

INTERNATIONAL TRIBUNAL ON EVICTIONS
Second Session
(Geneva, 28 September 2012)

The second session of the International Tribunal on Evictions met in Geneva on 28 September 2012 to mark World Habitat Day.

A Jury made up of five experts in housing rights drawn from the academic world, NGOs, national and international bodies and activist organisations heard witness accounts from inhabitants concerned by violations to the right to housing in communities from Cambodia, India, Nigeria, Haiti and Brazil. The cases presented to the Tribunal were selected from 40 cases submitted in response to an international call. They were chosen for their emblematic character and the fact that they express a diverse range of evictions cases.

They illustrate only a small part of the global picture, since the number of people threatened with evictions for various reasons is estimated at between 60 and 70 million.

Following the session, the Jury met to draw up its recommendations, which were read publically at the end of the Inhabitants' March on the Place des Nations, in front of the Palace of Nations, on Saturday 29 September 2012. The recommendations address the economic and institutional actors responsible for the forced evictions presented as well as to civil society organisations that are supporting the inhabitants concerned. They will be conveyed to these parties as well as to the representatives of their governments in Geneva and other actors the Jury feels to be relevant (United Nations Special Procedures, ESCR Committee, etc.)

Application of the recommendations issued by the Tribunal on Evictions will be monitored by the Geneva Habitat Forum 2012 Organization Committee, partner organizations and the people who presented their cases or their organizations/networks on the ground.

Facts and housing rights violations revealed by the witness accounts

The facts presented reveal, at different levels and to different degrees, violations of the legal obligations assumed by the States in question as signatories of the International Covenant on Economic, Social and Cultural Rights, the Convention on 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. The violations particularly affect people living on low incomes and women.

1. Boeung Kak Lake, Phnom Penh, Cambodia

In the case in Cambodia presented, the victims' right to housing has been violated and the communities involved have been subject to forced evictions as established by the following factors:

- the communities were not engaged in genuine consultations ;
- the police used violence against the people who were evicted;
- many of the people evicted did not received any offer of compensation and the compensation offered to others was neither fair nor equitable;
- the rehousing proposal made to some of the people evicted was inadequate, particularly since the proposal involved housing them too far from the place where they had been living, with no opportunities for work;
- although 600 families who remained had their land rights acknowledged, 90 families did not receive anything;
- the victims who registered a complaint have not so far been able to obtain any orders from the the courts.

2. Pipeline Community Dharavi, Mumbai, India

In the case in India presented, the victims' right to housing has been violated and the communities involved have been subject to forced evictions as established by the following factors:

- the communities did not received the required information in a timely manner;
- the eviction was carried out in inclement weather - during the monsoon despite assurances from the government that no evictions would take place in the monsoon;
- out of 325 families evicted, 215 received rehousing proposals but to a place too far from the place they had been living, and 110 families did not receive any rehousing proposals at all.

The Jury would like to stress that every individual regardless of place of residence and tenure status has the right to adequate housing, including the supply of drinking water.

3. Waterfront communities, Port Harcourt, Nigeria

In the case in Nigeria presented, the victims' right to housing has been violated and the communities involved have been subject to forced evictions as established by the following factors:

- the two communities evicted were not engaged in genuine consultations and today are still lacking any rehousing solution;
- despite a court decision that ruled for a suspension of all demolition (High Court decision in November 2011), one of the the communities, Abonnema Wharf, was evicted;
- the inhabitants of the communities, particularly tenants, did not received adequate compensation;
- in the case of the Bundu community, when the inhabitants resisted, the security forces opened fire, killing one person and wounding 13 (12 October 2009);
- at least 47 other communities are now under threat of forced eviction, and the authorities have not provided them with any information on the planned reallocation of the land.

4. Place Jérémie, Port-au-Prince, Haiti

In the case in Haiti presented, the victims' right to housing has been violated and the communities involved have been subject to forced evictions as established by the following factors:

- the communities concerned did not receive any information and were not engaged in genuine consultation;
- the communities were not offered any rehousing possibilities;
- the people who carried out the eviction or who supported it were not identifiable;
- the eviction took place during the night;
- the people evicted became homeless.

5. Jardim Sao Francisco community, Sao Paulo, Brazil

In the case in Brazil presented, the victims' right to housing has been violated and the communities involved have been subject to forced evictions as established by the following factors:

- There was no genuine consultation in any real sense and the information was not given to the communities concerned early enough;
- The community was threatened and intimidated on several occasions;
- No compensation was proposed initially. After major mobilization by the communities, the authorities offered a compensation of 900 reales + 600 reales per month, per person included in the land registry, for 30 months. But according to witness accounts from the communities, the amount does not cover the costs of rehousing in Sao Paulo, and the communities do not therefore have any adequate rehousing solution.

General Recommendations

The Tribunal reiterates and confirms the recommendations issued by the first session of the Tribunal on 30/9/11 (see appendix).

The Tribunal recognises the need for a system that will monitor forced evictions globally and encourages relevant UN bodies to take steps to address this gap.

The Tribunal also recommends for a broader dialogue between relevant UN bodies and civil society actors on forced evictions and ways in which this human rights violation can be addressed.

Specific Recommendations

1. Boeung Kak Lake, Phnom Penh, Cambodia

- Bring a halt to real estate operations based on collusion between economic sectors and political milieus that deny inhabitants their human rights.
- Provide alternative housing to evicted people on site, within 10 minutes walking distance, and/or in a manner that ensures that there is no negative impact on affected persons' social and economic ties to the area and their access to other human rights, in adequate, permanent and financially accessible housing.
- Provide effective remedies to those who have been forcibly evicted;
- Protect people campaigning for the right to housing, end the use of legal actions linked to the defence of their rights and free those imprisoned.

2. Pipeline Community Dharavi, Mumbai, India

- Respect the right to the public supply of sufficient water as a common good for the entire population without discrimination.
- Provide effective remedies to those who have been forcibly evicted;
- Provide alternative housing to evicted people on site, within 10 minutes walking distance, and/or in a manner that ensures that there is no negative impact on affected persons' social and economic ties to the area and their access to other human rights, in adequate, permanent and financially accessible housing.
- Introduce a participative process during the area's rehabilitation allowing inhabitants to participate as equal partners.

3. Waterfront communities Port Harcourt, Nigeria

- Respect and protect the right to housing of both homeowners and tenants, including on-site rehousing of evicted people, within 10 minutes walking distance, and/or in a manner that ensures that there is no negative impact on affected persons' social and economic ties to the area and their access to other human rights, in adequate, permanent and financially accessible housing.
- Provide effective remedies to those who have been forcibly evicted;
- Call a halt to planned evictions of waterfront communities until legal and procedural safeguards in line with international human rights standards are implemented.
- Stop the use of excessive force in evicting people from their communities.

4. Place Jérémie, Port-au-Prince, Haiti

- Protect against violence and threats of forced evictions.
- Provide effective remedies to those who have been forcibly evicted;
- Respect the rights of people displaced by the earthquake, particularly in terms of their right to return to the places where they were living before the earthquake.
- Introduce participative reconstruction rooted in environmental and economic viability, the prevention of seismic risks and human rights, including in terms of planning, fund allocation and implementation of policies and management mechanisms.

5. Jardim Sao Francisco community, Sao Paulo, Brazil

- Protect against violence and threats of forced evictions.
- Provide effective remedies to those who have been forcibly evicted;
- Provide alternative housing on site, within than 10 minutes walking distance, and/or in a manner that ensures that there is no negative impact on affected persons' social and economic ties to the area and their access to other human rights, the inhabitants of Rua das Flores, Bandeira da Aracambi and Pro morar do Rio Claro.
- Recognize the right to housing as applying equally to inhabitants without recognized title, including the right to rehousing in adequate, permanent and financially accessible housing.

Plan

The Tribunal invites all parties concerned to immediately implement these recommendations and send two reports on their application, by the 28/02/13 and by the 31/8/13, in order to provide the necessary elements for monitoring in relation to the relevant jurisdictions.

Jury Members

- Cesare Ottolini, coordinator of the International Alliance of Inhabitants, former member of the UN Habitat Advisory Group on Forced Evictions, Italy, Tribunal Rapporteur
- Gordon Aeschmann, Doctor of Law, Associate Judge at Geneva Commission on Leases, Switzerland
- Yves Cabannes, professor at the Development Planning Unit, University of London, former chairman of the UN Habitat Advisory Group on Forced Evictions, United Kingdom
- Christophe Golay, co-coordinator of the Project on ESCR, Geneva Academy of International Humanitarian Law and Human Rights, Switzerland
- Malavika Vartak, at Amnesty International, United Kingdom

Appendices

- International Tribunal on Evictions recommendations (Geneva, 30 Sept.- 2 Oct. 2011)
- The Right to Housing

Appendix

The Right to Housing

1. The right to housing is a basic human right recognized by a great many international instruments, including the Universal Declaration of Human Rights (article 25), International Covenant on Economic, Social and Cultural Rights (article 11), the Convention on Rights of the Child (article 27), the Convention on the Elimination of all forms of Discrimination against Women (article 14).
2. The right to housing must be interpreted broadly to include the right to live somewhere in security, peace and dignity.¹
3. States are prohibited from carrying out, encouraging or tolerating forced evictions, defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.²
4. A eviction is forced and therefore illegal if it does not incorporate one of the following elements:³
 - a) an opportunity for genuine consultation with those affected;
 - b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
 - c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
 - d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;
 - e) all persons carrying out the eviction to be properly identified;
 - f) provision of legal remedies;
 - g) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.
5. An eviction will also be deemed illegal where those evicted are not rehoused in adequate conditions, and if they are not guaranteed a fair and equitable compensation, even when they do not have title deeds.⁴
6. Following an eviction, no one must become homeless or victim of violations of other human rights, including the right to education, health, food, water and work.⁵ Evictions must not take place in inclement weather, at night, during festivals or religious holidays, prior to elections or during or just prior to school examinations⁶

¹UN ESCR Committee, General Comment 4 on the right to adequate housing, par. 7. See also the Commission of Human Rights, report of the Special Rapporteur on adequate housing, Miloon Kothari, UN document A/HRC/7/16 (February 2008), para. 4.

²UN ESCR Committee, General Comment 7 on forced evictions, par. 3.

³UN ESCR Committee, General Comment 7 on forced evictions, par. 15.

⁴Commission on Human Rights, report presented by Miloon Kothari, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, E/CN.4/2006/41, par. 60-61.

⁵UN ESCR Committee, General Comment 7 on forced evictions, par. 10.

⁶Commission on Human Rights, report presented by Miloon Kothari, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, E/CN.4/2006/41, par. 49.