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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251  
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Written statement\* submitted by the International Federation of Human Rights  
Leagues (FIDH), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is  
circulated in accordance with Economic and Social Council resolution 1996/31.

[31 May 2007]

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\* This written statement is issued, unedited, in the language(s) received from the  
submitting non-governmental organization(s).

## **Right to Housing in China**

FIDH expresses its deep concern regarding forced evictions which constitute continuing and extensive violations of the right to housing, taking place in the People's Republic of China.

Chinese cities are facing important challenges in terms of urbanism. Modernising the cities has become one of the priorities of the Chinese government, especially since Beijing has been chosen to organise the Olympic Games in 2008. Urban modernisation concerns all major cities in China. It includes the necessary destruction and reconstruction of buildings in insalubrious neighborhoods, as well as the renovation of public infrastructures and city transportation networks. However, the so-called modernisation of cities often hides profit-oriented if not speculative projects. Ignoring public interest, they have resulted in forced evictions of citizens and in the demolition of entire neighbourhoods. There are no statistics available on the number of evictions taking place in China; the Centre on Housing Rights and Evictions (COHRE) estimates that at least 1,25 million households were demolished and nearly 3,7 million people were evicted in China in the past decade.

### ***Legal framework***

As a result of administrative reforms in the 1980s, the subsidised system of government-owned housing has been replaced by a booming market-driven real estate sector that now constitutes a pillar of China's rapid economic growth. Being profit-oriented, the market does not address housing needs. Local authorities ignore their obligations and act as private players on the market, in collusion with real estate developers, thus neglecting public interest. No significant measures have been implemented by the central government to put an end to these illegal practices.

China has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides in Article 11 for the « *right of everyone to an adequate standard of living [...], including [...] housing, and to the continuous improvement of living conditions* ». As mentioned in the General Comment 4 adopted by the UN Committee on Economic, Social and Cultural Rights (CESCR) in 1991, « *instances of forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances.*»

FIDH welcomes the *Basic Principles and Guidelines on Development-based Evictions and Displacement* included in the reports of Mr. Miloon Khotari, the UN Special Rapporteur on Adequate Housing, in March 2006 and February 2007. As stressed by the Special Rapporteur, « *forced evictions constitute gross violations of a range of internationally recognized human rights...* » and « *must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.* » (para.6). « *Forced evictions intensify inequality, social conflict, segregation and “ghettoization”, and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous people* » (para.7).

The Chinese domestic legal framework is based on constitutional rights and relocation regulations. The Constitution recognises the right of the citizens to own houses.

A long awaited legislation on Property Rights has been adopted on 16 March 2007 by the National People's Congress, and will enter into force in October 2007. FIDH welcomes

that legislation which aims at clarifying the State, collective and individual property rights and provides for a uniformed system of registration of real property rights in order to ensure legal security. However, on the specific issue of expropriation of real property, the legislation does not bring about significant improvements since it reiterates that expropriation may take place “for the purpose of public interest”, without defining this notion which is currently being widely misused in China.

To regulate the management of demolitions and forced evictions, the State Council published the *1991 Regulations for Management of Urban Residential Demolition and Eviction*, which entered into force in November 2001 and the more recent *National Regulations for Urban Residential Eviction and Demolition Administrative Arbitration* of December 2003, entered into force in March 2004. Although those regulations provide limited protection for victims of forced eviction, the safeguards are clearly insufficient, notably for what regards the right of residents to be timely informed and consulted in the framework of the eviction process. China consequently still lacks adequate legislation for the protection of the right to housing, the prohibition of forced eviction and the definition of the exceptional circumstances and strict conditions in which they may take place, in conformity with international human rights standards.

In addition, local governmental authorities often ignore national rules regarding eviction and demolitions, in particular the legal guarantees for residents. Regulations passed by local legislatures, despite references to national regulations in general terms, do not, in practice, provide the same protection for evicted dwellers.

### ***Relocation and evictions***

Modernisation, in the name of « public interest », appears to have become the key excuse for the authorities to evict the population in order to pursue lucrative projects. As the construction sector is highly competitive and profitable, corruption is widespread throughout the country. Local governments are often in collusion with developers. Affected residents are informed about eviction at a very late stage, through informal means and without detailed information, while CESCR clearly states that protections for evictees include « *adequate and reasonable notice [...] prior to the scheduled date of eviction* » and « *information on the proposed evictions...* ».

Lack of adequate compensation for evictees constitutes a serious violation of both Chinese laws and international standards. In principle, compensation may mean resettlement to a new house and/or monetary compensation and is clearly provided for by General Comment no. 7 of the CESCR and Chinese national regulations adopted in 2001. However, citizens are rarely given satisfactory resettlement or adequate compensation, if any.

As regulations do not sufficiently protect citizens' rights and are very loosely enforced, and the judiciary does not offer an effective remedy, the only recourse for evictees is to refuse to sign any agreement and resist relocation as long as they can, hoping that developers will offer them a fair compensation. This situation leads to inequality in compensation, which consequently does not depend on objective criteria.

### ***Resistance and repression***

In theory, citizens seeking remedies in case of violation of domestic regulations on demolition and eviction must request an administrative arbitration, which is managed by the local administration. However, in most cases, local authorities are both parties and

judges, and citizens can expect no protection from such proceedings. Litigation before the courts is not a reliable option either for citizens because of the lack of independence of the judiciary.

Therefore, victims of forced evictions use various forms of public protest to draw the attention of the central authorities and the public to their plight. They display banners and organise demonstrations and petitions. Victims of forced eviction also try to alert the national media, since local media is closely controlled by the local authorities, or depend financially on the developers and real estate companies. Internet also plays an important role of alert and exchange of information among Chinese citizens from various regions.

Intimidation, harassment and violence, taking the form, *inter alia*, of a purposely worsening of the neighbourhood sanitary environment are frequently used to proceed with evictions in case of resistance. In addition, petitioners going to Beijing to alert the central government are often forcefully sent back home, sometimes violently, without getting any redress.

When they do not become homeless, the evictees have to live in smaller apartments in remote suburbs or with relatives. So, paradoxically, urban modernisation contributes to insalubrity, precariousness, marginalisation and impoverishment. In the absence of an effective welfare housing policy in order to alleviate such disastrous consequences on the population, this makes people more vulnerable to further violations of their rights (rights to food, water, health, education, work).

***Recommendations:***

**FIDH calls on the Human Rights Council to urge the Chinese authorities to:**

- **Adopt full-fledged legislation replacing the existing National Regulations of 1991 and 2003, enshrining the right to housing and expressly prohibiting forced eviction as a principle, in conformity with the ICESCR;**
- **Establish a meaningful and well-funded welfare housing program in order to ensure full respect of Article 11 combined with Article 2.1 of the ICESCR, which oblige States to use "all appropriate means" to promote the right to adequate housing;**
- **Ensure that the current national regulations, and later the full-fledged legislation, are enforced against State agents or third parties who carry out forced evictions illegally;**
- **Put an end to any form of repression against citizens peacefully advocating for the respect of their housing right, as well as to the lawyers defending them;**
- **Implement the recommendations of the UN CESCR of 2005, notably provide information relating to the number of persons evicted within the last five years;**
- **Address a standing invitation to all UN independent human rights mechanisms, in particular the UN Special Rapporteur on the right to housing.**
- **Incorporate the *Basic Principles and Guidelines on Development-based Evictions and Displacement* into national legislation and policy.**