



HOUSING AND LAND RIGHTS NETWORK

Habitat International

URGENT ACTION APPEAL

Homeless Threatened by “Sumida Nature Conservancy,” Arakawa City (Tokyo, Japan)

Forced evictions, dispossession, illicit use of force, deprivation of the means of subsistence

Case JAP–FE 111211

Currently about 20 homeless people are living in the tents and huts in the Arakawa riverside area near Horikiri Bridge (Arakawa City, Tokyo). They have lost jobs and houses, and have no other option but to eke out a livelihood while securing a living space in public. MLIT is now conducting two public works projects named “Sumida nature conservancy” and “Onagigawa weeding and maintenance.”

However, these projects are essentially intended to evict the homeless people residing in the area, while intentionally ignoring the hardships of their precarious existence. As part of these public works projects large dump trucks and heavy machineries are brought right by their tents. This raises serious concerns regarding human rights and safety of the homeless people. Housing rights defenders demand that MLIT halt these projects immediately, and consider an alternative plan.

MLIT has ordered the evacuation of the area with no consultation with homeless people residing there.

Background

Across Japan, homeless people have resorted to life in public space, building tents and simple huts covered with plastic sheets to shelter themselves. The Arakawa riverside is one of those spaces that are extremely crucial for the homeless people to survive literally day by day. In August 2011, the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) notified the homeless residing the area to move out of the area without any consent or even consultation with them.

The threats of forced eviction against the homeless have been increasing in Tokyo: recently, a similar situation occurred in the Shibuya area of central Tokyo. The tense situation still continues in Tatekawa (East central Tokyo) as in the region of Arakawa City. [See also Urgent Action appeal Case JAP–FE 150212.] To the homeless, public space is essential to their survival.

South Asia Office:

A–1 Nizamuddin East, ground floor
New Delhi 110 013, INDIA
Tel:/FAX: +91 (0)11 2435–8492
E-mail: info@hic-sarp.org

Coordination Office:

12 Tiba Street, 2nd Floor
Muhandisin • Cairo, EGYPT
Tel/ FAX: +20 (0)2 3748–6379
E-mail: hlrn@hlrn.org;
hic-mena@hic-mena.org

UN Liaison Office:

8, rue Gustave Moynier
1202 Geneva, SWITZERLAND
Tel:/FAX: +41 (0)22 738–8167
E-mail: hic-hrc@iprolink.ch

In August, MLIT distributed a warning notice to homeless people, ordering them to vacate the area by the end of September due to the public works projects starting in October. At that time, none of the homeless people residing in the area received any sort of explanation pertaining to the projects, and it was not until 12 September that the Sanya Center Association first held a public meeting with the officials from MLIT in response to the homeless people's demand. One of the series of questions and concerns that put to MLIT was where the evicted were supposed to live afterward.

Official Reasoning

The ignorant responses by MLIT were: "this is an illegal occupation," "it is prohibited to live in the river bank area" or "what do you think?"

At the meeting on 12 September 2011, MLIT explained that the projects in question are intended to maintain a nature park to conserve waterfront flora and fauna, such as reed. At that moment, there were 48 homeless people living in the affected area. Yet, the officials repeatedly made statements that ignored basic human rights of the homeless people, and even our own right to existence. Such remarks include "we do not consider the lives of the people living in the area in executing these projects" or "we are concerned with reed and other natural phenomena, but not the homeless." The officials also maintained that local citizens (with homes), local governments, and academia are demanding the "elimination of homeless" and the "crackdown on illegal occupations through environmental adjustment," while complaining that "we cannot go for walk in the park, because there are homeless people there." The homeless and their defenders strongly believe that such remarks reveal a strong prejudice and discrimination against the poor and the disenfranchised. The government should, if anything, try to prevent the reproduction of such cultures of bigotry. Instead, they are busy implementing public works projects using tremendous amounts of tax money based on these discriminatory ideas and culture.

MLIT officials have admitted that the Ministry has not conducted any biological survey in the area. It is now obvious that MLIT makes no actual consideration of nature conservancy, not to mention the lives of the poor.

The Sanya Center Association asserts that officials are endangering the safety of the homeless people in the process of implementing the projects and have showed no consideration for the life and well-being of the disenfranchised. MLIT officials dismissively have asked the homeless to "go to the office of public welfare." That statement, they say, reveals a complete lack of understanding of the fact that the current Japanese system of welfare programs is a total failure at safeguarding the basic human rights and welfare of homeless people.

Legal Obligations

Japan has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), in 1979. States party to ICESCR, under Article 11, recognize the human right of everyone to "an adequate standard of living, including...adequate housing, and to the continuous improvement of living conditions. These evictions also have an impact on the congruent rights of the inhabitants related to adequate housing, including the right to food, the right to water, the right to health, the right to education and the right to work and means of subsistence, as well as the inhabitants' congruent civil and political rights to information and participation. These rights, as integral to the right to housing, are also supported in General Comments No. 4 (1991) and No. 7 (1997) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), which oversees compliance with the

Covenant. These international instruments recognize that "forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances."

The Special Rapporteur to the UN Human Rights Council on adequate housing recently has stressed that the forced evictions carried out with conduct such as that exhibited by Koto Ward officials and their agents would constitute a gross violation of human rights, in particular the right to adequate housing. He has noted that, in general, women, children and elderly persons are always the most affected by forced evictions, especially those already living in vulnerable situation.

Already in 1993, the UN Commission on Human Rights affirmed that that the practice of forced evictions constitutes a gross violation of human rights, in particular the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing. Thus, international law imposes certain minimum norms and obligations which State parties to the Covenant must respect, including the need to inform affected people well in advance, to agree with them on a plan for rehousing with secure tenure, and provide adequate compensation, as well as reparations in the case of forced eviction.

To ensure these rights, it is understood that no one ought to be forcefully evicted without (1) effective and sufficient consultations with the interested parties, and (2) provision of appropriate and sufficient alternative measures. In other words, it guarantees those who suffer eviction the access to appropriate measures, particularly the rights to alternative living space in order to secure an adequate living, and to assure the economic activities where they reside. The actions taken by MLIT are violations of these basic principles of human rights, and should be legally recognized as such.

In the case of these threatened evictions, MLIT and local authorities not only are violating state obligations of Japan under ICESCR, but also have failed to inform the affected population of their fate, as planned by MLIT and the local authorities, or of recourse in pursuit of other options. These duty-bearing officials have failed to provide any sustainable alternative, neither in the form of monetary compensation or alternative housing.

MLIT's planning and execution of public works projects in this way reveal a deep prejudice and material discrimination against the homeless. Creating a nature conservancy is seen as a hollow excuse for the public works projects, which are destroying the coexistence of human beings and the natural environment.

Actions Already Taken

MLIT started weeding grasses and bushes in the area before the Sanya Center Association even held the first meeting with MLIT in September. Such measures exposed the private living spaces of homeless to the eyes of many passersby. In October, they started removing vacant tents and cutting down trees. Heavy machinery is operated and dump trucks are passing by right next to the tents of homeless people, creating an extremely dangerous environment for them. Furthermore, the officials have surrounded the area with fences to block free entry. The officials' comment on this was once again threatening; "Get out of here if you do not want to feel endangered." Before the projects started, there were friendly interactions between the homeless people and other citizens, adults and children alike. There were some children who used to attack the homeless people, yet through live interactions and conversations, came to change the attitudes to befriend with the homeless. The riverside area provided the citizens, especially the children to dissolve the prejudice and the discrimination among them and deepen their understanding on the poverty as a social problem. However, the projects that MLIT conducts not only endanger the lives of the

homeless people, but also completely foreclose such learning opportunities that are very important for the communities and the society as a whole.

Although the Sanya Welfare Center for Day-Laborers' Association has tried to negotiate tenaciously with MLIT, in the last meeting MLIT brought out police force to intimidate the homeless and their defenders. The officials' violent and threatening approach destroys a completely peaceful and democratic process, which is their chosen way of resolving the matter.

MLIT staff claim that the projects will conserve "biodiversity" in the area. However, real "biodiversity" is intimately related to "human diversity," where international society recognizes the importance of a society inclusive of the poor and marginalized. During the meeting on 12 September, MLIT admitted that it has not conducted any biological survey in the area. It is now obvious that MLIT makes no actual consideration of nature conservancy, not to mention the lives of the poor.

For these reasons, we strongly urge MLIT to halt and reconsider the public works projects mentioned above. Many of the homeless people here used to be day-laborers in Sanya (a typical day laborer's town in Tokyo) and worked with the constructions of dams, highways and buildings all over the country. They were the ones who built the social and economic infrastructure, the foundations of the Japanese economy in the era of rapid economic growth. The Japanese government, as a part of its economic policy, has gathered day laborers from poor rural regions and, for a long time, has left them to work without decent labor rights and stable livelihood. Now, they are living as homeless. It is the government that made use of these now homeless people when needed, only to dispose of them afterwards. The tents in the river banks are the last shelter that the homeless people had secured on their own to survive.

The Japanese government should assume responsibility for the poverty created through its economic policies. Instead, as Sanya Center Association asserts, government bodies are trying to hide the problem from the sights of citizens through excluding those already displaced and disenfranchised from society, and destroying their lives. We strongly urge MLIT to recognize its obligation to secure basic human rights and well-being for the homeless, and seriously reconsider its approach to the projects.

The original Japanese statement can be found here:

http://m.webry.info/at/sanya/201111/article_1.htm;jsessionid=8D6DBE389AF788ED8F337EBA7ABC11FC..32791bblog?i=&p=&c=m&guid=on

Your Action!

We suggest that you please write to the responsible authorities, urging them to take the necessary actions outlined above.

A sample letter is provided below, or you may send your letter automatically from the HLRN website at: <http://www.hlrn.org/english/cases.asp>

Ministry of Land, Infrastructure, Transport and Tourism
2-1-3 Kasumigaseki,
Chiyoda-ku Tokyo 100-8918
Tel: +81 (0)3 5253-4150
Fax: +81 (0)3 5253-4192

Mr. Norifumi Idee
Director-General for Policy Planning,
Ministry of Land, Infrastructure, Transport and Tourism
2-1-3, Kasumigaseki
Chiyodaku Tokyo 100-8918, Japan
Tel: +81 (0)3 5253-8107
Fax: +81 (0)3 5253-1674
E-mail: ide-n238@mlit.go.jp

Mr. Toshinori Usa
Deputy Director, Environmental Policy Division, Policy Bureau,
Ministry of Land, Infrastructure, Transport and Tourism
2-1-3, Kasumigaseki
Chiyodaku Tokyo 100-8918, Japan
Tel: +81 (0)3 5253-8263
Fax: +81-3-5253-1550
E-mail: usa-t2vc@mlit.go.jp

Arakawa-Karyu River Office
Ministry of Land, Infrastructure, Transport and Tourism (※The MLIT office accountable for the plan)
5-41-1 Shimo,
Kita-ku Tokyo 115-0042, Japan
Tel: +81 (0)3 3902-2311
Fax: +81 (0)3 3902-7631

You can send an electronic message through the Tokyo Mayor's on-line messaging system at: <http://www3.ktr.mlit.go.jp/arage/www3/form/contact/general/index.php>

To send a message using this online form: click the second dot under the first pencil, write your name in the next box, write your email address in the next box, write your land address in the next box, then write your comment.)

Onagi Branch Office, Arakawa-Karyu River Office
Ministry of Land, Infrastructure, Transport and Tourism (※The office responsible for directing operations on the ground, including the eviction)
8-33-26 Ojima
Koto-ku Tokyo 136-0072, Japan
Tel: +81 (0)3 3681-6131
Fax: +81 (0)3 3683-7453
Email: onagi@ara.go.jp

We also recommend sending your opinion to your local Japanese Embassy.

We ask you also to copy your Urgent Action letter and/or any related action to HIC-HLRN at urgentactions@hlrn.org and to Sanya Welfare Center for Day-Laborer's Association
1-25-11, Nihontei, Taito, Tokyo
Tel/Fax: +81 (0)3 3876-7073
Email: san-ya@sanpal.co.jp
Blog: <http://www.jca.apc.org/nojukusha/san-ya/>
Twitter: @sanyadesu

Please feel free to forward/share this Urgent Action appeal.

Sample Urgent Action letter:

Dear :

We have learned from the Sanya Welfare Center for Day-Laborers' Association Currently about 20 homeless people are living in the tents and huts in the Arakawa riverside area near Horikiri Bridge (Arakawa City, Tokyo). They have lost jobs and houses, and have no other option but to eke out a livelihood while securing a living space in public. MLIT is now conducting two public works projects named "Sumida nature conservancy" and "Onagigawa weeding and maintenance."

However, these projects are essentially intended to evict the homeless people residing in the area, while intentionally ignoring the hardships of their precarious existence. As part of these public works projects large dump trucks and heavy machineries are brought right by their tents. This raises serious concerns regarding human rights and safety of the homeless people. Housing rights defenders demand that MLIT halt these projects immediately, and consider an alternative plan.

MLIT has ordered the evacuation of the area with no consultation with homeless people residing there.

Background

Across Japan, homeless people have resorted to life in public space, building tents and simple huts covered with plastic sheets to shelter themselves. The Arakawa riverside is one of those spaces that are extremely crucial for the homeless people to survive literally day by day. In August 2011, the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) notified the homeless residing the area to move out of the area without any consent or even consultation with them.

The threats of forced eviction against the homeless have been increasing in Tokyo: recently, a similar situation occurred in the Shibuya area of central Tokyo. The tense situation still continues in Tatekawa (East central Tokyo) as in the region of Arakawa City. To the homeless, public space is essential to their survival.

In August, MLIT distributed a warning notice to homeless people, ordering them to vacate the area by the end of September due to the public works projects starting in October. At that time, none of the homeless people residing in the area received any sort of explanation pertaining to the projects, and it was not until 12 September that the Sanya Center Association first held a public meeting with the officials from MLIT in response to the homeless people's demand. One of the series of questions and concerns that put to MLIT was where the evicted were supposed to live afterward.

The MLIT's responses reportedly were: "this is an illegal occupation," "it is prohibited to live in the river bank area" and "what do you think?"

At the meeting on 12 September 2011, MLIT reportedly explained that the projects in question are intended to maintain a nature park to conserve waterfront flora and fauna, such as reed. At that moment, 48 homeless people were living in the affected area. Yet, the officials repeatedly made statements that ignored basic human rights of the homeless people, and even our own right to existence. Such remarks include "we do not consider the lives of the people living in the area in executing these projects" or "we are concerned with reed and other natural phenomena, but not the homeless." The officials also maintained that

local citizens (with homes), local governments, and academia are demanding the “elimination of homeless” and the “crackdown on illegal occupations through environmental adjustment,” while complaining that “we cannot go for walk in the park, because there are homeless people there.” The homeless and their defenders strongly believe that such remarks reveal a strong prejudice and discrimination against the poor and the disenfranchised. The government should, if anything, try to prevent the reproduction of such cultures of bigotry. Instead, they are busy implementing public works projects using tremendous amounts of tax money based on these discriminatory ideas and culture.

MLIT officials have admitted that the Ministry has not conducted any biological survey in the area. It is now obvious that MLIT makes no actual consideration of nature conservancy, not to mention the lives of the poor.

The Sanya Center Association asserts that officials are endangering the safety of the homeless people in the process of implementing the projects and have showed no consideration for the life and well-being of the disenfranchised. MLIT officials dismissively have asked the homeless to “go to the office of public welfare.” That statement, they say, reveals a complete lack of understanding of the fact that the current Japanese system of welfare programs is a total failure at safeguarding the basic human rights and welfare of homeless people.

We hope you realize that your institution bears obligations to maintain certain minimum standards of conduct breached by these actions and policies. Japan has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), in 1979. States party to ICESCR, under Article 11, recognize the human right of everyone to “an adequate standard of living, including...adequate housing, and to the continuous improvement of living conditions. These evictions also have an impact on the congruent rights of the inhabitants related to adequate housing, including the right to food, the right to water, the right to health, the right to education and the right to work and means of subsistence, as well as the inhabitants’ congruent civil and political rights to information and participation. These rights, as integral to the right to housing, are also supported in General Comments No. 4 (1991) and No. 7 (1997) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), which oversees compliance with the Covenant. These international instruments recognize that “forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances.”

The Special Rapporteur to the UN Human Rights Council on adequate housing recently has stressed that the forced evictions carried out with conduct such as that exhibited by Koto Ward officials and their agents would constitute a gross violation of human rights, in particular the right to adequate housing. He has noted that, in general, women, children and elderly persons are always the most affected by forced evictions, especially those already living in vulnerable situation.

Already in 1993, the UN Commission on Human Rights affirmed that that the practice of forced evictions constitutes a gross violation of human rights, in particular the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing. Thus, international law imposes certain minimum norms and obligations which State parties to the Covenant must respect, including the need to inform affected people well in advance, to agree with them on a plan for rehousing with secure tenure, and provide adequate compensation, as well as reparations in the case of forced eviction.

To ensure these rights and the corresponding obligation of States, it is understood that officials and their agents at all levels are prohibited from forcefully evicting anyone without (1) effective and sufficient consultations with the interested parties, and (2) provision of

appropriate and sufficient alternative measures. In other words, it guarantees those who suffer eviction the access to appropriate measures, particularly the rights to alternative living space in order to secure an adequate living, and to assure the economic activities where they reside. The actions taken by Koto Ward officials and their agents are wrongful acts that violate these basic principles of human rights, and should be legally recognized as such.

In the case of these evictions, MLIT authorities not only are violating State obligations of Japan under ICESCR, but, in doing so, have deceived the affected population by concealing information about their fate as premeditated by the local authorities, or of recourse in pursuit of other options. These duty-bearing officials have failed to provide any sustainable alternative, neither in the form of monetary compensation or alternative housing. Moreover, MLIT's planning and execution of these violations reveal a deep prejudice and material discrimination against the homeless.

MLIT started weeding grasses and bushes in the area before the Sanya Center Association even held the first meeting with MLIT in September 2012. Such measures exposed the private living spaces of homeless to the eyes of many passersby. In October, they started removing vacant tents and cutting down trees. Heavy machinery is operated and dump trucks are passing by right next to the tents of homeless people, creating an extremely dangerous environment for them. Furthermore, the officials have surrounded the area with fences to block free entry. The officials' comment on this was once again threatening; "Get out of here if you do not want to feel endangered." Before the projects started, there were friendly interactions between the homeless people and other citizens, adults and children alike. There were some children who used to attack the homeless people, yet through live interactions and conversations, came to change the attitudes to befriend with the homeless. The riverside area provided the citizens, especially the children to dissolve the prejudice and the discrimination among them and deepen their understanding on the poverty as a social problem. However, the projects that MLIT conducts not only endanger the lives of the homeless people, but also completely foreclose such learning opportunities that are very important for the communities and the society as a whole.

Although the Sanya Welfare Center for Day-Laborers' Association has tried to negotiate tenaciously with MLIT, in the last meeting MLIT brought out police force to intimidate the homeless and their defenders. The officials' violent and threatening approach destroys a peaceful and democratic process, which is their chosen way of resolving the matter.

MLIT staff claim that the projects will conserve "biodiversity" in the area. However, real "biodiversity" is intimately related to "human diversity," where international society recognizes the importance of a society inclusive of the poor and marginalized. During the meeting on 12 September, MLIT admitted that it has not conducted any biological survey in the area. It is now obvious that MLIT makes no actual consideration of nature conservancy, not to mention the lives of the poor.

For these reasons, we strongly urge MLIT to halt and reconsider the public works projects mentioned above. Many of the homeless people here used to be day-laborers in Sanya (a typical day laborer's town in Tokyo) and worked with the constructions of dams, highways and buildings all over the country. They were the ones who built the social and economic infrastructure, the foundations of the Japanese economy in the era of rapid economic growth. The Japanese government, as a part of its economic policy, has gathered day laborers from poor rural regions and, for a long time, has left them to work without decent labor rights and stable livelihood. Now, they are living as homeless. It is the government that made use of these now homeless people when needed, only to dispose of them afterwards. The tents in the river banks are the last shelter that the homeless people had secured on their own to survive.

The Japanese government should assume responsibility for the poverty created through its economic policies. Instead, as Sanya Center Association asserts, government bodies are trying to hide the problem from the sights of citizens through excluding those already displaced and disenfranchised from society, and destroying their lives. We strongly urge MLIT to recognize its obligation to secure basic human rights and well-being for the homeless, and seriously reconsider its approach to the projects.

Official attempts to “reclaim” parks by simply evicting inhabitants and demolishing their simple homes fall far short of fulfilling government obligations to address the social and economic causes that force people to live on the street. Such failed governance evades viable solutions and deprives countless numbers of poor people of what meager shelter they have, deepening their poverty and making survival that much harder.

The central and local Japanese governments must assume responsibility and liability for the poverty created through its economic policies. These conditions call for affirmative action, but are only exacerbated by forced eviction, attacking, dispossessing and excluding those already displaced and disenfranchised from society. We strongly urge you to ensure Koto Ward officials and their agents fulfill their binding obligation to secure basic human rights and well-being for the homeless, and seriously reconsider its approach to urban governance.

Specifically, in order to fulfill their legally binding obligations, Japanese officials must carry out the following urgent actions:

- Ensure full reparations for victims of forced eviction, including urgent measures to guarantee adequate alternate dwellings for the inhabitants;
- Publicly apologize for the violent tactics ordered and used by MLIT staff, police and its agents;
- Halt the administrative subrogation against homeless persons’ living structures;
- Desist from inciting fear and discrimination to influence public opinion against homeless persons;
- Rehabilitate the image and dignity of homeless persons through respectful behavior and reparative public information;
- Hold public and private parties accountable for their abusive and violent behavior toward homeless persons and the underhanded nature of this eviction;
- Enter into good-faith consultation with the homeless persons to arrive at a durable and rights-based solution to their homeless condition;
- Redirect local development to ensure benefits for the poor;
- Cease and desist from further demolitions and forced evictions;
- Implement international human rights norms, in particular the minimum requirements established in the CESCR General Comment No. 7 on forced eviction;
- Investigate and prosecute the use of excessive force by the officials, police and hired agents in the course of forced evictions already committed;
- Implement obligations in accordance with the international law to respect, protect and fulfill; the right of all to legal protection, including for their right to adequate housing, the right to the participation and of self-expression; and nondiscrimination, as well as the rights to adequate food (to feed oneself), to water, health, education, information, decent work and the right to the means of subsistence.

The over-400 Member organizations of Habitat International Coalition and its Housing and Land Rights Network, in over 100 countries, oppose the exclusion of the poor and the creation of needless deprivation and deepening poverty through forced evictions. Instead, we promote the many civil alternatives to such conduct, as developed in the norms of international law upholding human rights, in particular the human right to adequate housing and the corresponding obligations of the State. We urge you and your offices to apply the same minimum norms of conduct in the public service, and we look forward to hearing of your efforts to apply them to the reparation of harm done to the homeless persons of Tatekawa River Bed Park.

Sincerely,