

RETURN OUR HOMES AND HOUSING RIGHTS

Housing Is A Human Right

The Voice of the Petitioners of China Forced Evictions & Home Demolitions Calling for UN's Help to End the Housing Rights and Human Rights Violations in China

By

The United Associations of Petitioners of China Forced Evictions & Home Demolitions

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The United Associations of Petitioners of China Forced Evictions & Home Demolitions is an international Non Governmental Organization (NGO) formed in New York, USA by the victims of China forced evictions and home demolitions. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards and laws. We are independent of any government, political ideology, economic interest or religion.

I

Forced Evictions and Violent Demolitions in China—The State Backed and Orchestrated Housing and Human Rights Violations

In today's China, government officials collude with businessmen to seize the land in the name of economic development and use land as a mortgage to harm the interests of ordinary people. China's ruling Communist Party promotes those who deliver economic growth, and land redevelopment is seen as the most direct path to visible results.

These incentives create the potential for an intertwining of interests between local officials and real estate developers. Consequently, the pace and scale of forced evictions and violent home demolitions in China has accelerated and widened resulting in millions of people having lost their homes and become homeless. These forced evictions and demolitions are often marked by violence, committed both by state and private actors in pursuit of economic gain. The victims across the country are forced out of their residences without appropriate legal protection and safeguards. Housing is a human right. The victims' housing rights and human rights are severely violated and they are brutally persecuted by the state for resisting forced evictions and petitioning for their housing and human rights.

The victims can be subjected to torture or ill-treatment by the authorities or their agents and are frequently denied effective remedies and prevented from or punished for exercising their right to engage in peaceful protest. The victims often face death, illness, divorce, unemployment, poverty, depression and suicide etc. due to the tremendous pressure and brutally persecution from the state and the developers. Those evictees who make peaceful protesting and petitions are often stalked, harassed, house arrested, detained, persecuted, tortured, kidnapped, imprisoned in black jail, Laojiao (education through forced laboring) and poisoned.

II

Violations of Human Rights and Law in the Processes of Forced Eviction and Home Demolition

During the process of eviction, Chinese government has failed to provide adequate notice or genuine consultation to evictees; condoned or failed to punish abuse and violence during the eviction process or during the time period before an eviction agreement is signed; and used, or failed to stop, unnecessary use

of force during the eviction process and failed to provide alternative accommodation, frequently rendering people homeless.

International standards require that those likely to face eviction must receive “adequate and reasonable notice” of proposed plans and “an opportunity for genuine consultation.” The UN Special Rapporteur on the Right to Adequate Housing has emphasized that evictions should only occur in exceptional circumstances and once all other feasible alternatives have been explored in genuine consultation with all affected persons.

However, thousands of examples suggest that Chinese citizens are rarely legitimately consulted in practice prior to evictions and that there is little to no transparency in most cases. On the rare occasions authorities convened hearings, those meetings were only for show.

After evictions are announced local officials and developers typically begin a concerted campaign to persuade residents to sign papers agreeing to surrender their property and accept a usually inadequate compensation or resettlement offer. Those who resist are subjected to a range of high-pressure tactics aimed at forcing them to cooperate, which many end up doing out of fear. Civil servants who resist face reprisals or dismissal from their jobs.

Violence was typically the culmination of a campaign of escalating harassment aimed at pressuring residents into signing eviction and resettlement agreements. These campaigns often employ coercive tactics in violation of international law, including the interruption of services such as water, heat and electricity. Physical intimidation of holdouts is common, and often followed by a range of violent acts. Beatings are the most commonly reported type of violence, however there have also been alleged abductions and murders. In some cases, victims were killed or injured during the demolition process, including one case in which a woman trying to stop a demolition crew was buried by a bulldozer.

Authorities do not investigate eviction-related violence. In some cases, the violence inflicted amounts to torture or other cruel, inhuman or degrading treatment. In many cases, violence is carried out by state actors such as police, *chengguan* or other government employees. In other cases, local authorities are accused of conspiring with developers to send hired thugs wielding steel rods, wooden sticks or knives to intimidate and rough up residents. Police often refuse to respond to calls for help, arrive late, or stand by and do nothing when they are on hand to witness the violence. These crimes are rarely investigated, and the perpetrators are rarely punished.

Undue pressure on and harassment of residents facing eviction is a clear violation of international law and human rights, which require that everybody has a degree of security of tenure protecting them against forced evictions, harassment and other threats.

III

Litigations and Petitions of Forced Evictees in China

Under international law people should be able to challenge a proposed eviction. People whose rights are violated, including those subjected to forced evictions or ill-treatment must have access to an effective legal remedy including the provision of legal aid for those seeking redress from the courts. At the same time governments should ensure that lawyers and legal advisors are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

Under Chinese law, property owners have the right to challenge government-requested evictions on grounds that the compensation is unfair, the expropriation of land would be illegal or if the government has violated the law in the expropriation process.

However, victims of forced evictions in China face many barriers to accessing effective remedies, including the difficulty finding lawyers who will agree to pursue such cases or courts that will agree to hear them. So some victims of forced evictions choose less formal methods, such as public protest or putting pressure on individual officials. However, in reality people hoping to challenge their eviction or seek redress after a wrongful eviction have little hope of obtaining justice. All of the avenues of resistance or remedy are fraught with difficulties or even danger.

Since it is hopeless to litigate the case of forced eviction in court, evictees try to use other ways—petition or *Shang Fang* to solve their problems. In China, the right to *shang fang* (seek an audience with a higher authority) dates back centuries. The process is sometimes also called, *xinfang*, (letters and visits). The right to petition is guaranteed in the Chinese Constitution (Article 41)

Local governments have a petitioning office but petitioners can appeal to the highest level –the State Bureau for Letters and Visits in Beijing – if they are unhappy with the local government’s answer. Some people head straight to Beijing rather than test their luck with the local bureaus, which have the perception of being corrupt.

The extrajudicial process of petitioning is popular for all manner of grievances. Millions of people file petitions each year. According to official figures released in 2011, almost three quarters of the petitions filed are related to land disputes, including forced evictions.

Despite the popularity of seeking help from a higher authority, petitioning is utterly ineffective – less than 0.2 percent of petitioners achieve success. Still, some petitioners persist for years trying to get their claims heard. There is ample evidence that petitioners experience violence and other ill treatment at the hands of authorities--usually local or provincial authorities - seeking to prevent them from exposing them to the central leadership or the media.

However 71 percent of the petitioners had experienced increased harassment or retaliation from their local government for petitioning. Well over half of the petitioners had been detained or treated badly by local officials. A large number of Chinese who have petitioned in Beijing have been detained, sometimes secretly, in illegal detention facilities operated by local and provincial officials. Physical abuse, torture, persecution and sexual harassment, etc. are the common phenomena in the illegal detention facilities.

The final destination for the victims of forced evictions is the Laojiao Camp (Detention Center For Education through Laboring) where the evictees are illegally jailed for years.

Therefore, neither litigation nor petition is an effective way for forced evictees to seek justice in China. All the avenues to justice are blocked by the Chinese government.

IV

Petitioning at the United Nations in New York

Desperate Chinese forced evictees find that they not only have no way to seek justice in China, but also will face danger if they do so. Therefore some of the evictees have escaped from China to the headquarter of the United Nations in New York to make petitions to UN for help. They hope the United Nations will urge China to protect housing and human rights of its people, follow the international and domestic law to resolve the problems of forced evictions and violent demolitions, and return the homes and properties back to the forced evictees. They have been making the petitions at the United Nations for more than two years already.

The followings are the briefings of some evictees or their family members petitioning at the United Nations in New York:

1. Xiaomei Hang, a 96 years old lady, was kidnapped, persecuted and abused to death by Shanghai Government because she resisted forced eviction and illegal demolition by the government.
2. Amy Ding's property was looted and home was illegally demolished to ruins by Shanghai government. The government refuses to pay any compensation to her because she is a U. S. Citizen.
3. Furong Ai's home, his hardware store and hotel were illegally demolished and the whole family was forcefully evicted. He and his family were brutally persecuted for defending their property.
4. Lingling Hong had been persecuted & imprisoned in a psychiatric hospital for 7 years by Shanghai Government after protesting her home being illegally demolished by the government.
5. Daili Chen's home was illegally seized by the government in 1966 and she was brutally tortured for petitioning housing rights in China for 9 years.
6. Wenjun Cai: Shanghai government illegally demolished her home, imprisoned & persecuted her, and tortured her father & brother to death.
7. Cuiping Zhang and Baocheng Tian, wife and husband, have been jailed and persecuted for total 6 years for resisting and petitioning forced evictions.
8. Dingsheng Xu had been deprived a land of 60 Hectares and persecuted by the Chinese government.

So far they have been writing petitions letters to the Secretary-General Ban Ki-moon, gathering and demonstrating at the United Nations Plaza, etc. They have collected thousands of signatures supporting them from the people all over the world.

As the time goes on, more and more forced evictees have joined the petitioning at the United Nations and the team is continuously expanding. They have pledged that they will not quit until their homes and properties are returned and justice is done

Also Yan He has been protesting in Australia and Weihua Chen have been protesting in Japan against forced evictions and persecutions.

V

DEATH AS A RESULT OF RESISTING EVICTIONS

Many forced evictees died or killed in resisting evictions. The followings are just three typical samples:

*Tang Fuzhen, 47. a victim of forced eviction in Chengdu, Sichuan Province initiated the current wave of self-immolations over forced evictions in China. On November 13, 2009, local government hired men wearing helmets and carrying steel rods came to remove Tang and her family from her home. When the men arrived, they began beating up members of the family. Tang Fuzhen, 47, and her relatives fought back, throwing stones and bottles full of gasoline. Finally, Tang Fuzhen climbed to the roof, poured gasoline over herself and lit herself on fire. She died from her burns 16 days later.

At least 41 individuals resisting eviction have set themselves on fire in protest since 2009. The rarity of self-immolation throughout modern history, including China, makes the current trend as a form protest against forced evictions and land grabs especially shocking.

*On November 30, 2010, a 49-year-old man named Zhou Daming died after an altercation with a demolition crew sent to his home in downtown Shanghai. Zhou was among the last holdouts resisting eviction, and died after being beaten by “dozens of people,” but local authorities said he suffered a heart attack and made no arrests.

*On the night of March 26, 2011, demolition workers forcibly removed residents from an apartment building in Changchun city in Jilin province, and then knocked it down. A 50-year-old woman named Liu Shuxiang resisting eviction was trapped in the building and killed.

VI

Recommendation

* Halt immediately all forced evictions, explicitly prohibit them under law and ensure that adequate safeguards and protections are put in place in line with international and Chinese law.

* Develop and adopt guidelines for evictions based on the UN Special Rapporteur’s Basic Principles and Guidelines on Development-Based Evictions and Displacement that comply with international human rights law and standards.

* Ensure that nobody is rendered homeless as a result of an eviction and is provided with adequate alternative housing.

* Respect and guarantee the independence of the judiciary and the rule of law and human rights.

* Ensure that all victims of forced evictions have access to independent and impartial adjudication of their complaints and to an effective remedy, including access to justice and the right to reparations, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.

APPENDIX:

1. “Housing Demolition 2010: A report, found at <http://chinageeks.org/2011/01/housing-demolition-in-2010-a-report-part-1/>, accessed 8 February 2011.
2. Yan Jie, “Demolitions cause most social unrest,” China Daily, 27 June 2011,
3. Order of the State Council No. 590, Regulations on the Expropriation of Houses on State-owned Land and Compensation, effective 21 January 2011, “国有土地上房屋征收与补偿条例”, available in Chinese
4. The Land Administrative Law of China, “available in English at http://www.china.org.cn/china/LegislationsForm2001-2010/2011-02/14/content_21917380.htm,
5. CESCR General Comment 7, para. 3. International Covenant on Economic, Social and Cultural Rights (ICESCR)
6. Amnesty International: Standing Their Ground ;Thousands Face Violent Eviction In China, Oct. 2012

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