guidelines.¹³² In particular, an assessment of the Covenant's implementation could only be possible if the government were to provide information on:

 1. The relevant State governments' fulfillment of the obligation of maximum effective protection;
 2. The relevant State governments' fulfillment of the obligation to prevent homelessness;
 3. The relevant State governments' fulfillment of the obligation to adopt appropriate measures of law and policy;
 4. The relevant State governments' fulfillment of the obligation to explore all possible alternatives;
 5. The relevant State governments' fulfillment of the obligation to expropriate only as a last resort.
- The government could have demonstrated its compliance with covenanted

¹³² UN Comprehensive Human Rights Guidelines on Development-based Displacement, at ¶29, U.N. Doc. E/CN.4/Sub.2/1997/7 (1997).

obligations by providing detailed information on the results of the “National ‘8–7’ War on Poverty Plan,” which was planned between 1994 and 2000, and on any complementary plans put into place since then. The Committee could encourage the State party to do so, as this Plan was intended to address rural problems and alleviate rural poverty in a manner that avoids the massive rural-to-urban migration from the past years, due to lack of means of subsistence and very poor living conditions in the rural areas.

- It is noted that senior Chinese judicial authorities have promised “severe punishment” for officials who commit housing and land rights violations by omission or commission. However, this must accompany real material and other remedies for the victims.
- The government has not provided adequate information on the provision of services, enabling older people’s access to adequate housing and other necessary facilities , especially in rural areas. Although some recent progress has been realized in the social security system, this partial advance still leaves a growing and increasingly vulnerable segment without old-age benefits.
- Meanwhile, China's social-security umbrella is far too small for its intended beneficiary population. Reporting on the implementation of the right to social security (Article 9 of the Covenant), the Government of China noted that, since its 1997 beginning, 147 million people have joined the old-age pension system. However, only 36.08 million are currently receiving benefits.¹³³ That means that at least three out of four elderly Chinese (75.5 percent) do not have pension benefits.¹³⁴

Recommendations

- The State party must cease its current practice of forced evictions. To ensure that, if evictions are carried out at all, they are done in accordance with the guidelines provided in the Committee's General Comment No. 7, and that those affected have a right to adequate compensation for the costs or loss arising, including both personal and real property, as well as other nonmaterial consequences, and to adequate alternative housing meeting their specific economic/social/cultural needs.
- In addition to promised prosecution and punishment of officials who violate housing and land rights through confiscations, forced evictions and demolitions, Chinese officials at all levels need to ensure that lands and properties are returned to those affected.
- The State party should consider applying the lessons of experience in applying treaty obligations to social groups, decolonization struggles, and the jurisprudence of the Committee to expand property rights in domestic law and practice to include respect, protection and fulfillment of land rights, particularly where this lacuna has severely affected indigenous peoples, rural and urban populations, and vulnerable groups.

¹³³ Implementation of the International Covenant on Economic, Social and Cultural Rights, initial report submitted by States parties under articles 16 and 17 of the Covenant Addendum: People’s Republic of China, E/1990/5/Add.59, 4 March 2004, para. 84.

¹³⁴ Ibid.

- ◆ The government should stop immediately the eviction of indigenous Tibetan inhabitants from the TAR and other Tibetan provinces, as well as the implantation of Han Chinese workers. The State party should provide effective restitution, return, rehabilitation and compensation to those persons and communities affected by its related policies and practices of dispossession.
- ◆ The State party also should stop the destruction of historic buildings in Lhasa, and Tibetan-style houses, as part of the Tibetan culture; rather promote the employment of Tibetan workers, especially in the construction field, so as to improve the indigenous population's living conditions and ensure the respect of its traditions and cultural features. By such an alternative policy, the Chinese government would comply with a minimum obligation to ensure "cultural adequacy" as an element of the human right to adequate housing, as set forth in General Comment No. 4 on the implementation of the right to housing, Article 11 of the Covenant, as is required also in areas of the State party's effective control.
- ◆ The government should demonstrate its compliance with covenanted obligations by providing detailed information on the results of the "National '8-7' War on Poverty Plan," including a critical analysis of how the practices of forced eviction, rural and urban land loss, and rural underdevelopment leading to urban migration have affected poverty levels for those affected.
- ◆ In order to comply with its covenanted obligations, the State party has to ensure that preparation for the 2008 Olympic Games not violate the human right to adequate housing, especially through forced evictions and demolitions of homes, properties and infrastructure. China will have to provide the Committee in [*both interim additional information and*] its second periodic report on any measures taken to protect from and remedy the illegal acts that have occurred in the period leading up to the international games.
- ◆ Rather than defer treaty obligations to local authorities alone, the government should define and implement mechanisms to ensure the local implementation of the central authorities' various housing rights-relevant acts, orders and notices concerning real estate, development schemes and evictions. The State party bears the obligation to ensure the integrated implementation of ESCR, in particular housing rights, throughout the various levels of government, as the State is the legal personality bound by the Covenant. The government is required to "take steps...to the maximum of its available resources" to ensure "the continuous improvement of living conditions," in compliance with Articles 2 and 11, as well as General Comments No. 4 and 7 on the right to housing and forced evictions, respectively.
- All evictions that do not respect the rights to information and participation of the affected people, and do not provide for any agreed and fair compensation and rehabilitation should cease immediately, if no adequate alternative is found, including land-for-land solutions for rural residents evicted from the land upon which they rely for their livelihood and other needs.
- The State party needs to demonstrate that it has ensured the inhabitants' participation in urban planning, especially in (re)development schemes, as well as in the use of rural lands.

- The government of the State party needs to institutionalize a common national system of residence permit delivery for rural-to-urban migrants that eliminates related abuses arising from discrimination and, instead, respects, protects, promotes, fulfills, monitors and reports on migrant citizens' rights to adequate housing and work; as well as their children's right to education, including free and mandatory primary education.
- The State party should ensure proper and adequate resettlement *and* adequately compensation for all communities, families and persons in China displaced by water-control projects.
- ◆ The State bears an immediate obligation to stop the oppression of the increasing number of demonstrators and their legal defenders, protesting government denial of housing and land rights through act of omission or commission.
- ◆ The People's Republic of China should correct apparent deficiencies in the administration of justice by ensuring that ESCR, including the right to adequate housing and protections from forced evictions and discrimination, are judiciable in local and national courts. The State party should take effective measures, including through legislation, to enable people's access to dispute resolution by administrative and/or judicial remedy in all cases related to evictions and other violations of housing and land rights. The authorities at all levels, therefore, should consider the petitions of by affected people and provide them with fair and practical alternatives with the inhabitants' consent.
- ◆ Ensure that the currently drafted Housing Act harmonize with international human rights treaties, in particular all the entitlements of the right to adequate housing.
- ◆ As China's older population is growing very fast, a range of special services and institutions are urgently needed. Given the urgency of the matter, the State party should present additional information in April 2007 on the progress toward addressing this looming crisis.

Appendix 1

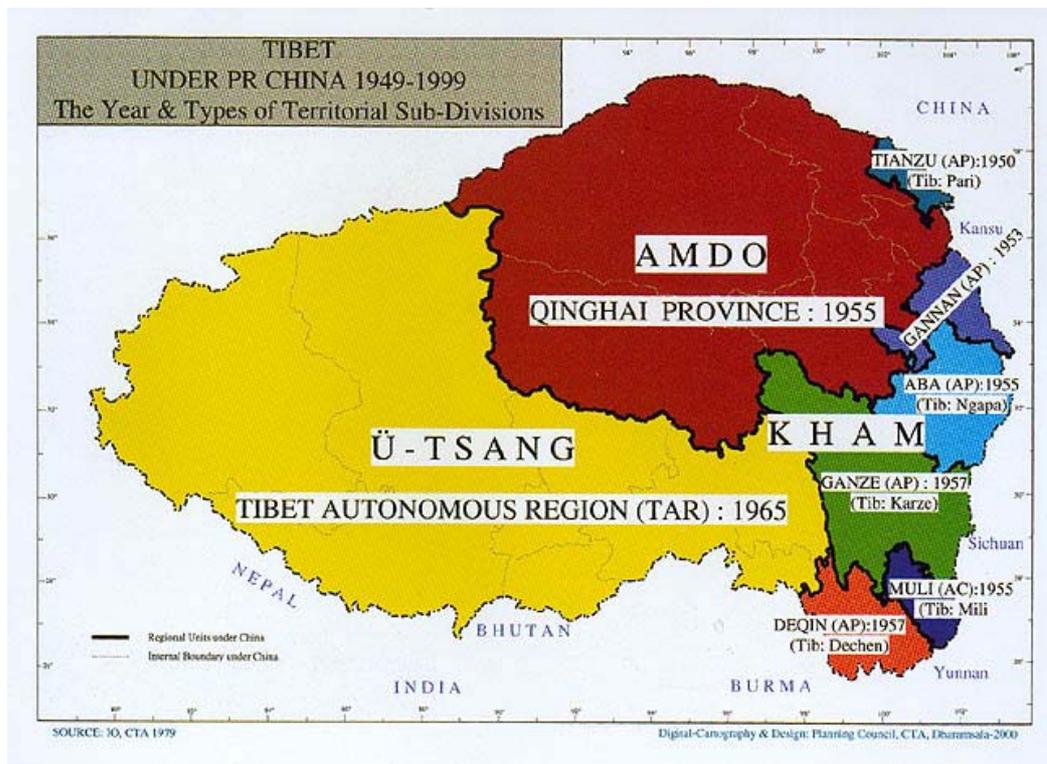


OMCT/HIC-HLRN

JOINT URGENT ACTION APPEAL:

China forcibly resettles thousands of Tibetan nomad families to “protect the environment”

Case TIB-FE 011203



The Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) and the International Secretariat of the World Organisation against Torture (OMCT) request your **URGENT** intervention in the following situation in **Tibet**.

Situation

The Tibetan Center for Human Rights and Democracy, a partner of HIC-HLRN Habitat International Coalition –Housing and Land Rights Network, has informed HIC-HLRN and OMCT that the Chinese government has planned to displace and resettle 27,679 nomads currently living in the Golog and Yushu Tibet Autonomous Prefectures (TAP) in Qinghai

Province, to a fenced-off area of 1,540 mu (103,180 km²) in Amdo, another part of this province from Golog and Yushu Tibet Autonomous Prefectures (TAP). Typically, the Government of China claims “environmental protection,” “reforestation” and “poverty alleviation” as justifications for such practices. The authorities issued a directive on 16 April 2003, giving as a pretext for that resettlement that 70% of the grasslands in Matoe County of Golog (TAP) is now barren. .

Chinese authorities have broadened their resettlement policy through campaigns like the National Natural Forest Protection Project to redress their previous policies of deforestation and overuse of land in the TAP. Indeed, deforestation at the headwaters of the rivers that flow from the Tibetan plateau into China is the cause for the deadly 1998 floods in China that affected 20 million people. That led to campaigns like the National Natural Forest Protection Project by which the authorities broaden their resettlement policy, OMCT and HIC-HRLN are concerned that the broadening of the Chinese resettlement policy will have the result in the Tibetans suffering new consequences for previous Chinese policies of deforestation and overuse of land, that only the indigenous Tibetan nomads know how to maintain.

In addition, OMCT and HIC-HRLN are also concerned by the fact that environmental concerns preoccupations may be secondary to the real reasons for relocating Tibetan nomads. Chamdo, which is located in the Tibet Autonomous Region (TAR), and the Tibet Autonomous Prefectures¹³⁵ are Tibet’s richest areas for mineral extraction. For example, reports indicate that mining activities are extending from the Yulong copper mine to the nearby areas in Gonjo (Chamdo, TAR). Reports from the area show that mining machinery and equipment from the large Yulong copper mine have been transferred to and from nearby areas in Gonjo. The State had built the Yulong Mine with a smelter, a town for mine workers, roads leading east, and a refurbished military airstrip. According to the report, *Raiding the Treasure House: Oil and Mineral Extraction in China’s Colonisation of Tibet*, by Andre Carothers, Yulong has “an ore body of more than 700 million tons, it is considered a world-class deposit.” This could indicate that some of the mining activities related to this important mine are extended into Gonjo county. As Yulong is unfit for cultivation anyway, the Chinese workers will be completely dependant on Gonjo for subsistence. This implies the usual twofold process that China has been using to take over land from the Tibetans: (1) forcibly evicting indigenous Tibetans and (2) implanting Chinese settlers.

Overall, OMCT and HIC-HRLN are deeply concerned about the effects of this forcible resettlement policy of forcible resettlement as on the affected families and communities. Indeed, these have long maintained an economic system and ecology compatible with their nomadic way of life, and their religious practices are closely linked with their ancestral lands and surrounding mountains. Forcibly moving them to another area, even within the Tibetan prefectures, disrupts their whole way of life.

Moreover, OMCT and HIC-HRLN are also very concerned about reports indicating that mining activities are extending from the Yulong copper mine located to the nearby areas in Gonjo. In this respect, reports from the area show that mining machinery and equipment from the large Yulong copper mine in Jomda have been transferred to and from nearby areas in Gonjo. Yulong Mine is built by the State with a smelter, a town for mine workers, roads leading east, and a refurbished military airstrip. According to the report, *Raiding the Treasure House* Yulong has “an ore body of more than 700 million tons, it is considered a world-class deposit”. This could indicate that some of the mining activities related to this important mine are extended into Gonjo county. It is also possible that farming areas in Gonjo will be used to supply food and winter quarters for (mostly

¹³⁵ The TAR is only half of what used to be Tibet. The rest of it has been annexed to Chinese provinces like Sichuan, and divided into so called “autonomous prefectures” or TAPs.

Chinese) workers working in the Yulong mining area, which is situated at a much higher altitude where the growing of vegetables is impossible. This would mean that environmental preoccupations actually may be very secondary to the real reasons for relocating Tibetan nomads: Chamdo, where Gonjo is found, and the Tibetan Autonomous Prefectures that have been annexed to Sichuan are Tibet's richest areas for mineral extraction and agriculture production.

Background

These examples of forced eviction of the Tibetan nomads follow a systematic pattern, and are not isolated incidents. According to reliable sources, the Chinese authorities are evicting Tibetan nomads and farmers from their traditional land located in Gonjo, Jomda and Markham (east of Chamdo Prefecture in the Tibet Autonomous Region—TAR), and Derge (TAP in the Sichuan province), to resettle them in Kongpo Prefecture (Nyingtri in Chinese) located in the southeast of the TAR. The newspaper *China Daily* recently reported that authorities already have moved nearly 1,000 families out of Chamdo. In the same way, according to Xinhua News Agency, Chinese authorities have evicted 948 people (148 families) from Gonjo County, in Chamdo Prefecture, to Bomi, Nyingtri and Menling counties in December 2001. The forced evictions that took place in Gonjo, Jomda and Markham obviously are directly linked to the Yulong Mine.

The Chinese authorities use financial inducements and other forms of pressure to push the Tibetans to move. Affected people have reported that many are being resettled against their will, and that the original inhabitants of the relocation areas complain about the influx of new, unwanted neighbors. At the beginning of 2003, the Chinese authorities built ten villages in Kongpo/Nyingtri Prefecture to resettle nomads, farmers and agropastoralists of Chamdo and Sichuan. The authorities promised them job opportunities¹³⁶ and better lands, but the land of the resettlement areas in Kongpo has proved to be of poorer quality.

The so-called “environmental protection” policies can are not a more-legitimate reason to forcibly resettle Tibetan nomads than is mining. Indeed, Tibetan nomads and farmers are not responsible for making these areas barren. Between 1950 and 1985 alone, China reduced Tibet's forest from 25.2 million hectares to 13.57 million hectares. In 1976, indigenous Tibetan ownership of land and animals ceased altogether. Intensified food crop and livestock production has led to extensive destruction of fragile grasslands.

Around 1980, China reversed the communization of nomads and distributed land and animals to families. This brought a new policy of resettling nomads, requiring them to exchange their tents for assigned housing on fenced plots that the authorities *leased* to them. The concentration of such resettlement areas in more fragile areas has led to further overgrazing.

The current policy now seeks to promote grassland and forest regrowth by banning nomads from these areas. This is a punitive policy that disregards the indigenous people's rights, as well as their wisdom and intense desire to sustain the grasslands and wildlife as before. Hence, the combined impacts of erosion, fencing, engineered sedentarisation, demographic manipulation, debt, poverty, taxation, chemical poisoning, social exclusion and the absence of basic human services destroy the indigenous Tibetan nomads' ecological way of life and their livelihood, as well as having destructive environmental consequences.

¹³⁶ According to officials such as former Chairman Legchog of the TAR People's Government.

Housing and Land Rights' Violations

These practices contravene the Tibetan nomads' human right to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Chinese authorities especially violate Tibetans' entitlements to security of tenure; access to, and benefit from environmental goods, namely land and water; habitability and livelihood on the resettlement lands; location; cultural appropriateness; participation and self-expression; and adequate compensation for violations and losses. All are elements of the human right to adequate housing as recognized in international law. It should be noticed here that all these elements, to be considered as respected, should be obtained in an environment of self-determination, nondiscrimination, gender equality, rule of law, and nonregressivity.

Specifically, the authorities have breached their treaty obligations under articles 1, 2, 11, 12 and 15 of the International Covenant on Economic, Social and Cultural Rights (CESCR), which China ratified on 27 June 2001. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 on the right to adequate housing and 7 on forced eviction. By these practices against Tibetan nomads, China also has breached articles 1, 19, 21, 22, and 25 of the International Covenant on Civil and Political Rights (CCPR) that it signed on 5 October 1998; articles 1 and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination that it accessed to on 28 January 1982; and articles 12, 17, 18, 19, and 21 of the Universal Declaration of Human Rights.

Action Requested

Please write to the authorities in China and urge them to:

1. Stop to the planned resettlement of the 27,679 nomads who are living in the Golog and Yushu Tibet Autonomous Prefectures (TAP) to Amdo (Ch. Qinghai Province);
2. Cease the policy of forcible resettlement of nomads and, instead, provide opportunities such as decentralized veterinary care, encouragement of producer marketing and small-scale value adding;
3. Compensate the resettled nomads and farmers and let them return to their first place if they choose;
4. Cease Discontinue and reverse all violations of the Tibetans' rights to housing and land, especially their entitlements to security of tenure; access to, and benefit from environmental goods, namely land and water; habitability and livelihood on the resettlement lands; location; cultural appropriateness; participation and self-expression; and adequate compensation for violations and losses;
5. Decentralize agricultural policy, revise price reforms, change land-use patterns and improve farming techniques through training and investment, so as to comply with indigenous Tibetan farmers' needs and practices, and respect the experience and ecological wisdom of nomads in dealing with their fragile environment. Consultation and cooperation with the local community is essential and an international duty.

Addresses:

President Hu Jintao of the People's Republic of China
Central Committee Zhongnanhai Xi Cheng Qu
Beijingshi, People's Republic of China

Or through the following embassies:

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Appendix 2

Table Forced Eviction Cases

Case No	Date	Summary of Facts
1.1.	1993–94	8,000 people of Shishan Village, Fuzhou had 200 acres of rich farmland (rice paddies and vegetable plots) unfairly confiscated by local authorities and sold for development. ¹³⁷ Villagers have not received any compensation. For example, Huang Jinchun who lost one third acre. Decade long struggle through courts, petitions and appeals to officials at all levels.
1.2.	unknown	Lin Zhengxu, leader, Shishan Village, beaten and kicked by half dozen police officers who tried to arrest him. ¹³⁸ Neighbours rushed police, yanked him away, hid him and he escaped to 1,000 miles to Beijing.
2.1.	1998	Farmers around Qingkou, rural town in south Fuzhou lost land to factories making cars and car parts. ¹³⁹ Officials promised between \$4,000-\$5,000 compensation to each farmer on confiscating land and good jobs in factories. Farmers only received maximum of \$150. Farmers claimed compensation promised through petitions at all levels. Consequently, they were passed over for jobs in factories.
2.2.	2004	Xiao Xiangjin, farmer and correspondent for China Reform magazine, petitioned county government, provincial party leadership and Beijing, on behalf of Qingkou farmers. ¹⁴⁰ He claimed officials invested much of compensation money in new factories for own profit. In 2002, he escaped police arrest at 1 am and went into hiding. In April 2004, he was searched and questioned at Fuzhou Airport. On 5 th April 2004, he was arrested on way to work and sent to labour camp for political re-education. Family received official notice that he had been sentenced to one year because he had entertained prostitutes.
2.3	2004	Wu Zhong Kai, colleague of Xiao Xiangjin, also arrested in July 2004. ¹⁴¹ Qingkou farmers' protest movement left leaderless.

¹³⁷ "China's Land Grabs Raise Specter of Popular Unrest," *Washington Post* (5 October 2004).

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

3.1	1998?	Unknown number of residents in Lianjiang, Fujian province, were evicted from their homes to make way for road and dam construction. ¹⁴² No information on eviction, relocation, compensation.
3.2	August 2004	In August 2004, Huang Jingao, Fujian Communist Party cadre, wrote to People’s Daily of six year fight against corruption in relation to the eviction of the Lianjiang residents. As Lianjiang party secretary, he discovered county officials approved road and dam construction, awarded contract to sole bidder, developer from his predecessor’s home town, allowed developer to seize state-owned land and evict residents and inflate works’ cost by three times. Developer pocketed 71m yuan. Huang said his investigation met resistance from government officials and departments and he received threatening letters and phone calls. Threats to his life were so serious he hired guards and wore bulletproof vest. Central Publicity Department banned all reports about Huang and references to Huang, his letter to the People’s Daily removed from mainland China websites, including People’s Daily.
4.3	2002?	In 2002, the villagers of Sanchawan, 10 miles from Yulin, Shaanxi Province, lost 1,670 acres of sandy, desolate soil they had farmed since imperial times when natural gas, coal and oil were discovered. ¹⁴³ Some villagers irrigated the area known as Xisha for corn and cabbage but mostly they planted saplings to protect their fields from the Gobi Desert. Yulin became a hub in the major pipeline project moving natural gas from Western China to Shanghai. Yulin officials citing an obscure 1951 land regulation and claimed the land. Sanchawan villagers were offered compensation of \$60 per mu (about one-sixth of an acre) but the land was leased to developers for 50 times that amount. Farmers decided to protest. In December 2002, 800 villagers blocked construction on Xisha, 16 teams alternated sit-ins, until spring 2003, led by elderly women because the men had to work.
4.4	April 2003	On 27 April 2003, police officers and over 300 construction workers broke up the sit-in. Protesters were dragged to jail. ¹⁴⁴
4.5	April 2003	Zhang Baohua, Sanchawan villager, was not at Xisha protest site on 27 April, but was picked up later. ¹⁴⁵ In an affidavit, he described four days of interrogation, repeated beating and kicking, to pressure him to identify protest leaders. After release, he spent 4 weeks in bed to recover from the torture.
4.6	June 2003	Liu Zhandou, farmer living about 4 miles from Yulin, Moaist, encouraged them to take their case to Beijing. ¹⁴⁶ He

¹⁴² “Media Blackout Imposed after Chinese Official Exposes Provincial Corruption,” *Sunday Morning Post*, 16 August 2004

¹⁴³ Jim Yardley, “Farmers Being Moved aside by China’s Real Estate Boom,” *New York Times* (8 December 2004), at: <http://www.nytimes.com/2004/12/08/international/asia/08china.html?th>.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

		helped them assemble documents, draft petitions and accompanied groups of farmers to visit government petition office in Oct 2003. The case was referred back to the local officials and nothing was done. In December 2003, Liu and Gao Lading, Communist Party member, went to Ministry of Land Resources to present petition in person but were told to send by express mail.
4.7	March and April 2004	Farmers began new protests by refusing to plant and new sit-ins at Xisha construction site. ¹⁴⁷ Officials began arresting people. Hundreds of villagers occupied village government office in April. Police tried to storm office to arrest Gao Lading, leader of the protest. Yulin officers offered \$120 per farmer to end sit-in. Farmers took the bribe but refused to leave.
4.8	October 2004	On 4 October 2004, 2,000 paramilitary police surrounded the village, fired tear gas and rubber bullets while the people were asleep. ¹⁴⁸ Women were attacked with cattle prods. Men were beaten, pinned down in bed, handcuffed and 29 were arrested. One man struck by a tear gas canister lost an eye. Hundreds were hospitalized, scores with injuries from rubber bullets. Assault broke protest.
4.9	October 2004	Mrs Yang has a long scar on her leg where she was hit. ¹⁴⁹ Gao and others are in jail.
5.1	2002	Local residents in Zhouzhi County, Shaanxi Province, were forcibly evicted after the county government signed an agreement in December 2002 to sell 400 hectares of land to a real estate developer without the deal being approved by related departments. ¹⁵⁰ Shaanxi provincial government has ordered related local departments to return illegally acquired land or pay compensation to affected residents. No information on implementation
5.2	2003? 2004?	Four leading local government officials in Zhouzhi County, Shaanxi Province, were punished for abuse of power in relation to the December 2002 deal. ¹⁵¹
6.1	2002	Ni Yulan was forcibly evicted from her house. ¹⁵² She accused the police at Xinjiekou station of beating and crippling her in 2002. She served one year in jail for her protests against the Beijing government for the forced eviction. ¹⁵³

¹⁴⁶ Ibid¹⁴⁷ Ibid¹⁴⁸ Ibid¹⁴⁹ Ibid¹⁵⁰ Xiao Cao, 'Wrongful Eviction' Officials Fired', 5 Jun 2004.¹⁵¹ Ibid¹⁵² AFP, Beijing, 4 July 2004. See also John Chan, 'China Police Round Up Protesters in Tianamen Square', 10 July 2004, at: <http://www.wsws.org/articles/2004/jul2004/chin-j10.shtml>

7.1	2003	In 2003, Ye Guozhu was made homeless after being forcibly evicted from his home in Beijing ¹⁵⁴ to make way for development ahead of the 2008 Beijing Olympics.
7.2	October 2003	Ye's brother, Ye Guoqiang, protested against the family's eviction by trying to commit suicide, jumping into the river near Tianamen Square, in October 2003. ¹⁵⁵ He is serving a two-year sentence for the protest.
8.1	July 2004	Zheng Mingfang, Ye Guozhu and Ni Yulan attempted to get a permit to hold a 10,000 person protest in Beijing on 1 July 2004. ¹⁵⁶ It was refused. They protested in front of Beijing city government building on 1 July 2004.
8.2	July 2004	After the 1 July 2004 protest, Ni Yulan was detained by Xijiekou police for the day. ¹⁵⁷
8.3	July 2004	Ye Guozhu was detained by police for the day after the 1 July 2004 protest. ¹⁵⁸
8.4	August 2004	In August 2004, Ye Guozhu, Zheng Mingfang from Tianjin, Ni Yulan, lawyer, and others applied for permit to stage a 10,000 strong rally in the capital in mid-September 2004 during the Communist Party Central Committee's annual meeting. ¹⁵⁹
8.5	2004	Ye Guozhu was arrested on 27 August on 'suspicion of disturbing social order', charged and sentenced to 4 years jail in December 2004. ¹⁶⁰
9.1	2003	2,160 residents of West Beijing Road, Shanghai, were forcibly evicted to make way for property development by Shanghai property tycoon, Zhou Zhengyi (Chau Ching-ngai). ¹⁶¹ Through his connections in the city government, granted permit for his development firm, Jiajun Investment to demolish the housing blocks and build luxury office and flat complex. Site worth at least £20m; by law would have had to pay residents much more at prime city rates. One resident was offered £10,000 in city where apartments cost hundreds of thousands of pounds. When their street

¹⁵³ AFP, op cit., John Chan, op cit..

¹⁵⁴ AFP, op cit., Human Rights Watch, "China: Release Housing Rights Activist," 28 September 2004;

¹⁵⁵ AFP, Beijing, 4 July 2004; Human Rights Watch, "China: Release Housing Rights Activist," 28 September 2004; "Chinese Eviction Protester Jailed," BBC News, 18 Dec 2004, at: <http://new.bbc.co.uk/go/pr/fr/-/2/hi/asia-pacific/4107609.stm>

¹⁵⁶ AFP, op cit.

¹⁵⁷ AFP, op cit.

¹⁵⁸ AFP, op cit.

¹⁵⁹ Human Rights Watch, op cit.

¹⁶⁰ BBC News, op cit.

¹⁶¹ Michael Sheridan, "Tycoon's Fall Gives Hope to China's Poor," *Sunday Times* (London), 6 June 2004.

		protests were suppressed by police, residents filed case on 28 May 2003. When court threw their case out, these Shanghai residents went to Beijing in Sep 2003 to protest forcible eviction from their homes. ¹⁶² 85 were arrested when they tried to deliver petition to party leaders.
9.2	2003	Zhou Zhengyi, the Shanghai property tycoon who evicted the 2,160 residents of West Beijing Road, Shanghai, was arrested in 2003 for dealings in the stock market. He was sentenced to three years' jail. Zhou was well-known for illegal land seizures, thuggish eviction of residents on land slated for redevelopment, land and building permits changed hands behind closed doors for cash bribes. ¹⁶³
9.3	June 2003	Zheng Enchong, a Christian lawyer, took up the case for the residents of West Beijing Road in Shanghai. ¹⁶⁴ Eight days after the case was filed in a local court, he was arrested, charged with 'disclosing state secrets' and sentenced to three years' jail.
10.4	April 2004	Zhu Donghui filed a complaint against actions of local officials in cases of forced evictions to make way for property development in Shanghai. ¹⁶⁵ He organized a series of civil protests on behalf of resettled families in the city. He was tortured by police officer Liu Jianguo of Baoshan district Public Security Bureau and then sentenced to one year's reform through labour for creating a disturbance in April 2004.
10.5	July 2004	Zhu Donghui's brother, Zhu Dongbing gave interviews to foreign media. ¹⁶⁶ On 12 July 2004, two persons including Liu Jianguo contacted him through his work unit and threatened him, claiming that he had told nonsense and lies in the interviews and that his behaviour constituted crime of disturbing public order. Liu threatened him with punishment according to state law if he continued to speak to foreign press.
10.6	July 2004	Chen Xiuqing was among the Shanghai residents forcibly resettled in Baoshan who donned shirts with 'Uphold Constitutional dignity' and 'Restor my human rights' to take their case to the central government in Beijing. ¹⁶⁷ She was among those turned back by Shanghai municipal personnel and arrested on 5 July 2004 for creating a public disturbance and sent back to Shanghai. She was released on 6 July 2004. On 15 July 2004, she went to the Xuhui district complaints office and was forcibly removed and detained again by police officers from the police station opposite the complaints office, charged with disrupting public order. The captain of that police station told her

¹⁶² Pamela Pun, "Demolition Cutback Ordered," *The Standard*, 16 June 2004.

¹⁶³ Arthur Kroeber, "All Talk and No Action?" *South China Morning Post*, 23 August 2004.

¹⁶⁴ Ibid.

¹⁶⁵ "Shanghai Police Harass, Detain Eviction Protesters," Radio Free Asia, 23 August 2004, at: <http://origin.rfaweb.org/front/article.html?service=eng&encoding=10&id=143854>

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

		husband, Ai Furong, that it was the city government’s idea to punish her, he had to do it to keep his job.
11.1	2003	In Oct 2003, 10,000 farmers forced to relocate, shacks bulldozed, land seized in Xiao Guwei, Island in Pearl River to make way for \$2.4 billion University Town, Guangzhou. ¹⁶⁸ Farmers refused to leave, police used dogs and helicopters to break up protest during clearing operation. Farmers left without land and livelihood.
11.2	December 2003	In December 2003, 200 residents of Guolang Village, Xiao Guwei Island, watched their 1,000 year old village flattened over 3 and a half days as 1,700 police cam with dogs and electric truncheons, cordoned each of the 376 houses to keep the residents out. ¹⁶⁹ Their furniture was smashed to pieces and buried. Vegetable patches ready for harvesting were driven over and trees uprooted. Villager, Guo Jinkun, said that the University Town Command Office sent notice of compensation saying terms were non-negotiable and then sent a notice to move, without giving them time to pack their belongings. Guo Xiaolun, Guolang resident, said maximum compensation offered was 850 yuan per sq m but they are forced to buy houses that cost 1,445 yuan per sq m. Villagers refused compensation and pitched tents on edge of former home.
11.3	January 2004	In January 2004, residents of Guolang Village, Xiao Guwei Island, watched their makeshift shelters being pulled down by the demolition squad because they had been intimidated by a series of arrests. ¹⁷⁰ The demolition squad recovered personal belongings stored in the village memorial hall and crushed them.
11.4	January 2004	Guo Xiaolun, Guolang resident, was detained and handcuffed during interrogation from 8 am to 5 pm after returning from protest in Beijing. ¹⁷¹ Police wanted to know the ringleaders of protest.
11.5	January 2004	Guo Zhihua, Guolang resident, was sentenced to 14 months’ jail for getting into fight with relocation officials. ¹⁷²
11.6	February 2004	On 2 February 2004, makeshift tents of Guolang residents torn down. Tents rebuilt. New demolition notice issued in April 2004. ¹⁷³
11.7	August 2004	On 10 August 2004, 260 residents of Guolang Village, Xiao Guwei Island, were told to remove their tents from their flattened village and to move their belongings on Wednesday, 11 Aug. ¹⁷⁴ On 12 Aug, 50 women and children blocked uniformed officers from the demolition office, Panyu District in charge of eviction, at the entrance of Guolang Village.

¹⁶⁸ “China’s Land Grabs Raise Specter of Popular Unrest,” *Washington Post*, 5 October 2004.

¹⁶⁹ Leu Siew Ying, “Locals Protest after 1,000-yr-old Chinese Village ‘Flattened’ for Development,” *South China Morning Post*, 29 July 2004.

¹⁷⁰ Leu Siew Ying, “High Drama as Village Levelled,” *South China Morning Post*, 13 August 2004.

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

		<p>100 riot police were summoned; they cordoned the tents, sparking scuffles. By noon, the shelters beside a manmade lake, once Guolang Village, were flattened. Villager said Guangdong provincial government allocated 4.6 billion yuan to relocate them, 100,000 yuan per head and 2,000 yuan per sq m for their houses. Panyu district only paying 20,000 yuan per head and 500 to 600 yuan per sq m for houses.</p> <p>On 13 August 2004, the demolition squad backed by riot police, altogether about 150 persons, returned and destroyed six makeshift communal tents Guolang villagers rebuilt on Xiao Guwei Island after having leveled them the day before.¹⁷⁵ Excavators crushed the bamboo poles holding up the tents and buried the debris in the pits while trucks were sent in to remove plans used as floors. On 12 August 2004, the officials had demanded food, shouted at children and pushed elderly villagers. On 13 Aug 2004, officials brought own food and water. The villagers vowed to rebuild their tents each time they are demolished.</p>
11.8	August 2004	<p>On 12 August 2004, during the scuffle between the Guolang Village residents and riot police, a young woman was knocked unconscious by a bamboo pole and a middle-aged woman was unconscious after being being with an electric truncheon.¹⁷⁶ The young woman was discharged from hospital on the same day but the older woman was unable to walk after recovering consciousness.¹⁷⁷</p>
11.9	August 2004	<p>Lin Zhongwei, a resident from Suishi Village, was detained after he returned home from helping Guolang villagers rebuild their tents.¹⁷⁸ He was later released.</p>
11.10	August 2004	<p>Shao Chuanjia, resident from Lianxi village, flattened in 2003, was arrested from home on 12 Aug 2004 and released after a relative posted bail, assuring authorities that he would not get involved in dispute again.¹⁷⁹</p>
11.11	2004	<p>Liang Xufeng, landscaper, resident of Xiao Guwei island, returned from business trip to find police and demolition crew destroyed his house during his absence.¹⁸⁰ Offered \$280,000 compensation for house with market value several times that amount.</p>
11.12	2004	<p>Chu Jiaquan, art professor, lost half his two-home building occupied by former art professor and mentor despite court cases and multiple legal appeals in Guangzhou and Beijing.¹⁸¹ His own half also condemned but escaped demolition, he believes because he is US citizen.</p>

¹⁷⁵ Leu Siew Ying, "Hong Kong Paper Reports Guangzhou Protest on University Site," *Sunday Morning Post*, 16 August 2004.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Leu Siew Ying, "High Drama as Village Levelled," *South China Morning Post*, 13 August 2004.

¹⁸¹ Ibid.

11.13	2004	On 28 Oct 2004, Alexander Peng, an American citizen, was the last property owner to be forcibly evicted from Xiao Guwei. Demolition crews forced way in after Guangzhou Land Development Centre failed to persuade Peng to hand over keys, promising compensation after demolition. ¹⁸²
12.1	June 2004	Three local residents in Jiahe county, Hunan, were illegally jailed for refusing to move out of their homes. ¹⁸³ 11 homes were forcibly destroyed to make way for real estate development in which land was sold to private development for 1.3% of its market value.
12.2	June 2004	Five senior officials of the Jiahe county are being investigated for abuse of power in illegal eviction of residents from the 11 homes. ¹⁸⁴ They include Jiahe County Party Committee Secretary Zhou Yuwa and County Magistrate Li Shidong who have been removed from their posts; three other county officials seriously reprimanded. ¹⁸⁵ The Ministry of Construction had sent an investigation team to work on this with the Hunan provincial government after complaints from local people. ¹⁸⁶
13.1	August 2004	Villagers of Shijiahe Village, near Zhengzhou, Henan province protested embezzlement profits of \$4.8 m from sales of their farmland by local officials. ¹⁸⁷ On 1 August 2004, six hundred paramilitary police armed with tear gas and shotguns went to the village to arrest the leaders of the protest. At least 50 villagers were injured in the clash. A woman in her 50s was shot in the back and leg.
14.1	November 2004	Residents were forcibly evicted from three one-storey old brick homes in Nayingfang, Chaoyang District, Beijing to make way for development. ¹⁸⁸ Demolition crews piled the belongings of homeowners onto vans surrounded 100 police officers. One woman was injured, brought out of her home covered in blood. Several other residents were pulled out from another home and shoved into a police van. Police sprayed foam from fire extinguishers at other residents, soon to be evicted from the 1,000 households in the area. Journalists told not to take any pictures and to leave site.

¹⁸² Leu Siew Ying, "Last Objector to Demolition Evicted; American's Villa Stood in Way of University Project," 29 October 2004.

¹⁸³ Pamela Pun, "Demolition Cutback Ordered," *The Standard*, 16 June 2004.

¹⁸⁴ *Ibid.*

¹⁸⁵ Xiao Cao, "Wrongful Eviction Officials Fired," 5 June 2004.

¹⁸⁶ *Ibid.*

¹⁸⁷ Jennifer Chou, "Peasant Danger; China's Rural Troubles are Migrating to Beijing," *The Weekly Standard*, 30 August 2004.

¹⁸⁸ "Families Dragged from Their Homes," *Straits Times*, 16 November 2004, at: <http://straitstimes.asia1.com.sg/sub/asia/story/0,5562,285174,00.html?>