

INTERNATIONAL TRIBUNAL ON EVICTIONS (Geneva, September 30-October 2, 2011)

A Tribunal of seven experts met on the occasion of the World Habitat Days, 30 September 2011, to examine cases of violations of the right to housing in eight countries: Turkey, Switzerland, France, Brazil, Argentina, Mexico, Nigeria and Zimbabwe.

The following facts emerged from the Tribunal's hearings:

Turkey

Istanbul is undergoing frenzied development, supported at the highest level of the Turkish State. The aim is to turn the city into a metropolis that can compete with Western economic capitals. The Turkish housing development authority (TOKI) is in control: it is giving free rein to speculators and implementing a plan that divides the city up according to social criteria. The city is therefore gradually expanding and the inhabitants who do not have the means to live in the luxury housing that is replacing their homes are being expelled to increasingly distant areas of the city.

Switzerland

Switzerland's main cities are suffering from a serious lack of housing, a problem that breeds predatory behaviour. In a bid to maximize the return on rented apartments, a number of lessors do not think twice about jeopardizing the right to housing by giving their tenants the alternative of paying more or leaving. Swiss legislation has established norms for protecting tenants, but these norms have a number of loopholes, mainly in the event of difficulties in paying rent.

France

This country is seeing close to 110,000 evictions of inhabitants every year, including 12,000 involving police intervention. This phenomenon, combined with the huge increase in urban housing prices, is in violation of the right to housing. The measures taken almost four years ago to enable citizens to demand housing have not fully reached their goals. Application of the DALO law introducing the enforceable right to housing is hindered by a constant lack of housing accessible to people on a low income.

Mexico

The Mexican government has signed an agreement with the USA and Canada allowing a number of companies to exploit the country's natural resources. Dams and a mining concession are threatening the health and living conditions of dozens of farming communities who are, among other problems, losing their primary working tool: land and the forests. Members of these communities are forced to leave their homes because of these pressures.

Brazil

The 2014 football World Cup, 2016 Olympic Games and Growth Acceleration Program (PAC) serve as pretexts for local authorities and national government to implement an extensive urban renovation policy. Behind the concept of this policy hides the prosaic reality of razing *favelas*, seen as a troubling element in the city. In São Paulo, construction of a football stadium will lead to 400,000 people being displaced. Many organizations are trying to obtain an agreement with the executive authorities to guarantee residents of the areas in question a rehousing solution.

Argentina

The rampant industrialization of the 1960s has encroached on the inhabited areas of a number of cities. Harmful substances have contaminated the neighbouring populations. Children in these areas are suffering from major exposure to lead. Legal proceedings have started and have gone all the way to the national supreme court. The court has recognized the scope of the phenomenon and demanded that the polluted land be decontaminated. However, the local authorities have used this requirement as a pretext to evict people living in these sectors and rehouse them in outlying areas.

Nigeria

The Jury heard the disturbing testimony of a large scale eviction process in Port Harcourt, Nigeria. According to estimates, evictions that began in August 2009 have displaced 14-18,000 people. If the evictions continue a total of another 200,000 people are likely to be evicted from their homes. The evictions that have already occurred have been in violation of the human rights of the residents of Port Harcourt. No attempts have been made by authorities to safeguard the rights of residents prior to, during or in the aftermath of the evictions.

The Jury finds the Nigerian authorities at the local and national level in violation of their international human rights commitments. The Jury recommends that: (a) a moratorium is called on the evictions in Port Harcourt until Nigeria has in place a national law and national and local policies that safeguard people's right to adequate housing; (b) all those that have already suffered from these unjust evictions are given their full right to reparation, including compensation and resettlement as necessary and (c) those officials responsible for the evictions are prosecuted.

Zimbabwe

Zimbabwe's Operation Murambatsvina in 2005 was an attack upon the people of Zimbabwe to punish them for their opposition to the government of Robert Mugabe. It violated art. 11 ICESCR and other international covenants, impoverishing hundreds of thousands of people and recreating an acute housing shortage. The intervention of the UN helped stop the destruction but six years later many affected people are still living in temporary housing. Watch "Poverty on Top of Poverty" at www.solidaritypeacetrust.com for a recent film on the plight of these people.

It is essential and urgent that the United Nations follows up the recommendations it made in 2005 and holds the Zimbabwean government accountable. We also call upon Zimbabwean social movements and NGOs to work together and demand that the current Government of National Unity addresses the housing crisis in general and the continuing plight of the victims of Operation Murambatsvina in particular. The UN Habitat office in Harare should also play a vigorous and pro-active role in these issues.

Observations

All these facts encompass violations, at different levels and to different degrees, to the legal obligations assumed by the States in question as signatories of the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of all forms of Discrimination against Women, the Convention on Civil and Political Rights and the International Convention on the Rights of People with Disabilities

Recommendations to non-State actors

The Jury of the International Tribunal on Evictions feels that all concerned actors must take action to ensure respect of the right to housing, each according to their specific contexts, and working with each other.

Local authorities

It is recommended that local authorities recognize that the obligations laid out in article 11 of the ICESCR also apply to the local level of government and undertake to:

- develop urban planning and housing policies that are participative and sustainable, prioritizing the respect of human rights and of inhabitants as fully-fledged citizens;
- approve and implement legislative and institutional tools, such as decrees for a moratorium on evictions to last until such a time as alternative solutions are found, in line with UN CESCR General Comments 4 and 7.

Inhabitants' organizations

Given that they play a vital role in raising the alarm and preventing evictions as well as finding alternative solutions, it is recommended that inhabitants' organizations undertake to establish dialogue and organize collaborative action:

- with each other and at every level in order to build a united front against evictions and for the right to housing, using collective tools (solidarity, warning system, legal defence and task force);
- with all the actors concerned that share the same principles, particularly NGOs, local authorities, academics and professionals, in order to work together and find alternative solutions to eviction.

Recommendations to the United Nations

Having learnt that, in most cases, UN intervention has been requested and that the UN has sent missions to the countries in questions, the Tribunal urges that the UN undertake the essential action of following up the missions.

In particular, it is recommended that:

- in the countries concerned, UN-Habitat presents the reports and recommendations produced by the missions that have already been undertaken: Zimbabwe, Nigeria, Turkey and Argentina;
- that the Special Rapporteur for the Right to Adequate Housing follow-up missions undertaken in Brazil and Mexico.

General Recommendations

International Human Rights commitments

The Jury urges the governmental authorities in (list of countries that testified) to comply with their international human rights obligations to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of all forms of Discrimination against Women, the Convention on Civil and Political Rights and the International Convention on the Rights of People with Disabilities. All these instruments protect the right to adequate housing and related rights.

All relevant governmental authorities should comply with interpretive instruments that elaborate State obligations to safeguard the human rights of inhabitants threatened and affected by forced evictions. These instruments include General Comment No. 7 on 'Forced Evictions' of the UN Committee on Economic, Social and Cultural Rights¹ and the UN Basic Principles and Guidelines on Development-based Evictions and Displacement.² The Jury recommends immediate application of the main provisions of these Guidelines:

- Provision of security of tenure to all those currently threatened with evictions;
- Guarantee in National laws and policies that evictions will only take place in 'exceptional circumstances' and in accordance with international human rights law;
- All efforts will be made to look for alternatives to evictions;
- Eviction impact assessments will be carried out prior to evictions;
- Full consultations with affected peoples prior to evictions;
- Evictions will only be carried out with the full, prior informed consent of those threatened;
- All efforts will be made to safeguard the human rights of those affected prior to, during and after evictions;
- All restitution, including compensation, resettlement and rehabilitation measures will be in full compliance with the recognition of the right to adequate housing and related human rights and in accordance with the provisions enumerated in the UN Guidelines.

¹ Available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument)

² The *Basic Principles and Guidelines* are contained in the report of the UN Special Rapporteur on Adequate Housing, A/HRC/4/18, and February 2007. These Guidelines are available in all UN languages at: <http://www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx>

In full compliance with international human rights law, the Jury strongly recommends that all countries adopt with immediate effect a moratorium on evictions until a time that national laws and policies are in place to safeguard human rights of those affected prior to, during and after evictions.

Jury Members:

- Miloon Kothari, HLRN, former UN Special Rapporteur on Right to Adequate Housing, India
- Cesare Ottolini, Coordinator International Alliance of Inhabitants, former member Advisory Group on Forced Evictions UN-Habitat, Italy
- Christian Dandres, MP, lawyer at ASLOCA, Switzerland
- Christophe Golay, Co-Coordinator of the Project on Economic, Social and Cultural Rights, Académie Droit International Humanitaire et Droits Humains, Switzerland
- Gordon Aeschimann, Doctor of Law, Associate Judge to the Commission on Leasing and Rents in Geneva, Switzerland
- Morten Gissaelbeck, inhabitant architect, beginner of Co-operatives, elected of Solidarités, Switzerland
- Yves Cabannes, professor at University of London DPU, former Chair of Advisory Group on Forced Evictions of ONU-Habitat, United Kingdom

Geneva, October 2nd 2011