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AND EVICTIONS



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Submission to the Office of the High Commissioner for Human Rights

CHINA

By the Centre on Housing Rights and Evictions (COHRE)

To assist in preparation of documents for the
third cycle of the Universal Periodic Review

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I. Introduction

United Nations General Assembly resolutions leading to system-wide human rights institutional reform have brought about major opportunities for the implementation of human rights in all UN Member States. One of the most important of these developments is the new institution of the Universal Periodic Review (UPR), slated to become operative in 2008. General Assembly Resolution 60/251 mandates that constructive engagement with States will be the dominant mode of the UPR. The UPR will engage in “interactive dialogue” with the “full involvement of the country concerned”. The guiding principles behind the UPR are universality, impartiality, objectivity and non-selectivity. The UPR thus constitutes among the most important developments in the Charter-based system of human rights review in the history of the United Nations.

On 18 June 2007, the 5th Human Rights Council adopted unanimously a text on institution building, among other things setting out the modalities of the Universal Periodic Review. As set out in the 18 June resolution, the Office of the High Commissioner for Human Rights (OHCHR) is to prepare for Council two 10-page texts on each country coming under UPR assessment. The first of these documents is to summarize material included in the reports of treaty bodies and special procedures regarding the country concerned. The second document summarises “additional credible and reliable information” coming to the attention of the OHCHR.

The Centre on Housing Rights and Evictions (COHRE) herewith offers the present submission on human rights issues in China. COHRE cannot claim comprehensive knowledge of all human rights issues in China, or even all housing rights issues in China. COHRE’s first hand monitoring of the housing rights situation in China has, for reasons both of capacity as well as because of the very difficult human rights conditions currently prevailing in China, been limited primarily to two issues:

- Abuses of the fundamental right to adequate housing, as derived primarily from Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) of literally hundreds of thousands of persons in and around Beijing, in the context of development preparations for the 2008 Olympic Games.
- Housing rights defenders issues in China in particular, although not only, in Beijing.

The current submission, as well as the materials appended to it, aim to (i) assist the work of the OHCHR in providing the Human Rights Council with high quality reporting in these areas; as well as to (ii) facilitate civil society input into this revolutionary new international procedure. It is our hope that, during this crucial first phase of the Universal Periodic Review, in which its credibility as a mode of redressing human rights harms is inevitably under intense scrutiny, the material provided herein can provide a sound basis for engagement with the authorities of China, as well as other relevant officials and agencies.

II. Housing Rights Concerns in the Context of Mega-Event Development in Beijing

In June 2007, COHRE released the report *Fair Play for Housing Rights: Mega-Events, Olympic Games and Housing Rights*. The report presented COHRE documentation of housing rights violations in the context of hosting the Olympic Games, with detailed studies on seven former and future host cities — namely, Seoul, Barcelona, Atlanta, Sydney, Athens, Beijing, and London. In Beijing, in particular, COHRE reported in *Fair Play for Housing Rights* that preparations for the Games led to the displacement of over 1.25 million people, as of June 2007, with a total of up to 1.5 million people expected to be displaced by the time the Games commenced in August 2008. COHRE found that the Beijing Municipality and the Beijing Organising Committee for the Olympic Games (BOCOG) have been responsible for destroying affordable rental housing stock, and authorities have used tactics of harassment, repression, imprisonment, and even violence against residents and activists. The municipality has also subjected people, including alleged unlicensed taxis operators, street vendors, vagrants and beggars, to ‘re-education through labour’ — a form of imprisonment without charge.

Moreover, demolitions and evictions have often been undertaken without due process, without the provision of adequate compensation sufficient to attain alternative accommodation, and without access to legal recourse. In some cases, tenants were given little or no notice of their eviction and did not receive the promised compensation. Compensation rates have rarely enabled affected people to relocate while retaining the same standard of living. Instead, residents have been forced to move further from sources of employment, community networks, and decent schools and health care facilities.

In the run-up to the 2008 Olympic Games in Beijing, COHRE undertook follow-up first-hand research to document housing rights issues in the heightened development context of the weeks and months just prior to the 2008 Games. The resulting report, *One World, Whose Dream* appended here, sets out in summary form the findings of that research.

II.A. Forced Evictions and Other Forms of Coerced Displacement

According to COHRE research, based on statements and reports by the Chinese Government and estimates documented in the field, 1.5 million people have been displaced to create space for the principal Olympics venues, city ‘beautification’ for Olympics tourism, other urban facilities related to the Olympic Games, and improvements to the city’s general infrastructure. An unknown percentage of these people were forcibly evicted. Furthermore, the number of people displaced, which is based primarily on official figures of housing removals, appears not to include the evictions of many migrants living ‘temporarily’ in some 171 neighbourhoods within the fourth ring road (the city’s urbanised core) and whose homes were also demolished as a result of urban development linked to the Olympic Games.

COHRE documented in *Fair Play for Housing Rights* that at least 1.25 million people had been displaced between 2000 and April 2007, with a further circa 250,000 people expected to have been displaced in the final year before the Olympic Games. COHRE estimates that these displacements have continued as planned by Chinese authorities, resulting in a total figure of 1.5 million persons displaced from 2000 to 2008. COHRE’s estimates include those displaced from 2000-2001, prior to Beijing being awarded the Games, as this period was marked by housing removal for urban development designed to win the bid for the Games.

Demolitions and/or relocations directly affected some 70,000 persons annually from 1991 to 1999. In comparison, the average for the period in which the Olympic Games development has taken place is more than 2.3 times higher, with approximately 165,000 people displaced annually. It is difficult to estimate how many of those displaced were forcibly evicted. However, it is clear that many residents who left their homes ‘voluntarily’ were, in fact, coerced into accepting compensation at rates that were not at the fair market value for homes in their neighbourhoods and were not sufficient to guarantee their ‘residential conditions’ by attaining alternative housing at or above the quality of that from which they were being forced, as is required by Chinese law.

In the Dayuanfu hutong area, and also south of the area, housing demolitions stretched for several blocks west of Wangfujing Street — the primary, high-end shopping street in Beijing. In a neighbourhood east of the Third Ring Road, three women spoke to the COHRE fact-finding team about their impending removal after the Games. One woman, expecting the demolition to take place next year, was making arrangements to move to Tongxian. From there, in order to travel to her source of employment, she would have to take two buses and the trip would take approximately one hour. By her estimation and that of her two friends, she would be the only one among their neighbours with the resources to move to housing at such a comparatively close distance to their current location, which might also enable her to retain her current employment. The other two women interviewed feared they would have to go much further away and consequently would lose their jobs.

II.B. Insecurity and lack of alternative housing for evicted renters

The situation for those who rent is, in many cases, much more precarious than that of homeowners being displaced. Procedural rights have, in a large number of cases, not been respected, and in the main do not result in any form of final stop on eviction. In some cases tenants were given little or no notice of eviction and many did not receive the full compensation amount that was promised. .

II.C. Cultural heritage protection and displacement

At the national level and within Beijing, there is an enormous effort to preserve and reconstruct culturally significant architecture, relics, and even entire historic neighbourhoods. Regulations in Beijing, however, call for the de-densification of neighbourhoods, by as much as 41 percent. According to one interviewee from a Beijing-based NGO, some of the districts in Beijing are undertaking these developments according to regulations, but others are not and are redeveloping areas for commercial use or are using the redevelopment as an opportunity for gentrification by evicting people, renovating or reconstructing their homes, and making them available to people who can afford to pay more for them. Despite the fact that these evictions are not being undertaken in order to develop tourist sites, infrastructure, or venues for the Games, the government authorities have nevertheless linked the evictions to the Olympics in their propaganda to communities.

II.D. Intimidation and harassment during evictions

COHRE’s research found that intimidation and harassment of residents in order to put pressure on them to accept lower compensation rates was a frequent occurrence during the eviction and demolition process prior to the Olympics.

For instance, in Xianyukou residents reported being harassed and threatened by the demolition company negotiating compensation rates. Residents complained that the company used

information on residents' particular vulnerabilities and used that knowledge in negotiations over compensation. Residents also reported that they faced various forms of harassment while they were involved in mediation over compensation. For example, residents reported that police visited their places of employment to put pressure on employers to dismiss people from employment if they did not agree to the compensation being offered.

II.E. Housing rights violations set to continue after the Olympic Games

A number of areas in Beijing have been threatened with eviction, set to take place after the Olympic Games have ended. Many of these evictions are slated to take place due to cultural protection projects, aimed at preserving traditional architecture. Government authorities have also linked these upcoming evictions to the Olympic Games, even though the evictions and development projects are not scheduled to take place until after the Games are over. Many residents do not believe that doing what is best for the community and the individual are mutually exclusive and have written their own graffiti on the walls of their homes, protesting unfair compensation rates. There are also evictions scheduled for the Great China Gate East Factory Neighbourhood under a project for the cultural preservation of the area. Reportedly, between one and two thousand people are expected to be affected by the demolitions.

II.F. Summary of findings

Based on COHRE's findings in the May 2008 fact-finding mission to Beijing, COHRE asserts that the People's Republic of China is in violation of its obligations concerning the right to adequate housing under international law for a number of reasons.

1. Displacements and evictions have largely been undertaken without any official consideration – involving adequate consultations with affected residents – of alternatives to the planned developments that necessitated the removal of residents.
2. District and Beijing Municipal authorities have failed to ensure that displaced residents have access to alternative housing at or above the same level as that from which they were forced to move. Authorities have failed to provide compensation adequate to ensuring alternative housing that would include: “security of tenure”, “availability of services, materials, facilities and infrastructure”, “affordability”, “accessibility”, “location”, and “cultural adequacy.”
3. District and Beijing Municipal authorities, as well as police and employees from demolition and development companies, have harassed, assaulted, humiliated, and threatened residents facing eviction, oftentimes in order to pressure residents to leave prior to negotiating a fair compensation rate. Authorities have failed to adequately investigate and prosecute cases of harassment and have failed to ensure legal remedies for those affected.
4. In some cases, District and Beijing Municipal authorities have facilitated and participated in corruption in confiscation procedures. Authorities at all levels of government have failed to adequately investigate and prosecute corruption in such processes, as well as to ensure legal remedies to affected households.
5. Authorities have not provided legal aid to persons in need of it “to seek redress from the courts.”

III. Housing Rights Defenders

COHRE is further concerned with the treatment of human rights defenders. Many operate in a hostile environment and have been interrogated, arbitrarily detained, and tortured, and are put under house arrested or spied on after their release. The material below does not purport to be an exhaustive list of all housing rights defenders targeted by Chinese authorities for repressive measures and/or arbitrary treatment in the recent period.

The recipients of COHRE's 2006 Housing Rights Defender Award, Fu Xiancai, Ma Yalian, Liu Zhengyou, Huang Weizhong, Chen Xiaoming, Xu Zhengqing, and Zheng Enchong illustrate this point. These individuals were given this award in recognition of their outstanding commitment to the realisation of housing rights for all people. All seven were subjected to intimidation, harassment, and beatings for their housing and land rights activities.

- Fu Xiancai, who had spoken out about affected communities in the Three Gorges Dam Project, was assaulted following a police interrogation in June 2006. The police investigated the matter and concluded that, because there were no footprints at the scene, Mr. Fu must have hit himself.¹ He remains paralyzed from the shoulders down.
- Ma Yalian was sentenced to 18 months in a Reeducation Through Labor camp for posting her article, "A True Record of Being Turned Away From the National Petitioners and Letters Office and the Petitioners Bureau of the National People's Congress" and was released in August 2005 after serving her full term.
- Liu Zhengyou, a representative of landless peasants from Sichuan Province, has been assaulted several times while petitioning government officials.² In June 2006 he was arrested after he tried to board a flight to Geneva, Switzerland, to attend a human rights training session. He has continually been harassed and threatened by the police.
- Huang Weizhong is a farmer from Fujian Province who represented hundreds of fellow villagers after they were all given unfair compensation for their farmland. He was sentenced to three years in prison in 2006 for "gathering crowds to disturb public order" after two dozen villagers protested at the local police station.³
- Chen Xiaoming disappeared after his arrest in February 2006 for meeting with an American diplomat to discuss problems faced by evictees. Shanghai authorities repeatedly denied requests by his family members to release him for a chronic illness. Mr. Chen did not receive the proper medical care in prison and was "reduced to a skeletal condition, constantly vomiting blood and barely conscious" after finally being transferred to a hospital in June 2007.⁴ He died on July 1, 2007, hours after being released on parole.⁵
- Xu Zhengqing, a petitioner for residents' rights, was sentenced to prison for "provoking an incident, thereby causing a serious disturbance" in 2005. He was released in January 2008 and is determined to continue his work despite government pressure.⁶
- Zheng Enchong's license to practice law was revoked by Shanghai authorities in 2001 after he argued to amend the Constitution in order to offer better protection to the land and housing rights of inhabitants. He continued to help nearly 500 people who had been forcibly evicted from their homes and was subsequently sentenced to three years' imprisonment in 2003 for advising a group of Shanghai residents who were trying to bring a case alleging corruption against Zhou Zhengyi, a prominent Shanghai property

¹ http://hrichina.org/public/PDFs/CRF.3.2006/CRF-2006-3_Fu-Xiancai.pdf

² http://www.hrichina.org/public/contents/press?revision_id=22211&item_id=22210

³ http://china.hrw.org/olympic_prisoners

⁴ <http://uk.reuters.com/article/worldNews/idUKPEK48120070713>

⁵ <http://uk.reuters.com/article/worldNews/idUKPEK48120070713>

⁶ <http://www.hrichina.org/public/contents/press?revision%5fid=47240&item%5fid=47237>

developer. After his release he continued his investigation on Zhou.⁷ In February 2008 he was brutally beaten three times in two days to such a degree that he could hardly walk.⁸ He is currently under house arrest.⁹

This situation has, if anything, worsened since Beijing was awarded the Olympic Games as government officials have severely cracked down on human rights activists, journalists, and lawyers in order to quell protest during this sensitive period. COHRE is concerned that Chinese authorities have imprisoned three prominent human rights defenders for speaking out against human rights violations related to the Olympics: Ye Guozhu, Yang Chunlin, and Hu Jia.

- Ye Guozhu and his brother, Ye Guoqiang, became homeless after the government demolished their home and restaurant in order to build facilities for the Olympics. He began helping petitioners who came to Beijing to file complaints with the central government and was sentenced to four years in prison for “provoking and making trouble.” He is currently imprisoned in Beijing and has been tortured. His brother, Ye Gyoqiang, and his son, Ye Mingjung were both detained on 30 September 2007 under suspicion of “inciting subversion of state power”. Mingjung was later released on 30 October 2007 and Gyoqiang was released on 9 January 2008. Authorities, however, placed restrictions on Gyoqiang’s release, including that he not make contact with anyone overseas, that he not file petitions, and that he be prepared to report to the police whenever summoned.
- Yang Chunlin from Heilongjiang Province was arrested in July 2007 for collecting signatures for an open letter, “We Want Human Rights, Not the Olympics.” He has previously been detained four times for participating in a hunger strike and aiding farmers in seeking lost compensation for their land. Local sources report that he has been tortured and coerced to confess, he is without regular access to counsel and unable to see his family.
- Hu Jia is the co-founder of an organization that is dedicated to helping children from AIDS families and has been detained for his criticisms of government policies. He was detained in December 2007 and was sentenced to three years in jail in April 2008. There are a number of concerns that Hu’s trial was not conducted impartially, as he was deprived of legal counsel at the beginning and interrogated for up to 14 hours at a time. As a result his lawyers were not given sufficient time to fully prepare and were reportedly unable to speak for as long as the prosecutors during the trial. His wife and daughter are under surveillance while he is in prison.

During the Games themselves, COHRE received reports from the organisation *Human Rights in China* that two petitioners were ordered to serve a one-year term of “re-education-through-labour” (RTL) because they had repeatedly applied for permits to demonstrate in the Beijing “protest zones” during the Olympic Games. Both petitioners are in their 70s. One uses a cane for walking, and the other is blind. They were both forcibly evicted from their homes in 2001 and have been petitioning the Government of China since. According to media reports, the petitioners demand adequate compensation for the loss of their homes. They were promised before the evictions that they would receive apartments in a new development not far from Tiananmen Square, in the area where they used to live. Instead, they are living in run down apartments on the outskirts of the city six years after losing their original homes. COHRE notes that this is but one example of many similar cases that have been reported, and documented by *Human Rights in China*, since the beginning of the Olympic Games on 8 August 2008. According

⁷ <http://en.epochtimes.com/news/8-2-20/66268.html>

⁸ <http://en.epochtimes.com/news/8-2-20/66268.html>

⁹ <http://en.epochtimes.com/news/8-2-20/66268.html>

to media reports, COHRE further notes that no permits have been granted to any applicants since the beginning of the Olympic Games.

Between 5 and 18 August, the two petitioners have reportedly applied numerous times at the Beijing Municipal Public Security Bureau (PSB) Security Administration Unit for permission to demonstrate in “protest zones” against the forced evictions from their homes in 2001. On the first occasion, both were held by PSB officers and interrogated for around ten hours. Their repeated applications were neither granted nor denied.

On 17 August 2008, according to information coming to our attention, the petitioners both received an order dated 30 July 2008 from the RTL commission of the Beijing Municipal Government to serve one year, from 30 July 2008 to 29 July 2009, of RTL for “disturbing public order”. Reports state that the petitioners are ordered to serve the sentence outside the RTL camps, but it is unclear what work they are sentenced to conduct under the order. The order contains restrictions on freedom of movement and provides that in case of breach of the order, the petitioners will be sent to an RTL camp. Police have apparently told both petitioners that the order might not be enforced if they stay at home and stop asking for permission to protest. When the petitioners returned to the PSB on 18 August 2008, they were informed that due to the RTL decision they received the previous day, they no longer had the right to apply for permission to demonstrate.

COHRE notes that the petitioners have peacefully and in good faith approached the PSB for permission to protest in the designated “protest zones”. Since the RTL order is dated 30 July 2008, their right to peacefully protest has apparently been suspended even before they first applied to the PSB on 5 August 2008.

Chinese authorities’ harassment and mistreatment of housing rights activists has not been limited to those in Beijing. In addition to the COHRE Housing Rights Defenders, the following is a list, although by no means exhaustive, of housing rights defenders who have been mistreated, harassed, detained and imprisoned:

- Ni Yulan, a disabled housing rights activist and former lawyer was detained on suspicion of “obstructing official business” on 15 April 2008. Ni was detained after she protested the forced demolition of her home by Beijing authorities. At the Xijiekou Detention Center in Beijing she was beaten and mistreated soon after she was taken into police custody. Police reportedly confiscated Ni’s crutches and made her crawl when she had to use the bathroom. They kicked her so severely that she was unconscious for two days.¹⁰
- On 6 March 2008, housing rights activist, Wang Jiyong, was detained while on his way to meet other housing rights activists in order to petition in Beijing. He was held in a “law education class”, an illegal detention facility called No.610 Base, in Changsha, Hunan Province. Wang was later released.¹¹
- On 24 September 2007, Shanghai reproductive rights and housing rights activist, Mao Hengfeng, was mistreated in prison. Mao was taken to the Nanhui District Prison Hospital in Shanghai. At the hospital, Mao was stripped naked and tied to a bed, where she was left for approximately twenty days. Mao was force-fed, beaten, humiliated and nearly suffocated. On October 15, Mao was released from the hospital and returned to the prison. The prison officer, together with the female prisoners, lifted Mao’s shirt up, exposing her body to passersby on the street as they dragged her away from the hospital.¹²

¹⁰ Chinese Human Rights Defenders, *China Human Rights Yearbook 2007-2008*, (1 Aug. 2008).

¹¹ Ibid.

¹² Ibid.

- On 8 November 2007, Gong Haoming, a Shanghai petitioner and activist, was detained on suspicion of “intentionally leaking state secrets”. On 8 December 2007, he was released on bail. According to his wife, he was mistreated while in detention. Gong became a petitioner after his home and shop were demolished in 1996. Since then, he has helped his neighbours whose properties were also forcibly demolished and filed a lawsuit against the Shanghai city government for violating housing and property rights.¹³
- Xu Zhengqing, a housing rights activist since 2003, was detained on 29 January 2005 on his way to attend the funeral of Zhao Ziyang, the late CCP General Secretary. Xu was formally arrested after he shouted, while in the custody, that he had been beaten by police. He was charged with “provoking and making trouble” and was released after serving three years in prison.¹⁴

The right to freedom of expression as contained in the Universal Declaration of Human Rights China is widely recognised as customary law. China was among the governments of the United Nations General Assembly that unanimously proclaimed the 1998 Resolution on Human Rights Defenders. In addition, in October 1998, China signed the International Covenant on Civil and Political Rights (ICCPR), which includes inter alia rights to freedom of expression (Article 19) and freedom of assembly (Article 20). By signing the ICCPR, China has evinced a commitment to be bound by the treaty, as well as committed to not undertaking acts or omissions that would defeat the object and purpose of the treaty. The complete denial of the freedom of expression of these and other petitioners is so clearly in contravention of the letter and spirit of the ICCPR that it constitutes a breach of the obligations China has agreed to by signing the treaty. China has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). Insofar as the UN Committee has repeatedly held that “genuine consultation” with affected persons and groups constitutes a component of the right to adequate housing as derived from Article 11(1), China would appear to be in direct infringement of ICESCR provisions, as well as other provisions of international law.

Such infringement is made even more apparent with the ICESCR is read in conjunction with the Declaration on Human Rights Defenders, which recognizes the “right of everyone to promote and protect human rights” as well as “the right to participate in peaceful activities publicizing human rights violations and to be protected against violence or adverse discrimination”. These guarantees are particularly apt with respect to human rights treaties ratified by the State in question, such as the ICESCR in the case of China. Furthermore, the Declaration also recognizes “the responsibility of the state to promote and protect human rights, including the rights of human rights defenders” and “to take all necessary measures to protect human rights defenders against violence, discrimination and retaliation.”

Last but not least, China’s own Constitution provides that “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration”.

¹³ Ibid.

¹⁴ Ibid.