



ONE WORLD, WHOSE DREAM?

HOUSING RIGHTS VIOLATIONS AND THE BEIJING OLYMPIC GAMES

CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE)
JULY 2008

ONE WORLD, WHOSE DREAM?

HOUSING RIGHTS VIOLATIONS AND THE BEIJING OLYMPIC GAMES

CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE)



Centre on Housing Rights and Evictions (COHRE)
83 Rue de Montbrillant
1202 Geneva
Switzerland
Tel: +41. 22.733.1028
Fax: +41.22.733.8336
Email: cohre@cohre.org
www.cohre.org

© Copyright 2008 The Centre on Housing Rights and Evictions (COHRE), Geneva, Switzerland
One World, Whose Dream? Housing rights violations and the Beijing Olympic Games
ISBN 978-92-95004-45-0
All rights reserved

Copies available from COHRE or online at www.cohre.org

The Centre on Housing Rights and Evictions is registered as a not-for-profit organisation in:
Australia, Brazil, Ghana, The Netherlands, Sri Lanka, Switzerland and the USA>

Prepared by: Deanna Fowler

Contributors: Malavika Vartak and a COHRE consultant

Edited by: Robert Furlong

Cover design by: Ontwerpburo Suggestie & Illusie, Utrecht, <http://www.illusie.nl>

Cover photos: Demolition of Dayuanfu hutong, Beijing; the Bird's Nest stadium and the Water Cube, Beijing; hutong marked for demolition, Beijing.

All photos: Deanna Fowler, COHRE

Table of Contents

Foreword	4
1 Introduction	6
2 Evictions and displacements	7
2.1 Inadequate compensation and insecurity	9
2.2 Insecurity and lack of alternative housing for evicted renters	9
2.3 Cultural heritage protection and displacements	10
2.4 Housing rights violations set to continue after the Olympic Games	10
3 Case study: Qianmen	12
3.1 The evictions in Xianyukou	12
3.2 The relocation	14
3.3 The ongoing petitioning, legal challenge, and harassment	16
4 Domestic legal protections	16
4.1 The Constitution of the People's Republic of China	17
4.2 Property Rights Law of the People's Republic of China	17
4.3 The Law of Land Administration of the People's Republic of China	18
4.4 The Law of the People's Republic of China on Urban Real Estate Administration	19
4.5 Cultural heritage protections	20
5 International legal obligations	22
5.1 The prohibition on forced evictions	23
5.2 Committee on Economic, Social and Cultural Rights	24
6 Violations of existing legal protections	25
6.1 Lack of an independent judiciary	25
6.2 Corruption	26
6.3 Inadequacy of petitioning system	28
6.4 Harassment of housing rights defenders	28
7 The role of the International Olympic Committee	29
7.1 Overview of Olympic Movement principles	29
7.2 Accountability by the International Olympic Committee	30
8 Recommendations and conclusion	32
8.1 Housing rights violations in the context of the Beijing Olympic Games	32
8.2 Recommendations to the Beijing Municipality	33
8.3 Recommendations to the People's Republic of China	33
8.4 Recommendations to the International Olympic Committee	34



The Bird's Nest

Foreword

Within China, there is an increasingly vibrant discussion about human rights and their place in Chinese society. Although the Chinese State has ratified many international human rights treaties in the past decade, those rights are not justiciable within the Chinese legal system, and lawyers and academics rarely use internationally recognised human rights standards in their work. A prominent Chinese lawyer and academic who was interviewed anonymously for this report explained that there is little discussion among lawyers and academics about the justiciability of economic, social, and cultural rights, as well as civil and political rights in China because they are often understood as having been introduced from the 'outside'. He also explained that many Chinese view human rights as 'tools' from the West used to criticise China.

We are encouraged by signs that this state of affairs might be changing, most notably with a constitutional amendment in 2004 to add the provision that: "The State respects and preserves human rights."¹ Nevertheless, we would also like to stress that all of the criticisms brought against the Chinese Government in this report were brought by the Chinese people we interviewed. Although they might not have stated their criticisms in language used by human rights advocates, they voiced concerns about the injustice of the housing demolitions, the corruption, the lack of access to an independent judiciary from which to seek justice and redress, and about harassment and repression against those who speak about these concerns.

All of the interviews were conducted under assurances that we would keep sources' names anonymous. In fact, our primary concern when deciding whether to conduct this fact-finding mission was for the security of sources. Chapters 3 and 6 of this report discuss the harassment and intimidation that people in China face for speaking to journalists and other foreigners, for speaking publicly about housing rights violations and also as a form of coercion during mediation processes over compensation rates. In no other country in the world has COHRE had to take such steps to provide anonymity to sources for their protection, and this is of very serious concern to us. We were therefore shocked in the year 2001 when the International Olympic Committee (IOC) awarded the Olympic Games to China, considering the widely-documented problems of housing and land confiscations, the suppression of freedom of speech, and the lack of an independent judiciary, among other human rights concerns. We continue to be dismayed by statements from IOC

¹ Constitution of the People's Republic of China, Amendment 8 by the Tenth National People's Congress at its Second Session, Amendment to Article 33 (14 Mar. 2004).

officials rationalising this decision and insisting that the Olympics are bringing an improvement to human rights in China. In an interview with the Associated Press in March 2008, IOC President Jacques Rogge stated: "I believe the games have advanced the agenda of human rights ... Is the situation perfect? By no means. Has it improved? I'm saying yes."²

COHRE, however, has documented an increase in displacements due to the Olympic Games, and a crackdown on housing rights defenders. That is not to say that many displacements were not already occurring. The head of a leading law firm in Beijing spoke to COHRE researchers in May 2008 about the recent increase in displacements, saying that since China began implementing economic reforms, there has been a crisis of displacements. However, he notes that preparations for the Olympic Games have sped up those displacements.

This is important to note because despite hosting the Olympic Games, China has been undeterred in undertaking massive housing rights violations and promises to continue along this path once the Games are over.

Arguing that housing rights violations would have occurred regardless of the Olympic Games does not reduce the responsibility of the IOC. The IOC was aware of existing housing rights violations and the lack of an independent judiciary that could provide legal remedies when violations occurred. Yet, with this knowledge, the IOC awarded the Games to Beijing. Furthermore, the IOC has continued to justify this decision by arguing that the human rights situation is better because of the Olympics, despite reports to the contrary by international human rights organisations, Chinese non-governmental organisations, and world leaders.

The first step to conquering a problem is to admit that there is one, and the IOC must confront its mistake in awarding the Games to Beijing and take immediate steps to ensure that such a mistake is not made in the future.

The lead author of the report was COHRE Senior Research Officer, Deanna Fowler who also undertook the primary research for this report with assistance from a consultant for COHRE, whose name is not being publicly disclosed to protect the personal safety of the researcher. This consultant and COHRE Global Forced Evictions Programme Coordinator, Malavika Vartak, also contributed to the drafting of the report. The report was edited by Robert Furlong. COHRE would also like to express thanks to our intern, April Gu, for her invaluable support with desktop research and translation for this report. COHRE would further like to thank COHRE Asia and the Pacific Programme Coordinator, Dan Nicholson, for comments and advice on the report content.

MISEREOR funded the May 2008 fact-finding mission, which made this report possible and COHRE expresses its gratitude for their continued generous support and confidence in our work.

Regrettably, due to security concerns for sources, we cannot offer thanks by name to each of the individuals and organisations that assisted us by providing advice on how to address security concerns for the COHRE researchers, by providing information and links to sources, and most importantly, by risking their personal safety to meet or speak with our researchers. We are humbled by the bravery of all of those interviewed for this report and we dedicate this report to them in the hopes that it will support them in their struggle to have their human rights respected and protected.

Salih Booker
COHRE Executive Director
Geneva, July 2008

² Stephen Wilson, 'IOC President Jacques Rogge in "Silent Diplomacy" with China on Tibet and Rights', *Associated Press* (24 Mar. 2008).



Dongchang hutong: text reads “demolish”

1 Introduction

For seventeen days in August 2008, the world will turn its cameras upon Beijing, China, to record new records in sporting achievement, the settling of international rivalries, and the inspirational stories of athletes as they play out the 2008 Olympic Games under the motto of ‘One World One Dream’. However, people will persist in asking whose dream it was. Many of the 1.5 million people displaced from their homes due to construction and urban redevelopment in the eight-year run-up to the Games have protested that it was not their dream to be displaced from their homes in order to stage a sporting event. Those who speak out publicly and are met with harassment, violence, and arrest by Chinese authorities will continue to argue that it was not their dream to face such persecution for speaking the truth and trying to promote respect for human rights.

In June 2007, COHRE released the report *Fair Play for Housing Rights: Mega-Events, Olympic Games and Housing Rights*, which systematically documented 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. The report found that mega-events, such as the Olympic Games, are often used as occasions for attracting investment and catalysing large-scale redevelopment. However, benefits of host city redevelopment as a part of the preparations for the Games are rarely shared equally by city residents, and the huge costs of constructing the ‘new face’ are borne largely by the poor and marginalised sections of society. Many of these costs constitute human rights violations and include a systematic corrosion of residents’ right to adequate housing.

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 commence 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.

With the 2008 Summer Olympics quickly approaching, Beijing has shifted into overdrive for the preparations as a steady flow of media and civil society reports have emerged on the ongoing evictions and harassment of housing rights activists. COHRE has undertaken its own fact-finding mission to provide an updated report following on *Fair Play for Housing Rights*. This report serves as a specific resource on housing rights and the Beijing Olympic Games and goes into more depth on the systemic, long-term concerns for housing rights in China that the Olympic Games preparations have highlighted as problems, in addition to providing recommendations to the International Olympic Movement based on COHRE's ongoing advocacy with the International Olympic Committee.

2 Evictions and displacements

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.³ 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.⁴

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 250 000 people expected to have been displaced in the final year before the Olympic Games.⁵ COHRE now estimates that these displacements have continued as planned by Chinese authorities, resulting in the total figure of 1.5 million people having been displaced. In fact, over the period between 2006 and 2008, we estimate an increase in displacements, in which an average of 60 000 homes per year have been demolished, displacing 156 000 people per year.

The numbers of displaced also include displacements from 2000 to 2001, prior to Beijing being awarded the Games, to take into account those displaced during housing removals 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 therefore more than 2.3 times higher, with approximately 165 000 people displaced annually.⁶

³ Beijing Government Work Report 2004-2006, (Beijing zhengfu gongzuo baogao); Estimates of 2.9 and 2.6 persons per household are used for relocations after 2002 and 2005 respectively: *2006 Beijing Statistical Yearbook* (Beijing Tongji Nianjian 2006), (Beijing: China Statistical Press, 2006); Sui Zhenjian, 'Beijing to Demolish 60,000 Homes Per Year' (Beijing meinian chai 6 wan hu), statement by Party Secretary of the Beijing Municipal Construction Commission, *New Beijing News* (11 Jan. 2006); see full description of COHRE calculation of estimates of displaced persons in: Centre on Housing Rights and Evictions (COHRE), *Fair Play for Housing Rights: Mega-events, Olympic Games and Housing Rights* (Geneva: COHRE, June 2007), pp. 161-163.

⁴ In 2006, the population of registered residents in Beijing was 11 976 000 and the total permanent population (including unregistered migrants) was 15 810 000, meaning that migrants may constitute up to 24.3 percent of Beijing residents. See *2007 Beijing Statistical Yearbook* (Beijing Tongji Nianjian 2007), (Beijing: China Statistical Press, 2007).

⁵ COHRE, *Fair Play for Housing Rights*, pp. 161-163.

⁶ Municipal Housing Bureau, *Opinion to Beijing Political Consultative Committee* (Guanyu Beijing chengqu weijiufang gaizao wenti de jianyi an de han) (20 Sep. 2000), http://www.cin.gov.cn/gcwzcfb/200611/t20061101_5274.htm accessed on 11 July 2008.



Dayuanfu hutong: text reads “Welcome the Olympics, Leave early receive benefits, Wait around and lose out.”

Following the release of *Fair Play for Housing Rights*, Chinese authorities stated in December 2007 that only 2 000 people were removed from Olympic Games venues,⁷ later revising that figure in February 2008 to 15 000 people.⁸ The vast difference between the Chinese authorities' figures and those that COHRE has documented is due to the inclusion of estimates of those displaced due to:

- infrastructure projects related to the Olympics venues;
- construction of other tourism-related infrastructure, such as museums, galleries, and performance centres;
- improvements to transportation networks, such as roads, light rail, and subway extensions, many of which were undertaken on a timescale to enable them to be prepared for the Olympics;
- the construction of green spaces, plazas, watercourses, and public parks;
- cultural preservation projects, such as the Qianmen redevelopment project; and
- other real estate development, including both commercial and residential, for city 'beautification' and modernisation.

Many of the evictions and displacements that occurred during the 2000-2008 period would undoubtedly have happened even if Beijing had lost the bid. Nevertheless, even in those cases where District and Municipal officials had already planned housing removals, authorities used the Olympic Games to justify these removals to those affected and to the general public. There is clear evidence of the authorities' use of the Olympic Games as an inducement to both encourage residents to relocate voluntarily from areas that are not Olympics venues in order to 'beautify' the city, and also to threaten residents to leave quickly, or otherwise be given lower compensation rates.

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.

⁷ Bradley Klapper, 'Rights Group: China Evicting 13,000 Each Month in Olympics Preparations', *Associated Press* (5 Dec. 2007).

⁸ Maureen Fan, 'In Beijing, 15,000 Relocated to Make Room for Olympics', *Washington Post Foreign Service*, (19 Feb. 2008).

2.1 Inadequate compensation and insecurity

The COHRE 2008 fact-finding mission visited an area in which demolition and construction were taking place at Dayuanfu hutong and also south of the area. The demolition stretched for several blocks west of Wangfujing Street – the primary, high-end shopping street in Beijing. Most of the area was a construction zone, but there were still several shops and homes surviving amid the rubble.

COHRE interviewed one of the shop owners who said she had been living and working in this location for 20 years and her daughter had been born in the building. She and her family managed the shop on the ground floor and lived in rooms above the shop. She did not know when she would be forced to leave because they had not yet reached an agreement over compensation with the authorities. She did not know where she would move or whether she would be able to maintain a shop in a new location, as she did not know how much her compensation would allow. The one thing she knew with certitude, however, was that she would not be able to continue living and working in this neighbourhood, saying, “When they build the new buildings here, it will only be for large companies.”

In another neighbourhood east of the Third Ring Road, three women living in spoke to the fact-finding team about their impending removal after the Games are over. 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 will be the only one among their neighbours in the same block of flats 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.

2.2 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 home-owners being displaced. COHRE interviewed a renter living in a *siheyuan* – a traditional building with as many as three or four courtyards, intended for single, extended families, but which often shelter multiple families. The *siheyuan* in which he lives is located in an area of culturally protected hutongs east of Dongs North Street. He lives in a 20 m² room with his wife and son. They believe their home will be demolished sometime in the next year or 18 months, although they have not been told an exact date. He and his family have doubts that they will be allowed to stay in their home, once renovations are complete, because they rent and do not own the room. He did not think that this was fair, as he had spent all of his working life in this home and he does not know how he can afford a new home. Several years ago, he was laid off by his employer – a public transportation company – and now receives 600 yuan per month, which was a third of his previous working wage. His wife is retired and receives a pension of 1600 yuan per month. Once he reaches formal retirement age, he will receive a pension of 2000 yuan per month. With this meagre income, it would be almost impossible for the family to find a similar place to rent within the centre of Beijing. He believes he should be eligible for social housing, however, he would still have to use all of his savings to pay for it and there is no guarantee that a space will be available for his family.

Furthermore, renters do not always receive compensation when they are evicted. In fact, in an interview with the Washington Post, the head of housing demolition for the Beijing Construction Committee, Han Xiyuing said, “Renters were not compensated after being forced from their homes. They don’t have a house at all. Where did their houses come from that are supposedly torn down by us? How can we compensate them? We have already compensated the house owner.”⁹

⁹ Maureen Fan, ‘China Defends Relocation Policy’, *Washington Post Foreign Service*, (20 Feb. 2008).



Dayuanfu hutong: text reads “Honestly implement sunshine demolition and support the Olympics Engineering. The reward date is approaching. There is still 1 day until [you can] leave early and receive benefits; wait around and lose out.”

2.3 Cultural heritage protection and displacements

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.¹⁰ 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.

For instance, the Dayuanfu hutong area will not be used for Olympic venues, yet the authorities have linked these demolitions to the Games with slogans painted on the walls, saying, for example: “Honestly Implement Sunshine Demolitions and Support the Olympics Engineering, The Reward Date is Approaching, There is Still 1 Day Until [you can] Leave Early and Receive Benefits; Wait Around and Lose Out.”¹¹

2.4 Housing rights violations set to continue after the Olympic Games

COHRE was also concerned to find that there are a number of areas in Beijing that have been threatened with eviction, set to take place after the Olympic Games have ended. Many of these evictions will 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 developments are not scheduled to take place until after the Games are over.

¹⁰ See section 4.5.2.

¹¹ Sunshine could refer to transparency.



Dongchang hutong: text reads "Demolish quickly, Welcome the Olympics, Switch to a New Look."

In Dongchang hutong, for example, the authorities have painted slogans on the once plain, grey walls of the community, saying, "Welcome the Olympic Games", "Treasure the opportunity", "Improve our surroundings", and "Initiate a new life". The slogans encourage people to accept compensation offers and to leave early by invoking a spirit of cooperation to do what is best for the community rather than the individual, by moving out in order to "improve our surroundings". With the inclusion of the phrase "Welcome the Olympic Games" into this propaganda, authorities pressure residents to work together as a Beijing community to showcase their city and their country to the world, by putting the community's 'welfare' above their own individual rights. However, 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. A resident of the community explained that between one and two thousand people are expected to be affected by the demolitions and will have to move. As far as he understood, the authorities would be selective in what they tear down and will demolish non-history, and/or poorly constructed buildings, but will allow others to stay. They will reconstruct buildings based on the traditional courtyard style housing and will make these available to residents who can afford to pay more than the current owners and renters. Despite the painted slogans on their walls threatening residents to "Welcome the Olympics ... Leave early, receive benefits, wait around and lose out," residents were not aware of the exact date of the evictions, nor the rate at which they would be offered compensation.



Dongchang hutong: "Treasure the opportunity, Initiate a new life."



Qianmen redevelopment

3 Case study: Qianmen

Many Beijing residents have been saddened by the loss of Qianmen as they once knew it: the Qianmen that had survived for centuries as a lively commercial and residential area, full of culture and creativity. Qianmen, which means Front Gate, is the birthplace of Peking Duck, and was until recently a shopping haven for tourists and Beijing residents of all income levels. It has now been replaced by an artificial, sanitised copy of what a small group of developers and architects has decided it used to look like or should have looked like. Tenants will now include Nike, Adidas, Rolex, Prada, Starbucks, and Apple computer.¹² Of the thousands of small businesses that once had shops in the area, there will now be only some 180 shops on Qianmen Street.¹³ Many residents of the community also argue that they were forcibly evicted from their homes and not adequately compensated.

3.1 The evictions in Xianyukou

Xianyukou is a primarily residential area within Qianmen. Residents interviewed from the neighbourhood reported that Government figures listed 3 750 households in the area to the west of Tongce Road, and residents estimate approximately 30 percent of these households were evicted against their will and with force. Residents also reported that some were evicted without being provided any compensation.

In 2005, the District Government offered household residents of Xianyukou 5 000 yuan per m². Residents explained that because the notice did not have a signature or other official validation, they were confused about its legitimacy. There was also widespread frustration that the offer was not at the market rate and, in fact, the uniform rate of compensation did not take into account specific features of houses that would influence prices and therefore did not seem to be based on the actual value of the houses. For those households that rejected this initial offer, the next step was a mediation process that was carried out household by household.

¹² Henry Sanderson, 'Despite promises, old Beijing neighborhoods fall', *Associated Press* (16 June 2008).

¹³ Rowan Callick, 'Olympic vandalism', *The Australian*, (15 Jan. 2008).



Demolition and reconstruction in Xianyukou

According to residents interviewed, the mediation talks for the first group of households to be evicted were held during the second half of 2005 and were finished by the end of the year. Many of these households were offered approximately 8 020 yuan per m² and many rejected this offer, as well.

During mediation talks, residents reported being harassed and threatened by the demolition company negotiating the compensation. Residents complained that the company researches information about residents' vulnerabilities and uses that knowledge in negotiations over compensation. For instance, a resident explained that one of her neighbours had a son who was preparing to take a university entrance exam. "It's a very stressful time," she said, "one of the most stressful times in life and they need stability." To provide that stability to children, parents will often accept an offer that they consider to be too low in order to stop the harassment to their families.

The 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. Residents also reported that they could not spend time in their courtyards – or in some cases, residents wore hard hats when walking through their courtyards – because police and workers from the demolition company would throw bricks and other objects over their walls and into their courtyards.

Faced with such harassment and ongoing verbal threats from the negotiating company, many families accepted lower compensation than could re-accommodate them at their same quality of life.

By early 2006, the District Government began applying for and attaining court orders to demolish homes of those who had not agreed to compensation. The Government provided written notices to affected households that indicated the date by which the households must be evacuated, which interviewees stated gave them two or three months. However, residents complained that the notice did not provide the exact date for demolition. As many households experienced difficulties in finding alternative accommodation, some therefore continued to stay on in their homes until they were evicted by force.

Residents reported that on the day that evictions were carried out, as many as 100 participants would arrive in the community, including local police, officials from the District Government, representatives from

the developer's office, and workers from the demolition company. The officials reportedly would stand outside the targeted homes and send police inside homes to carry out the evictions. A resident noted: "None of the officials went inside to see the methods used to get people out."

Evictions were carried out on a rolling basis – with a few homes demolished at a time – as mediations over compensation were still being carried out with other households. Therefore, the violence and humiliation used to carry out evictions was also a tactic of intimidation directed towards those households still attempting to negotiate a better compensation rate.

Describing the evictions, a resident noted: "The whole process is designed to scare you. They beat up people. They humiliated them in public."

This resident explained that the violence, harassment, and humiliation is designed to influence other households involved in mediations. "People took the compensation because they got scared. Many didn't get enough to buy a house. All they could do was rent a place." Those who used their compensation to rent rather than buy an alternative home risked exhausting these funds within a few years, leaving them without sufficient funds to buy an alternative home or to continue renting indefinitely. Such cases clearly bring into question the adequacy of compensation rates – and in fact the mediation process – to guarantee "the residential conditions of the expropriated", as required by Chinese law.¹⁴

The manner in which the District Government has carried out the evictions and this development process is also in violation of national laws and Beijing planning regulations designed to protect cultural relics, including housing. In 2002, the Beijing City Planning Commission named areas of Xianyukou as culturally protected areas under the *Conservation Planning of 25 Historic Areas in Beijing Old City*, which provided for the renovation of the area to preserve the housing, but specified that the layout for the area would remain the same and owners would be able to stay in their homes if they chose to do so. Otherwise, owners would be compensated if they chose to move. Furthermore, the 2005 *Statute for the Protection of the Historic City of Beijing* stated that if authorities decide that modifications to the Conservation Plan are in the public interest, they must first conduct public hearings and allow submissions for revisions.¹⁵

Despite this protected status, residents reported that no one was given the opportunity to remain in the area. Households had either already been evicted or were threatened with eviction in the subsequent waves. Homes were being dismantled and renovated, but they would then be sold or rented to others who could afford to pay more than the previous owners or renters. As one evicted resident explained: "Nobody has the right to return."

3.2 The relocation

Following each eviction in Xianyukou, the demolition company reportedly took evictees' furniture and other possessions in a truck to a location that residents described as temporary worker housing or a small room that workers might use to store tools. The demolition company dropped possessions into this room and then began charging rent to the household – by reducing the rental amount from the amount with which they were to be compensated – until they came to remove their possessions.

Residents explained that the compensation they received was not enough either to purchase or rent a home in the area in which they had been living. This has had a marked reduction on their quality of life.

In one family's case, for example, they were able to commute to work by bicycle in five minutes when they lived at Xianyukou. They were also close to transportation networks if they needed to travel to other areas of the city or outside the city. Now they live outside the fifth ring road and it takes two hours to get to work by

¹⁴ Property Rights Law of the People's Republic of China, (16 Mar. 2007), Article 42.

¹⁵ Beijing Cultural Heritage Protection Center, <http://www.bjchp.org>



Xianyukou side street. Traditional housing threatened with demolition.

public transportation. The couple has a young child and they have not found good schools in their new area. They therefore chose to keep their child enrolled in the same school as before in the centre of the city. The student used to be able to walk to school alone, but now a parent must accompany her to and from school. They each spend four hours travelling each day. This is not an uncommon story, as many parents do not want to send their children to schools in the suburbs of Beijing. Classes start at 7 a.m., which means parents and children have to leave home by approximately 5 a.m. In the evenings, parents and children get home at approximately 7 p.m.

The distance is also difficult for elderly residents, who have doctors and health care facilities that they trust and have visited for many years. Not only are residents concerned that new hospitals and health care facilities in the outskirts of Beijing are not as reliable as those in the centre of the city, but elderly residents now have to travel several hours to and from their trusted health care providers.

Residents who have moved to various locations around the city also report that shopping areas, schools, and health care facilities are not available yet or are not as good as those which they had near the Xianyukou community.

Of the first group of households to be evicted, many families moved to an area of Beijing called Daxing. Many of these households rent in this area, as they could not afford to buy homes close to their former residences. But they did not want to move farther out because of the time and expense of travelling to work and former resources, such as schools and health care providers. Although some residents hoped to receive spaces in social housing, which is termed 'economic and affordable housing', there were no spaces available.

Some residents were not able to find a place to live and, when they found that their homes had not yet been demolished, chose to move back to their homes. These residents experienced the brutality of eviction twice.

3.3 The ongoing petitioning, legal challenge, and harassment

Some residents who have left Xianyukou still report ongoing harassment by the police. This harassment includes continued visits to their new homes during festivals or holidays and visits to places of employment to place pressure on them to not speak publicly about their experiences and to not petition or to halt a petition.

A group of residents has petitioned at the district, city, and national levels to gain redress for what they consider to be an illegal confiscation of their land and homes, as well as inadequate compensation.¹⁶ There are also 20 affected households that are taking forward a lawsuit against the National Commission for Development and Reform for “destroying homes and livelihoods”. There are two separate suits from two different blocks of land in the Xianyukou area.

One of the residents involved in the lawsuit explained that they are 95 percent sure that they will lose their case. But they are still going through with the case, in the face of continued harassment and police surveillance, because they want to learn about the law and how to better protect themselves in the future.

4 Domestic legal protections

According to a number of people interviewed, the Chinese Government, public, and media rarely view housing issues – particularly the Government’s role in creating an enabling environment for the provision of adequate housing – from a human rights framework. People rarely raise concerns about violations of their human rights, but rather state their concerns in other language.

A prominent lawyer and academic who was only willing to be interviewed anonymously explained his thoughts for how China must improve its human rights record. Firstly, he said that China must amend current laws and draft new laws so that human rights standards within international treaties ratified by China will be justiciable and further elaborated within Chinese legislation. Secondly, the legal and academic communities, as well as civil society, must promote awareness and training for lawyers and judges on human rights. Thirdly, there must be an effort to mainstream human rights concepts within policymaking circles. Lastly, China must improve legal enforcement of laws. He was emphatic that the greatest setback to protecting housing rights in China was due to the lack of an independent judiciary. He said that the courts are often not able to enforce laws regarding resettlement and compensation, and cases become a political issue at the local or national level, or both. He explained that there are some tribunals set up occasionally, but they are financially dependent upon the local governments, so they are not independent from them.

Despite recently passed legislation, such as the 2004 constitutional amendment providing that “the State respects and preserves human rights”, this has done little to change the reality of people’s lives, as the laws are not necessarily enforced. One interviewee noted that officials are now using language about the need for the ‘rule of law’ and they are now passing relatively progressive laws, such as the Child Protection Law. However, he noted: “We have all these tools, but the Government does not want to use them, the public does not know about them, and NGO’s are weak.” The interviewee also noted: “To make laws work, you must use the concept of *Mianzi*¹⁷ to achieve the pressure point. If you make them look bad, they will act. But you can’t achieve this by a direct path.” However, he also explained that this is not an easy or fail-safe method. “If you’re going to pressure an official, you have to know about what they need to save face. You need a lot of information to be successful.”

¹⁶ See section 6.3 for more information on the petitioning system.

¹⁷ *Mianzi* translated literally means “face” and is used to refer to ‘saving face’.

4.1 The Constitution of the People's Republic of China

Chinese legislation provides a certain amount of protection against housing rights violations in some contexts. At the most basic level, the Fourth Amendment to Article 10 of the Constitution states that:

[The] State can expropriate land for its use in the public interest and shall make compensation for private property expropriated or requisitioned.¹⁸

Similarly, the Fourth Amendment to Article 13 states that:

Citizens' lawful private property is inviolable The State, in accordance with law, protects the rights of citizens to private property and to its inheritance The State may, in the public interest and in accordance with law, expropriate or requisition private property for its use and shall make compensation for the private property expropriated or requisitioned.¹⁹

However, the Constitution does not define situations that would constitute a justifiable expropriation in 'the public interest', nor does it define compensation that would be adequate. Compensation, resettlement, and administrative procedures for expropriations and violations of such procedures are elaborated in a number of national laws and ordinances, including, but not limited to, the *Property Rights Law of the People's Republic of China* (2007), *The Law of Land Administration of the People's Republic of China* (1998), *The Administrative Ordinance on Development and Management of Urban Real Estate* (1998), the *Administrative Procedure Law of the People's Republic of China* (1990), the *Administrative Punishment Law of the People's Republic of China* (1996), the *Administrative Reconsideration Law of the People's Republic of China* (1999), and the *Administrative Supervision Law of the People's Republic of China* (1997).

4.2 Property Rights Law of the People's Republic of China

China's Property Rights Law provides basic guidelines for ensuring appropriate compensation or resettlement in the case of State expropriation of land or property. Article 42 states:

For expropriation of collectively-owned land, such fees shall be paid as compensations for the land expropriated, subsidies for resettlement, compensations for the fixtures and the young crops on land, and the premiums for social security of the farmers whose land is expropriated shall be allocated in full, *in order to guarantee their normal lives and safeguard their lawful rights and interests.*

Where houses and other real properties of institutes and individuals are expropriated, compensations for demolition and resettlement shall be paid according to law *in order to maintain the legal rights and interests of the expropriated*; where individual residential house is expropriated, *the residential conditions of the expropriated shall be guaranteed.*²⁰

Article 42 also addresses issues of corruption by regulating that: "No institution or individual shall withhold, misappropriate, embezzle or privately divide the compensation for expropriation."²¹

Article 44 of the Property Rights Law allows government authorities to expropriate property in the event of emergencies or disasters and orders the return of the property to the owner, as well as the provision of compensation if the property was "damaged or lost after being expropriated."²² Furthermore, Article 121 of

¹⁸ Constitution of the People's Republic of China, adopted on 4 Dec. 1982, Fourth Amendment to Article 10, approved on 14 Mar. 2004 by the Tenth National People's Congress at its Second Session.

¹⁹ Ibid., Fourth Amendment to Article 13.

²⁰ Property Rights Law of the People's Republic of China, (16 Mar. 2007), Article 42, [emphasis added].

²¹ Ibid.

²² Ibid., Article 44.



Hujialou: text reads “The demolitionists can really calculate; suppress the housing prices and households are miserable; the only fair way to price is to follow the market; is it possible to do something truthful?”

the Property Rights Law entitles those with usufructuary rights to “gain relevant compensations pursuant to the provisions of Article 42 and 44” in cases where expropriation of property affects the exercise of or leads to a lapse of the usufructuary right.²³

4.3 The Law of Land Administration of the People’s Republic of China

The Law of Land Administration sets out in Articles 8 and 9 that urban land is owned by the State, whereas rural and suburban land is owned collectively by “peasants”. Any such land, whether urban, rural, or suburban, can be allocated to an individual or unit that will hold responsibility for the “protection, management and a rational use of the land.”²⁴

The Law of Land Administration also sets out that disputes over ownership or land use rights will be settled through a consultation among the parties involved and, failing a resolution, will then be “handled by” the relevant people’s government. If the parties involved are not satisfied by the government’s decision, the law allows parties to bring a dispute before a people’s court within 30 days after receiving notification of the decision.²⁵

The law also provides for processes to make the best use of land and to keep land from remaining idle, for instance, by instructing people’s governments to revoke the use right of land if construction fails to start after two successive years, and ordering “land idling fees” if construction fails to start after one year.²⁶

The Law of Land Administration also provides detailed regulations on administration procedures for the requisitioning of land and which bodies are responsible for approvals based on the purpose and size of the land.²⁷

²³ Ibid., Article 121.

²⁴ The Law of Land Administration of the People’s Republic of China, (29 Aug. 1998), Articles 8 and 9.

²⁵ Ibid., Article 16.

²⁶ Ibid., Article 37.

²⁷ Ibid., Article 45.

The law requires the relevant level of government to announce any plans to requisition land, at which point the “[o]wners or users of the land requisitioned should, within the time limit specified in the announcement, go through the compensation registration for requisitioned land with the land administrative departments of the local people’s governments on the strength of the land certificate.”²⁸ The law also specifies that compensation should be made based on the original purpose of the land, and that compensation rates should include “land compensation fees, resettlement fees and compensation for attachments to or green crops on the land.” Furthermore, land compensation fees must provide “6-10 times the average output value of the three years preceding the requisition of the cultivated land.” The resettlement fee is based on the number of people on the land to be resettled, and the fee for each person must be “4-6 times the average annual output value of the three years preceding...” with the maximum fee per hectare of land not exceeding 15 times the average annual output of the previous three years.²⁹ Furthermore, if the compensation and resettlement fees as calculated are not sufficient to maintain the same standard of living for those affected, the people’s governments of the relevant provinces, autonomous regions, or municipalities may approve an increase in fees, with the combined total of land compensation and resettlement fees not exceeding 30 times the average output value of the previous three years. The State Council may also raise such fees in “special circumstances”.³⁰

After the relevant government body has developed a plan for compensation and resettlement fees, it is required to make an announcement to affected persons and “hear the opinions of the rural collective economic organizations and peasants whose land has been requisitioned.”³¹

Where government officials have violated the procedures described in the Law of Land Administration, Articles 70 through 72 describe the process for the relevant land administrative departments to mete out “administrative punishments”; to propose such punishments to be addressed by relevant officials at a higher level; to hand cases over to relevant government bodies in cases that constitute a crime; and for higher levels of government to command administrative punishments when land administrative departments at a lower level have failed to do so.³²

Chapter 7 goes further in describing processes for confiscation, fines, and administrative punishments in cases of illegal occupation of land, illegal transfers of land, illegal conversions of the use of land, and embezzlement or diverting the use of land compensation fees.³³

4.4 The Law of the People’s Republic of China on Urban Real Estate Administration

The Law of the People’s Republic of China on Urban Real Estate Administration enacts the various processes of leasing land from the State, mortgaging of real estate, leasing of houses, and punishments for various violations of these processes.³⁴ Of note is Article 19, which allows the State to retrieve land from land users if the action is for the public interest, and then in accordance with legal procedures that provide for due process and compensation.³⁵

²⁸ Ibid., Article 46.

²⁹ Ibid., Article 47.

³⁰ Ibid.

³¹ Ibid., Article 48.

³² Ibid., Articles 70-71.

³³ Ibid., Chapter 7.

³⁴ The Law of the People’s Republic of China on Urban Real Estate Administration (1995), adopted by the Eighth Meeting of the Standing Committee of the Eighth National People’s Congress on 5 July 1994.

³⁵ Ibid., Article 19.



Dayuanfu hutong: traditional housing surviving in the rubble

4.5 Cultural heritage protections

During a workshop in 2006 on cultural laws, guidelines, and regulations, He Shuzhong of the Beijing Cultural Heritage Protection Center explained that:

... the laws to protect the cultural heritage of Beijing are not as perfect as we, all the volunteers who are passionate about protecting old Beijing, want them to be. So the law is the product of compromise between all people involved, including cultural experts, volunteers, enthusiasts, government officials, corrupt government officials, and real estate developers. Even though the laws are the result of a compromise, we still have reasons to think that when properly enforced, the laws are an important tool to protect old Beijing.³⁶

However, He Shuzhong explains that these laws are not being properly enforced, and because many people do not know they exist, the public is not holding officials accountable.³⁷

Although these laws and regulations were not necessarily designed to protect people's access to adequate housing, but rather to protect cultural artefacts, the effects that violations of these laws and regulations have had have both irreparably damaged cultural heritage and also violated residents' rights to adequate housing under international law.

4.5.1 National legislation

The *Law of the People's Republic of China on the Protection of Cultural Relics* provides definitions for various forms of relics meriting cultural preservation and delegates to the people's governments of provinces, autonomous regions, and municipalities the responsibility to "delimit the necessary scope of protection, put up signs and notices, and establish records and files for the historical and cultural sites ..."³⁸

³⁶ He Shuzhong, 'Cultural Laws, Guidelines and Regulations', lecture series hosted by the Beijing Cultural Heritage Protection Center, translated by Rex Chen, transcribed by Chen Yu (25 Nov. 2006) available at <http://www.bjchp.org>, accessed on 7 July 2008.

³⁷ Ibid.

³⁸ Law of the People's Republic of China on the Protection of Cultural Relics (29 Dec. 2007), Article 15.



Dongchang hutong: text reads “Welcome the Olympics, Treasure the Opportunity”

4.5.2 Beijing and district regulations

Regulations at the Municipal level in Beijing provide much more specific and rigorous guidelines than the national legislation. The following is a non-exhaustive list of regulations protecting cultural relics in Beijing:

- *Measures for the Protection of the Historical and Cultural Landmarks of Beijing*
- *Plan for the Protection of Cultural and Historical Landmarks of Beijing*
- *Conservation Planning of 25 Historic Areas in Beijing Old City*
- *Regulations Governing the Scope of Protection of Historical Preservation Districts and Restrictions on Construction*
- *Regulations Relating to Protection and Renovation of Buildings in the Old City of Beijing Historical Protection Districts*
- *Standards for Style of Renovation of Buildings in Historical Conservation Districts of the Old City of Beijing*

The *Measures for the Protection of the Historical and Cultural Landmarks of Beijing* require authorities to elicit public participation in urban planning, stating that: “When formulating the protection plan for Beijing ... the general public’s opinion should be widely solicited and carefully studied by experts.”³⁹ Furthermore, after the Protection Plan has been legally approved and published by the authorities, any further adjustments should be based on the public interest; and the process of undertaking an adjustment must include soliciting the general public opinion on the changes, organising an expert discussion to deliberate the public’s opinion, and then having the revisions legally approved and published.⁴⁰

Conservation Planning of 25 Historic Areas in Beijing Old City provides regulations for the conservation of approximately 6.13 million m² of architecture and calls for reconstruction of buildings that are damaged, as well as the reduction of population density from the current estimate of 285 000 people to a maximum of approximately 167 000 people – meaning that there are plans to remove 41 percent of the current population, an unknown segment of which already have been moved.⁴¹

³⁹ Measures for the Protection of Historical and Cultural Landmarks of Beijing, Article 16.

⁴⁰ Ibid., Article 18.

⁴¹ Beijing Cultural Heritage Protection Center, <http://www.bjchp.org>

The *Regulations Relating to Protection and Renovation of Buildings in the Old City of Beijing Historical Protection Districts* further requires that damaged buildings that are subject to cultural protection must be reconstructed in such a way as to retain their original design, but should not be demolished or expanded. The *Standards for Style of Renovation of Buildings in Historical Conservation Districts of the Old City of Beijing* adds that there should be no illegal structures within courtyards – the demolition of which is also part of the plans to reduce population density.⁴²

In the demolitions and development of Xianyukou and Qianmen, for example, these regulations have not, apparently, been followed. The Beijing Cultural Heritage Protection Center voiced its concerns over the preparations for reconstruction of this area, stating:

If conservation and re-development work in Xianyukou is undertaken in strict accordance with the legal requirements of the conservation plan and other regulations of the Beijing government, Xianyukou may become one of the most valuable areas within the Old City of Beijing. However, if the legal requirements of the conservation plan are disregarded and real-estate development within the protected area violates the “small-scale transformation” principle in favor of large-scale demolition and exploitation projects, the protected historical and cultural value of the area will disappear. Historical and cultural protected areas should not be changed into fake imitations of antique style; historical and cultural preservation areas can only preserve authenticity if they are properly protected and retain the original sense of community developed over previous centuries.⁴³

5 International legal obligations

In 2001, China ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), thereby becoming legally bound to respect, protect, and fulfil the rights enshrined in the Covenant, including the right to adequate housing. Article 11(1) of the ICESCR states:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and *housing*, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.⁴⁴

International law recognises three general obligations of States that have ratified a human rights treaty, namely the obligation to respect the right, the obligation to protect the right, and the obligation to fulfil the right.

Obligation to respect

The obligation to respect the right requires governments to refrain from interfering with people's existing access to housing. One clear violation of this obligation is the practice of forced evictions by State actors or agents of the State.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ International Covenant on Economic, Social and Cultural Rights, Article 11, G.A. res. 2200A (XXI), 21 UNGAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force 3 Jan. 1976 (ratified by China on 27 June 2001) [emphasis added].

Obligation to protect

The obligation to protect rights means ensuring that individuals and communities do not experience housing rights violations by non-State actors or by other States. Violations must be investigated, perpetrators prosecuted, and legal and other remedies provided to victims.

Obligation to fulfil

States have an obligation to progressively realise the right of adequate housing by taking meaningful steps towards that goal.

The Committee on Economic, Social and Cultural Rights (CESCR) – mandated to monitor compliance with the ICESCR – has elaborated on the right to adequate housing in its General Comment No. 4 and its General Comment No. 7. According to General Comment No. 4, an adequate house is one that provides more than four walls and a roof. *At a minimum* it must include the following seven elements:

- security of tenure
- availability of services, materials, facilities, and infrastructure
- affordability
- habitability
- accessibility
- location
- cultural adequacy⁴⁵

5.1 The prohibition on forced evictions

General Comment No. 7 defines 'forced eviction' 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.⁴⁶

General Comment No. 4 states that:

[Legal security of] tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, *all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats*. States Parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.

General Comment No. 4 also states that "instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."⁴⁷ That conclusion has repeatedly been

⁴⁵ UN Committee on Economic, Social and Cultural Rights (UNCESCR), *General Comment No. 4 on the Right to Adequate Housing* (Sixth session, 1991), para. 8, UN Doc. E/1992/23, annex III at 114 (1991), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6 at 18 (2003).

⁴⁶ UNCESCR, *General Comment No. 7 on Forced Evictions, and the Right to Adequate Housing* (Sixteenth session, 1997), para. 3, UN Doc. E/1998/22, annex IV at 113 (1998), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6 at 45 (2003).

⁴⁷ UNCESCR, *General Comment No. 4*, para. 18, [emphasis added].

reaffirmed by the international community, and in particular by the United Nations Commission on Human Rights, which has twice stated that forced evictions are a gross violation of human rights, and in particular the right to adequate housing.⁴⁸

Additionally, General Comment No. 7 requires that:

States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders.⁴⁹

In particular, General Comment No. 7 lists required procedural protections when implementing evictions, including:

- 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) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- g) provision of legal remedies; and
- h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.⁵⁰

Finally, even if evictions are deemed lawful – once there has been a finding that “exceptional circumstances” justify the eviction; once “all feasible alternatives” have been explored in consultation with affected persons; and once all procedural protections have been addressed – evictions must not render persons homeless. General Comment No. 7 further states that:

[E]victions should not result in rendering individuals homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.⁵¹

5.2 Committee on Economic, Social and Cultural Rights

During its 2005 consideration of the report submitted by the People’s Republic of China, the Committee on Economic, Social and Cultural Rights found several concerns related to China’s compliance with housing rights. In its concluding observations, the Committee provided the following recommendations:

The Committee calls upon the State party to implement its decision to dismantle the hukou system of national household registration and to ensure that in any system that replaces it, internal migrants

⁴⁸ See UN Commission on Human Rights *Resolution 1993/77*, UN Doc. E/C.4/RES/1993/77 (1993); UN Commission on Human Rights *Resolution 2004/28*, UN Doc. E/C.4/RES/2004/28 (2004).

⁴⁹ UNCESCR, *General Comment No. 7*, para. 13.

⁵⁰ *Ibid.*, para. 15.

⁵¹ *Ibid.*, para. 16.

will be able to enjoy the same work, social security, housing, health and education benefits enjoyed by those in the urban areas.⁵²

The Committee strongly recommends that the State party take immediate measures, inter alia by increasing allocations, for the protection of economic, social and cultural rights of persons living in disadvantaged areas, in particular with regard to adequate housing, food and water, health services and sanitation.⁵³

The Committee recommends that the State party take immediate measures to enforce laws and regulations prohibiting forced evictions and ensure that persons evicted from their homes be provided with adequate compensation or offered alternative accommodation.... The Committee also recommends that, prior to implementing development projects, the State party should undertake open, effective and meaningful consultations with affected residents. In this connection, the Committee ... requests it to provide information in its next periodic report on progress achieved in this regard. The Committee further requests the State party to provide, in its next periodic report, detailed information on the number and nature of forced evictions and on the extent of homelessness in the State party, disaggregated by gender, age, urban/rural residence.⁵⁴

6 Violations of existing legal protections

Despite the legal protections that exist in domestic law, interviewees noted a number of problems that have allowed housing rights violations to take place without repercussions for the violators and without access to legal remedies for victims. Interviewees noted the lack of an independent, impartial judiciary; corruption in the legal system and compensation process; the inadequacy of the petitioning system; and Government repression towards anyone who discusses these problems.

6.1 Lack of an independent judiciary

While lawyers and NGO professionals interviewed noted their concerns over the inadequacy of the laws to protect housing rights of those less powerful than developers, the interviewees also noted that the lack of independence of the judicial system means that laws cannot be enforced. As one legal professional explained: "Judges are forced to listen to administrators, even at the local level, and administrators collaborate with developers. So judges can't protect the underprivileged."

An NGO professional reported that "it is very common for the court to reject cases, especially if it is regarding land." Although several people were able to point to cases where mediation procedures led to an improved compensation package for households, none of those interviewed knew of a case in which an eviction was successfully challenged and halted.

One NGO professional interviewed said that his organisation had worked on a number of legal cases regarding confiscation of housing, but had been unsuccessful, in terms of how the lawyers and the affected people would define success. Nevertheless, there are a handful of cases that his organisation might define as successful because – by their definition – every case puts some pressure on the Government, which could lead to change eventually. In addition, it educates communities about their legal rights, the legal system, and the problems therein.

⁵² Committee on Economic, Social and Cultural Rights, Thirty-fourth session, E/C.12/1/Add.107 (13 May 2005), para. 46.

⁵³ Ibid. para. 59.

⁵⁴ Ibid. para. 61.



South of Dayuanfu hutong, demolitions near Wangfujing Street.

Regardless of this optimistic perspective, not everyone agrees on the definition of success. A man being interviewed about his eviction from Xianyukou stated: “Average Chinese citizens have no way to protect their rights.”

6.2 Corruption

One interviewee reported that there is a nationwide problem with corruption relating to and impeding access to land and housing. While the Olympic Games may or may not have increased the rate at which corruption is experienced in the administration of land use, construction, and housing confiscations, there is no doubt that Beijing residents perceive corruption to be a significant problem as it relates to development processes for the Olympic Games. Residents are also concerned and angered that the law does not adequately control or punish corrupt practices by Government officials and developers.

For example, organisations and the media have reported widely on corruption by local government officials who illegally confiscate land from farmers and other residents by accepting payments from developers to ensure that the developers can acquire the land without providing a fair compensation rate. Local government officials reportedly abuse regulations regarding compensation practices and, when developers are not able to attain a below-market rate through negotiations with affected households, they bribe officials to attain a court order for the eviction. This process not only allows land to be confiscated for purposes other than the public interest, the amounts offered as bribes are also taken from the sums allocated to affected persons for their resettlement.

Although this problem has been recognised by the National Government, corruption is increasing and is not limited to rural areas. In June 2008, the National Audit Office reported that in 11 cities investigated, 186.41 billion yuan from land sales during 2004 to 2006 was not placed in accounts as required by the relevant regulations. This amount constituted 71 percent of net income from land sales during that period. The report further found that municipal governments had misused 8.4 billion yuan from land grant fees, and governments illegally reduced or exempted 4.8 billion yuan in land grant fees for developers and



Settlement by the Tonghui River

investors.⁵⁵ The Xinhua news service also reported in May 2008 that official figures showed an increase of 67.6 percent in illegal acquisitions of land from 2006.⁵⁶

An interviewee from a leading law firm explained: “There is a saying that the national policy can’t get out of the national government compound.”⁵⁷

An 86-year-old woman living with her son in a community on the north bank of the Tonghui River in Beijing was concerned that corruption led to the Government’s failure to resettle the community and thus to the ensuing informal growth and overcrowding of the settlement. She moved to the settlement 50 years ago with her husband, who was a rickshaw puller. Although she finds the polluted river, the overcrowding, and the lack of an adequate, safe electricity supply to be problematic, she cannot afford to relocate herself. She prefers to stay in the settlement unless the Government can resettle her at a similar quality of life. In her view, living in a location close to health care facilities, markets, public transportation, and her son’s employment is much more important for her quality of life than, for example, having a larger home with indoor plumbing facilities.

She understands that the area in which she lives was intended to be converted to green space and the community was going to be relocated. The Tonghui River North Road was constructed through the settlement in recent years, but the community has not been relocated. It is her perception that the demolition company stole the funds set aside for resettlement and the relocation was therefore never implemented.

Even where people have no direct evidence of corruption, there is widespread belief that the Government has misused funds. This nationwide problem in corruption and the perception of corruption indicates a systematic failure of the legal system to adequately enforce laws that prohibit embezzlement and confiscation of resettlement funds.

⁵⁵ Olivia Chung, ‘China’s Land Income Leaking Away’, *The Asia Times* (13 June 2008).

⁵⁶ ‘China to Punish Leaders for Illegal Land Grabs’, *Xinhua* (31 May 2008).

⁵⁷ “Zhengling chu bu liao Zhongnanhai” or “政令出不了中南海” Zhongnanhai is the name of the complex of buildings in which the national Government conducts its administrative work.

6.3 Inadequacy of petitioning system

The petitioning system in China is based on a centuries-old system that allows anyone to submit a petition at various levels of government, from local to national. The petitioning system can be used as an avenue of last resort after other legal options are exhausted, or it may be the first avenue pursued for redress of a housing rights violation, or anywhere in between in the process of attempting to attain some form of legal redress for a grievance. However, a report from Human Rights Watch found that:

As a system of redress, the petitioning system has generally failed. The growing numbers of petitioners and petitions are too many for the system to handle. Most petitioners – and for that matter, many officials – are never entirely sure at which level of government a petitioner should file her or his complaint, nor is it clear exactly what kinds of petitions should be handled by which departments [S]ome petitions are transferred repeatedly from bureau to bureau. Should a bureau decide it has the power to handle a certain petition, the existing regulations make it unclear what exactly any one official or department has the power to do, aside from reprimanding other petition officials for mishandling petitions. Moreover, in a relic of the imperial legal system, few decisions are ever final. As a result, many petitioners from around the country become frustrated with their provincial and local petitioning systems and eventually take their complaints to Beijing.⁵⁸

Residents from Xianyukou reported that 30 evicted households had formed a petitioning group and are jointly petitioning at the district, city, and national levels. They were frustrated that the only response they had received so far was to inform them that they were petitioning at the wrong level. During the interview for this report, one petitioner said with a smile and a shrug that the district office told the petitioners to submit their petition at a higher level, but an office at the national level told them only the district office could deal with their petition because the District Government implemented their eviction. So they began their petition again at the district level.

The Xianyukou petitioners also report that police and other authorities have harassed them by visiting their homes and jobs to threaten them – particularly during large events in Beijing, such as the National People’s Congress – to pressure them not to petition or protest publicly.

A number of organisations have documented even more drastic and violent forms of official retaliation against petitioners, including ‘Re-education through Labour’, beatings, deportation from Beijing to the cities or rural areas from which petitioners came, detention without trial, and imprisonment.⁵⁹

In September 2007, Beijing authorities evicted a number of residents of the petitioners’ village in Fengtai District, as part of a demolition process targeting petitioners that began soon after Beijing won the bid for the Olympic Games.⁶⁰

6.4 Harassment of housing rights defenders

The Chinese Government’s suppression of human rights defenders, activists, lawyers, academics, and others who publicly criticise the Government has been one of the most widely documented human rights concerns in the run-up to the Beijing Olympic Games.

On 8 July, Human Rights in China reported that with only one month remaining before the Opening Ceremonies, “the Chinese authorities have significantly escalated and broadened their systematic

⁵⁸ ‘ “We Could Disappear At Any Time”: Retaliation and Abuses Against Chinese Petitioners’, *Human Rights Watch* (Dec. 2005) Vol. 17, No. 11 (C).

⁵⁹ Ibid. Also see reports and media releases from Amnesty International, China Rights Defenders, COHRE, Front Line Defenders, and Human Rights in China, to name a few.

⁶⁰ ‘China: Beijing Petitioners’ Village Faces Demolition’, *Human Rights Watch* (6 Sep. 2007), and ‘China: Pre-Congress Clampdown Intensifies’, *Human Rights Watch* (10 Oct. 2007).

crackdown on rights defense activities, religious and cultural expression, and critical voices ... we are witnessing the proliferation of serious human rights abuses committed under the banner of the official 'Olympics Stability Drive'.⁶¹

Methods of repression and harassment that authorities have used include police surveillance, arbitrary detention without charge, house arrest, and imprisonment, among others.

On 1 July 2008, US Congressmen Frank Wolf and Chris Smith provided the Chinese authorities with a list of 734 political prisoners, stating: "Tragically, the Olympics has triggered a massive crackdown designed to silence and put beyond reach all those whose views differ from the official 'harmonious' government line." China Human Rights Defenders reported that authorities detained or warned away nine human rights defenders from attending a dinner with the Congressmen during their trip to Beijing.⁶²

7 The role of the International Olympic Committee

Fundamental Principles of Olympism⁶³

1. Olympism is a philosophy of life, exalting and combining in a balanced whole the qualities of body, will and mind. Blending sport with culture and education, Olympism seeks to create a way of life based on the joy of effort, the educational value of good example and respect for universal fundamental ethical principles.
2. The goal of Olympism is to place sport at the service of the harmonious development of man, with a view to promoting a peaceful society concerned with the preservation of human dignity.
3. The Olympic Movement is the concerted, organised, universal and permanent action, carried out under the supreme authority of the IOC, of all individuals and entities who are inspired by the values of Olympism. It covers the five continents. It reaches its peak with the bringing together of the world's athletes at the great sports festival, the Olympic Games. Its symbol is five interlaced rings.
4. The practice of sport is a human right. Every individual must have the possibility of practising sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play. The organisation, administration and management of sport must be controlled by independent sports organisations.
5. Any form of discrimination with regard to a country or a person on grounds of race, religion, politics, gender or otherwise is incompatible with belonging to the Olympic Movement.
6. Belonging to the Olympic Movement requires compliance with the *Olympic Charter* and recognition by the IOC.

7.1 Overview of Olympic Movement principles

In *Fair Play for Housing Rights*, COHRE set out seven principles relevant to housing rights considerations by extrapolating from the *Olympic Charter*, the *Code of Ethics*, and the Olympic Movement Agenda 21 'Sport for sustainable development' (OM Agenda 21).⁶⁴ Both the *Olympic Charter* and the *Code of Ethics*

⁶¹ 'Rights Crackdown Intensifies a Month before the Games', *Human Rights in China* (media release) (8 July 2008).

⁶² 'Smith in China on Major Human Rights Appeal in Run-up to Olympics', [press release], (1 July 2008) and Christopher Bodeen, 'US Lawmakers: Bush Should Skip Olympics', *Associated Press* (1 July 2008).

⁶³ IOC, *Olympic Charter*, Fundamental Principle of Olympism (Lausanne, Switzerland: IOC, 2004).

⁶⁴ See COHRE, *Fair Play for Housing Rights*, pp. 42-45.

have binding force on Olympic parties, including the IOC, the host cities, and the Organising Committees of the Olympic Games. The seven principles that address housing rights considerations are:

- Safeguarding the dignity of the individual;⁶⁵
- Non-discrimination;⁶⁶
- The promotion of a positive legacy to the host city and country;⁶⁷
- The promotion of sustainable development, which includes the satisfaction of material needs indispensable for individuals to live with dignity;⁶⁸
- The fight against poverty and combat against exclusion, paying particular attention to the fate of the poor and most disadvantaged members of society;⁶⁹
- The principle of participation;⁷⁰ and
- Respect for human rights.⁷¹

OM Agenda 21 further elaborates on these principles with a series of non-binding commitments related to housing, including:

- Minimising the environmental impact of infrastructure⁷²
- Prioritising the use of existing infrastructure⁷³
- Harmoniously integrating infrastructure into the local environment,⁷⁴ and
- Boosting local housing strategies⁷⁵

Under international law, primary responsibility for respecting, protecting, and fulfilling the right to adequate housing rests with States. However, the Universal Declaration of Human Rights specifies that “ ... every individual and every organ of society ... shall strive ... to promote respect for these rights and freedoms and ... to secure their universal and effective recognition and observance.”⁷⁶ As an ‘organ of society’, the IOC is responsible for respecting human rights in its activities, as well as promoting respect for human rights by other actors — particularly host cities, host states, Organising Committees of the Olympic Games, and other members of the Olympic Movement under their authority.

7.2 Accountability by the International Olympic Committee

In a March 2008 interview, IOC President Jacques Rogge explained: “When we awarded the games to China, we knew there would be discussions We were not naive.”⁷⁷ As China’s human rights abuses have been well-documented in recent years, it is no surprise that the IOC was expecting controversy when it awarded the Games to Beijing. Nevertheless, the IOC’s decision was surprising to many who were expecting an organisation whose goal is “to place sport at the service of the harmonious development of man, with a view to promoting a peaceful society concerned with the preservation of human dignity,”⁷⁸ to be more judicious in awarding the Games to a country that currently has more journalists in prison than any

⁶⁵ IOC, *Olympic Charter*, Fundamental Principle of Olympism 2; and *Code of Ethics*, A.1 (Lausanne, Switzerland: IOC, 2004).

⁶⁶ *Ibid.*, Fundamental Principle of Olympism 5; see also *Code of Ethics* rule 2.

⁶⁷ IOC, *Olympic Charter*, Chapter 1, section 1, para. 14 (Lausanne, Switzerland: IOC, 2004).

⁶⁸ *Ibid.*, Chapter 1, section 1, para. 13, and *The Olympic Movement’s Agenda 21* ‘Sport for Sustainable Development (Lausanne, Switzerland: IOC, 1999), para. 3.1.6.

⁶⁹ IOC, *OM Agenda 21*, para. 3.1.3.

⁷⁰ *Ibid.*, para. 3.1.7.

⁷¹ *Ibid.*, para. 3.3.2.

⁷² *OM Agenda 21*, para. 3.2.2, ‘Protection of conservation areas and countryside’.

⁷³ *Ibid.*; see further sections 3.1.6 and 3.2.3.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Universal Declaration of Human Rights*, preamble, (1948).

⁷⁷ Stephen Wilson, ‘IOC President Jacques Rogge’.

⁷⁸ IOC, *Olympic Charter*, Fundamental Principle of Olympism 2 (Lausanne, Switzerland: IOC, 2004).



The Water Cube and the Bird's Nest at the Olympic Park

other and in which official Chinese figures report rampant corruption in land and housing confiscations by the Government.

Not only has Rogge disputed claims by human rights organisations that the Games have been a catalyst for an increase in human rights violations, he also credits the IOC for improving the human rights situation in China, saying that: "Awarding the games to China has put China in the limelight and opened the (human rights) issues up to the world."⁷⁹ In fact, following the devastating Sichuan earthquake in May, Rogge said that China's openness in its response to the disaster was "an indirect result of the Olympic Games."⁸⁰

A survey of journalists by the Foreign Correspondents Club of China found that 40 percent experienced some form of Government interference in their reporting between January and August 2007, despite promises from Secretary General of BOCOG, Wang Wei, that journalists would have "complete freedom to report when they come to China." Sixty-seven percent of those interviewed thought the authorities had failed to live up to their promise.⁸¹ Forms of interference include "violence, destruction of journalistic materials, detention, harassment of sources and staff, interception of communications, denial of access to public areas, being questioned in an intimidating manner by authorities, being reprimanded officially, being followed, and being subjected to other obstacles not in keeping with international practices."⁸²

In response to criticisms of human rights violations in the context of the Beijing Games, IOC President Jacques Rogge has also explained: "It took us 200 years to evolve from the French Revolution. China started in 1949 ... we owe China to give them time."⁸³

China has proven to the world that it has evolved into one of the strongest economies in the world, with consistently high growth rates for the last several decades.⁸⁴ To suggest that China needs more time to evolve its respect for basic human rights is patronising to the people of China and a great disservice to Chinese human rights activists and victims of human rights violations in China. Instead of being an apologist for the Chinese Government, the IOC must take responsibility for its role in these human rights violations and promote change by using the tools that they have set up to monitor host city compliance with their contract and the *Olympic Charter*.

⁷⁹ Stephen Wilson, 'IOC president Jacques Rogge'.

⁸⁰ 'Olympic Games Will Bring More Openness to China: Rogge', *MSNBC* (2 June 2008).

⁸¹ 'China Yet to Fulfill Olympic Pledge of Free Media Coverage, Harassment Still Common', *Foreign Correspondents Club of China* (1 Aug. 2007).

⁸² 'Reporting Interference Incidents', *Foreign Correspondents Club of China*, <http://www.fccchina.org>, accessed on 10 July 2008.

⁸³ Roger Blitz, 'IOC's Rogge Asks for More Time for China', *Financial Times* (26 Apr. 2008).

⁸⁴ 'China at a Glance', *World Bank* (28 Sep. 2007).

During the COHRE 2008 fact-finding mission to China, researchers heard from a number of NGO professionals, lawyers, activists, and evicted residents on the way to undertake effective advocacy to change problems in China in a way that would not lead to their being imprisoned. Human rights defenders in China have had to find ways to criticise without crossing invisible lines that will lead to arrest, violence, or harassment. They have also bravely pursued methods of working behind the scenes to find people in power who share their interests or to find ways to pressure people in power to make a change.

However, the IOC is not bound by the invisible lines with which those in China are bound. The IOC has the responsibility to admit that the human rights situation has not improved in China because of the Olympic Games, and in some areas has, in fact, deteriorated.

Most importantly, non-transparent negotiations by the IOC with Beijing are absolutely no substitute for a functioning judicial system. The problems with the lack of an independent judiciary, corruption throughout the Government – particularly in urban and rural land management – and the imprisonment of journalist and activists for criticising the Government were well-documented problems that should have precluded China from being awarded the Olympic Games if the IOC was truly committed to the principles of the *Olympic Charter*.

8 Recommendations and conclusion

8.1 Housing rights violations in the context of the Beijing Olympic Games

Based on the findings of this report, the People's Republic of China is in violation of its obligations concerning the right to adequate housing under international law for several reasons. They include procedural obligations that were not implemented or were implemented improperly while removing residents from their homes due to Olympic Games developments and for city 'beautification' in preparation for Olympics tourism.

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."⁸⁵

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."⁸⁶

⁸⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 4, para. 8.

⁸⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 7, para. 15.

8.2 Recommendations to the Beijing Municipality

As Beijing prepares to dazzle the world with its state-of-the-art Olympics venues and infrastructure, hundreds of thousands of its citizens continue to suffer under the impacts of the Olympic Games preparations, not least being the large-scale evictions that began in the year 2000. Not only have a large number of Beijing's residents been evicted from their homes, oftentimes without adequate consultation and compensation, but many of them have also been subjected to intimidation, violence, and humiliation during the process. Further, the Beijing Municipality has subjected homeless persons, as well as those without the required residence and work permits, to 'Re-education through Labour'. In light of the various human rights and housing rights violations discussed in this report, COHRE urges the Municipal authorities of Beijing to:

1. Immediately halt all further demolitions and evictions, including those planned for after the Olympic Games;
2. Ensure that all those detained for vagrancy as a result of homelessness or because they are lacking appropriate papers are set free;
3. Explore all feasible alternatives to housing and land confiscations, including in-situ upgrading of houses and buildings that are in need of repair, and ensure that post-upgrading rents of government-managed properties remain within affordable limits of residents' means;
4. Undertake a social impact assessment of all those affected and their income and ability to pay for alternate housing; particular attention should be paid to the needs of the several thousand migrant workers and others whose earning capacities do not exceed the minimum wage;
5. In any case, no further demolitions and relocations should take place until the requirements of those awaiting subsidised and social housing have been met;
6. Accelerate housing development plans to provide affordable housing to those evicted and unable to access adequate housing; and
7. Ensure that the housing provided meets all the criteria of international human rights law to which China is a party, notably, General Comment No. 4 of the Committee on Economic, Social and Cultural Rights.

8.3 Recommendations to the People's Republic of China

It is evident from the findings of this report that in preparations for the Beijing Olympic Games, China has failed to respect, protect, and fulfil human rights, including the right to adequate housing. China has failed to uphold domestic legal protections providing for adequate compensation to those displaced in the public interest. China has also failed to maintain a judicial system capable of provide adequate, independent protection against violations of the law. China has further violated international legal obligations, as noted in detail above. Based on its findings, COHRE therefore urges the People's Republic of China to:

1. Halt all plans that involve any further evictions and demolitions until the grievances of those already affected have been adequately addressed by an independent tribunal and a system of compensation and mediation that does not employ harassment and intimidation tactics has been put in place;
2. Ensure that all harassment, including police surveillance and intimidation of those seeking better compensation or resisting eviction is stopped;
3. Set free and withdraw all charges against those arrested for challenging Government policies and raising their voices against forced;
4. Create independent tribunals when necessary and ensure the judicial system is able to independently consider whether housing removals are, in fact, justified – only after affected persons have been adequately consulted in the decision;
5. Initiate an in-depth inquiry into the various acts of violence and intimidation that took place as part of the demolition processes for the Olympic Games, to hold perpetrators accountable — including

members of the police force and employees of the company entrusted with negotiations for compensation;

6. Initiate an inquiry into allegations of corruption in the context of land and housing confiscations for Olympic Games developments, with a view to punishing those responsible;
7. Involve affected persons, local authorities, and human rights groups in devising a compensation policy that will respect, protect, and fulfil the right to adequate housing of all those affected by evictions;
8. Take appropriate steps and introduce legislation that will facilitate the justiciability of China's various international human rights commitments, including economic, social, and cultural rights within the Chinese judicial system; and
9. Take appropriate steps to ensure the independence, including financial independence, of the judiciary, including that of various tribunals set up to hear compensation claims cases.

8.4 Recommendations to the International Olympic Committee

Needless to say, while the massive housing and other human rights violations documented in this report can be attributed to the Chinese State and its various arms, the IOC must take responsibility for its role in the ongoing human rights violations. The Fundamental Principles of Olympism seek to place sport at the service of harmonious development. The seven principles extrapolated from the *Olympic Charter* and the *Code of Ethics* include the promotion of a positive legacy for the host city and country, the fight against poverty and combat against exclusion, paying particular attention to the fate of the poor and the most disadvantaged members of society, and respect for human rights. The IOC, however, is guilty of wilfully ignoring China's excesses with regard to several of the principles, especially in the context of human rights. COHRE's 2007 report on mega-events and their impacts on housing rights of the poor and marginalised points out that housing rights violations are increasingly becoming integral to the hosting of any mega-event and especially the Olympics. In view of the urgent need for the IOC to abide by the principles inherent in the *Olympic Charter* and the *Code of Ethics*, COHRE strongly recommends the following:

1. Prevail on the Chinese Government and the Beijing Municipality to halt all further evictions with immediate effect;
2. Ask that the Chinese Government and the Beijing Municipality provide full information on the number of people evicted, as well as on those who have been resettled or compensated and those awaiting resettlement or compensation;
3. Demand with immediate effect that the Chinese Government stop all harassment and intimidation of human rights activists and those resisting evictions or negotiating for better compensation, and also set free those imprisoned for such acts;
4. Demand that the Chinese Government and the Beijing Municipal authorities do not restrict the access of homeless people to Beijing and areas around Olympics venues;
5. Adopt and implement the Multi-stakeholder Guidelines on Mega-events and the Protection and Promotion of Housing Rights;
6. With a view to ensuring that past mistakes are not repeated in future host cities, fully incorporate housing rights standards within the Olympic Movement's principles, *Code of Ethics*, and *OM Agenda 21*;
7. Evaluate Applicant and Candidate Cities' Olympic projects by including selection criteria that reflect housing rights concerns;
8. Evaluate the impact of the Olympic Games on the protection of housing rights at all stages of the Host City selection process, including by requiring Applicant and Candidate Cities to carry out an independent Social Impact Assessment that includes housing rights considerations and by also requiring strategies for monitoring and managing the housing impact of the Games;
9. Select only Candidate and Host Cities that guarantee they will protect and promote housing rights through their Olympic Project;
10. Incorporate housing rights standards in the Host City Contract; and

11. Monitor compliance with and implementation of all binding commitments made during the bid process and agreed to within the Host City Contract and intervene in case of any breach.⁸⁷

⁸⁷ See COHRE, *Fair Play for Housing Rights*, (June 2007) for more detailed recommendations.



CENTRE ON HOUSING RIGHTS AND EVICTIONS

The Centre on Housing Rights and Evictions (COHRE) is an international, non-governmental human rights organisation with its International Secretariat in Geneva, Switzerland. COHRE undertakes a wide range of activities to promote the full realisation of housing rights for everyone, everywhere. COHRE opposes and actively campaigns against forced evictions wherever they occur or are planned. It works in all world regions to ensure protection and fulfilment of the right to adequate housing and related economic, social and cultural rights.



COHRE

83 Rue de Montbrillant, 1202 Geneva, Switzerland
tel: +41.22.734.1028, fax: +41.22.733.8336
email: cohre@cohre.org, www.cohre.org