

THE LEGAL TIME BOMB OF URBAN REDEVELOPMENT

BY LIU QING

Urban redevelopment in China's major cities has led to the forced relocation of countless families, many under highly disadvantaged circumstances. Liu Qing observes how chronic discontent over these clearance projects demonstrates the inadequacy of legislation in the face of deficient enforcement and implementation.

China has clear regulations regarding use and ownership of property through its constitution, civil code, urban real estate management law and other relevant laws. However, as top Chinese lawyer Gao Zhisheng pointed out in a recent interview with the *China Economic Times*, officials at all levels of the bureaucracy routinely operate as if these laws don't exist.

In theory, transactions of sale, lease or urban clearance should allow individuals and real estate developers to deal with each other on an equal basis. But in reality, Gao said, individuals are at a considerable disadvantage compared with corporations, and in forced clearance situations it is rare for an individual to be compensated with a home equal in size or value to the one he is losing.

Discontent over neighborhood redevelopment is a chronic problem in China, with complaints typically falling into five categories:

1. Economic inequity. Residents claim that compensation for their homes is inadequate and not in conformance with stated policy.
2. Forcible execution. Residents feel they are offered no chance to negotiate with developers before being evicted from their homes, and are sometimes left homeless because of inadequate compensation.
3. Personal oppression. Residents who refuse to leave their homes prior to clearance are often subjected to oppressive tactics such as extended detentions.
4. No means of appeal. Government officials and courts seldom pay heed to residents appealing decisions to clear their neighborhoods.
5. Government officials in league with developers.

Residents of redeveloped neighborhoods sometimes find that government officials have a personal stake in the redevelopment project that makes them unsympathetic to complaints.

In Shanghai discontent over urban redevelopment projects has come to a head with large groups of displaced residents staging protests and attempting to petition central authorities in Beijing.

In early March this year, a group of 45 people, including Wang Mingqing and Sun Dongming, was prevented from petitioning Beijing authorities with their grievances over the terms and compensation offered to them in the redevelopment of their neighborhoods.

The group represented only a small proportion of the people protesting clearance terms. The conflict with developers and local officials had already been simmering for some time without a mutually acceptable resolution, and many people had been warned or placed under tight surveillance. The timing of this petition attempt was particularly sensitive because of meetings held in Beijing by the National People's Congress and the Chinese People's Political Consultative Conference.

In an attempt to circumvent heightened security measures, the petitioners split into several small groups and traveled to Beijing separately, then gathered together upon their arrival on March 6. The petitioners proceeded to the State Letters and Visits Department of China's State Council, but officials there would not accept their petition, so they moved on to the China Construction Department. There they were greeted by a large contingent of plain-clothes police officers and an official from the Shanghai municipal petitions office, who had apparently anticipated their arrival.

The petitioners were warned not to "stir up trouble" during the NPC and CPPCC meetings, then were surrounded and forced onto two buses, which delivered them to the Beijing train station in time for the 8:00 train back to Shanghai. Police officers loaded the petitioners into one carriage and guarded the exits at each end for the duration of the journey, prohibiting the petitioners from walking around or getting anything to eat. After the train arrived back in Shanghai at 10:00 the next morning, Shanghai public security police and housing relocation officials escorted the protesters home,

chiding them all the way. At least one petitioner, Huang Shizhen, was arrested and detained overnight.

That afternoon the deputy general secretary of the Shanghai municipal government, Chai Junyong, listened to the petitioners' views and promised to resolve the problem as soon as possible. But the protesters, doubtful of an acceptable outcome after protracted discussions, continued to exert pressure by their own methods.

On April 5 representatives of more than 300 households, including Ai Furong and Wang Huiyang, approached the Shanghai Mayor, Han Zheng, and the Municipal Party Secretary, Chen Liangyu, during memorial activities at a cemetery for the Qing Ming Festival and requested a meeting to discuss serious breaches of personal and property rights in a clearance operation. The encounter caused considerable

May 1 brought a public protest in front of the Shanghai Municipal Government offices on Kang Ping Road, with 132 protesters ignoring restrictions on large gatherings to prevent the spread of the Severe Acute Respiratory Syndrome (SARS) epidemic.

The protesters, including Chen Wanying, Chen Baoliang, Zhang Gongyuan, Li Jianyong, Sun Dongming and Wang Qiaojuan, gathered at 2:30 that afternoon and began shouting slogans such as, "SARS is frightening, but forced removal is even more frightening," and "SARS is terrible, but dictatorship is even more terrible."

After about half an hour, more than 200 Public Security Police sealed off the area, rounded up the protesters and loaded them into two buses. Protesters who arrived later were dispersed from the scene by police. The arrested protesters



A home scheduled for demolition in a Shanghai redevelopment zone. Photo: Reuters.

tension among the officials, who called 300 police officers to the cemetery to ward off the possibility of physical conflict.

Finally Chai Junyong, the Deputy General Secretary, came forward to accept a petition from the resident representatives, and promised in writing that municipal officials would meet with the representatives on the afternoon of April 14. But on that day officials cancelled the meeting at the last minute and sent police to disperse the representatives who had turned up. More than 30 representatives, angry at the rebuff, went to the Shanghai train station and several of them, including Kang Xiuzhen, purchased tickets to Beijing for April 17. But almost immediately police arrested and detained the representatives and confiscated their train tickets.

were sent to police stations in 14 different districts. One protester, Zheng Wanfeng, managed to telephone his family on his cell phone and told them not to expect him home that night.

Later in the month, on May 20, a group of more than 150 prospective petitioners were met by a large number of police officers at the Shanghai train station and prevented from boarding the train for Beijing.

Some of the protesters were soon released, but at least 80 were detained at police stations throughout the city. Sources said that some of the detainees, including elderly women, were forced to stand for extended periods and deprived of timely access to food and drink.

Among the detainees was a Hong Kong resident, Shen Ting (Sam Ting), who was helping her mother, Mo Zhujié,

Voices of the Dispossessed

Following are testimonies of two families displaced in urban redevelopment projects in Shanghai.

My name is Song Adu. I am seventy years old, and I lived in a home on Zhong Shan Road West in Shanghai's Xuhui District before the neighborhood was cleared.

In the 20-odd years since China embarked on its openness policies, the people's living standards have continued to improve. But even today, under the rule of law, President Jiang Zemin's "three represents" policy and constitutional law, here in the great international city of Shanghai some local officials in collusion with corrupt elements suppress the basic requests of the ordinary people and deprive them of their human rights.

In 2001 the Real Estate Management Department of Xuhui District organized a relocation committee for the stated purpose of clearing a squatter area and redeveloping the land. The State Construction Department had announced that starting on November 1, 2001 it would provide compensation for redeveloped property based on the current market value, but the Shanghai municipal government began forcibly clearing districts before this policy was implemented. Officials threatened that if I didn't go along with their demands they would forcibly evict me. I disagreed with their assessment, because my property had an area of more than 300 square meters, but they assessed it at only 246 square meters.

I am a person of humble background, and I have worked hard all my life. In the 1980s the State Land Department issued me an occupancy permit to build a house on this land. At that time I borrowed a large sum of money from friends and relatives, and under very difficult circumstances managed to build a home in which to spend my twilight years. Through frugal living I eventually paid off all my debts and expected to live out my remaining years in peace. But certain officials of Xuhui District had something else in mind.

At 3:00 in the morning on August 22, 2002, as I lay sound asleep, several unidentified persons burst into my home and with fascist methods bound, gagged and beat me. My son, who was visiting me at the time, was coerced into confessing to arson. Ultimately the authorities were unable to make the charge stand, and it was changed to "obstructing a public official," for which my son was sentenced to one year in prison. After my son's trial officials came to me repeatedly and said that if I signed a paper agreeing to the destruction of my home they would release my son. My health deteriorated under the pressure, and I developed arteriosclerosis.

They leveled the house that I built with my own hands. I have no home to return to, my son is in prison, and my family and friends have been sent into a deep depression. I

resolve difficulties arising from the destruction of her home in a clearance operation. Other detained protesters included Song Adu, Yao Xueying, Chen Xiuqin, Min Daohua, Jiang Baozhen, Yu Xuefeng, Chen Wanfeng, Wang Qiaojuan and Zhang Jungun.

The persistence of these protesters is easier to understand when considering the ways in which their rights have been abused, sometimes even to the point of injury or death.

For example, the home occupied for several generations by Sun Meizhen's family measured 140 square meters (about 1260 square feet), but the real estate company redeveloping the neighborhood only agreed to compensate the family for a 30 square meter unit.

Other examples related by the lawyer Gao Zhisheng to the *China Economic Times* include Liu Fengchi, a descendent of the Qing Dynasty emperors and an army veteran who was injured in battle, who had lost all but one of 138 residential units he owned in the redevelopment of Chongwen District. Li Changhua, also a resident of Chongwen District, had his electricity and water supply cut off when he refused to move, and finally the demolition crew simply tied him up and carried him away. About 100,000 yuan in cash that Li had been keeping at home disappeared along with other belongings, and his electrical appliances were destroyed. In Min'an Hutong in Beijing's Dongcheng District, residents said the developer never signed any kind of agreement with them or provided them with any other kind of documentation before razing their homes to the ground.

Clearance operations have been blamed for the death or serious injury of a number of householders in Shanghai, including the following:

- Ma Yufen of Shenyang Road, Lane 132, #2, drowned herself in the river after being forcibly removed from her property.
- Sun Jiafu of 233 Meizhou Road committed suicide two days after being forcibly removed from his property.
- Liu Guilan of Shenyang Road, Lane 60, #53, suffered a heart attack and died soon after being forced from his property.
- She Youlong of Hangzhou Road, Lane 23, #19, likewise succumbed to illness soon after being forcibly removed from his home.
- Ding Guozhang of 215 Meizhou Road also died soon after removal.
- Dai Xiaodi of 27 Renmin Road died as a result of his forced removal. His daughter, Dai Yuying went to Beijing many times to petition over this tragedy, only to be detained and sent back to Shanghai. Finally she was sent to a reeducation through labor camp.
- A man surnamed Wang, residing at Lane 474, 5 West Beijing Road, was severely beaten when he refused to leave his home during a clearance operation.
- In Debao Yicun in Shanghai's Jing'an District clearance workers pushed an unemployed worker, Chen Genbao, down the stairs on the third floor of his building on December 20, 2002. He was taken to the hospital, but because he was unable to provide a cash deposit he did

not receive adequate care, and two days later he died.

Outraged at the injustice, Chen's family took part in the May 1 protest.

Among dozens of others severely beaten by police officers and security guards during clearances are Chen Xiangshan, Zhang Zhiping, Zhang Shihua, Zhou Jianping, Sun Jiahong, Zhou Jinshan, Zhou Guixiang and Wang Zhongbao.

Still other protesters have been taken into custody:

- Qian Guining, a ticket seller at a public transport company, was forcibly removed from her home in Luwan District, and went to Beijing more than ten times to petition. Not only did she not receive any satisfaction for her complaint, she was arrested and sent to a reeducation through labor camp for three years. Her family took part in the May 1 protest on her behalf.
- Li Jianyong was detained for 14 days, and has now been put under 24-hour surveillance.
- Chen Huafang, who has attempted to petition Beijing officials more than ten times, has had dozens of police officers surrounding her home and monitoring her every move.

The ongoing panic over SARS seems a small matter to many of these families, as they face the destruction of their homes and sometimes even physical injury if they do not accept the situation easily. As an employee of a software company told reporter Xie Guangfi of *China Economic Journal*, "I'm not afraid of SARS. We're about to be deprived of our home and property, so who wants to think about life and death issues?"

Exacerbating the frustrations of the Shanghai protesters and forcibly relocated families elsewhere in China is their lack of legal recourse. Lawyer Gao Zhisheng told the *China Economic Times* that Chinese law allows for forced evictions only when an occupant has refused to vacate a property after signing an agreement to do so. Most evictions so far have been illegal, Gao said, because they have taken place without an agreement signed by both parties. Gao believes China's legal system is unable to protect the legal rights of householders who lose their property to urban redevelopment. Although many of the clearance victims are as well-versed in the relevant laws as most lawyers, Gao said, because of the realities of China's legal system, not one such plaintiff has won a case in court and the vast majority have not even had their cases accepted for trial.

A few lawyers have been willing to represent relocated families, only to be penalized themselves in various ways. The most well-known example is Zheng Enchong, who has represented more than 500 families involved in forced clearances for urban redevelopment. Zheng was unable to win a single case for his clients, and finally officials cancelled his license to practice law and blacklisted him as a troublemaker.

Even after losing his law practice, Zheng has taken every opportunity to impress one message on the authorities and society in general: "In planning the redevelopment of portions of the city, the authorities have failed to provide a public hearing process; in determining compensation, the authorities have failed to provide a fair assessment board;

can only despair for our country's future when contemplating this situation.

Because the corruption of certain individuals has putrefied the atmosphere for all of society, and their treatment of the nation's laws as a child's game has made legal recourse difficult for ordinary people, in 2001 I began reporting these matters to all relevant government departments. But the officials derided me as the father of a criminal.

The laws and constitution guarantee the sacred right of every citizen to express complaints to the relevant officials, but in the eyes of corrupt elements petitioning is regarded as causing trouble and the petitioner is just a rabble-rouser. I was arrested several times and detained at police stations for two or three days at a time without being allowed to eat or sleep. Through their abusive practices officials have deprived me of my right to petition and have kept my son in custody, and I have been unable to resolve my relocation problem.

As the people's knowledge of the rule of law increases, and they learn more about how to protect themselves through the law, I hope that the new leadership under the 16th Party Congress will be willing and able to justly and objectively address the problem of officials oppressing the people.

From the Web site of a Shanghai real estate company, Shining Property (http://www.shiningproperty.com/districts_en.asp):

Xuhui District is one of the most prestigious living areas of the city and is home to Shanghai Jiao Tong University, known as one of the four elite universities of China. Xuhui has the lowest population density of downtown districts, but the highest concentration of cultural and scientific institutions. Xuhui has traditionally been an upper class living area and recent development has born that out with many luxurious villas and apartments being developed in Xuhui. The area still has many beautiful old villas left over from colonial days. The convergence of 5 main roads (including Huai Hai Road) in Xujiahui represents the main center in the district. "To live in Xuhui" is becoming a fashion.

My name is Yang Meigui, and my home is at 99 Duolun Road, which is a historical preservation area of Shanghai's Hongkou District. My husband's family, surnamed Zhao, lived in their freestanding house for nearly 100 years. Four generations of the family toiled to build and preserve this house. Originally the family also owned property at 93 Duolun Road, but in 1958 my husband's father, Zhao Shixing, was sent away for reeducation through labor and it was only with great difficulty that the family managed to hold onto 99 Duolun Road through the Cultural Revolution. After all this, it is hard to believe that in today's rule of law era, the children and grandchildren of the Zhao family, including my son, Zhao Hanxiang, could be driven from their home and left with no roof over their heads. Zhao Shixing's wife is now more than 80 years old and has experienced a great deal of pain in her life. I can only ask,

what has happened to the idea of “living peacefully and working happily”? Where is the law?

Through unreasonable policies a few people have been able to break our country’s law and demolish most of the buildings and environment of the historical preservation area in Duolun Road. The Zhao family resisted their unlawful actions and went to court many times, only to be defeated, because the others had legal documentation, they had the necessary official stamps, they had demolition permits.

For the sake of widening a roadway, a large number of buildings had to be demolished. Is the focus now on preservation or demolition? The legal dispute over Duolun Road reflects another problem: Duolun Road was changed into Cultural Street. Isn’t the destruction of most of its buildings and environment in conflict with the law? Shanghai is a great international metropolis, and a city’s urban planning has to be understood and supported by all of its residents. Shanghai’s 11 historical preservation districts have been protected by local residents for several generations. It should not be possible for a few people to destroy this in a matter of a few days. This is a crime against the preservation efforts of all residents.

At present 99 Duolun remains standing in its original spot. But a certain official of Hongkai District, for the sake of his personal policies, has shown contempt for the law throughout the court system, especially in the Shanghai Municipal Supreme Court, and has placed his own power higher than that of the constitution. Such officials drive us property owners out to wander homeless. They have taken away all of our property, and we don’t even have any tears left to cry.

From the Web site of China Radio International (www.cri.com.cn/english/2002/Jul/65260.htm):

Cultural Street, a typical Shanghai lane about half a kilometer long, is located in the northern part of this famous East Chinese city. Many celebrated Chinese cultural icons lodged there during the 1920s and 30s. Former residents include Lu Xun, father of modern Chinese literature, and other well-known writers such as Guo Moruo, Mao Dun, Ye Shengtao and Chen Wangdao. Their former lodgings are still kept in good condition today. . .

One of the venue’s administrators, Wang Farong, explains why the street formerly known as “Duolun Road” was established by the district municipal government.

“The district government established the cultural street with the aim of protecting our cultural heritage and carrying forward our national spirit. So many famous cultural figures once lived here, so many political figures and big merchants before the founding of New China had their mansions there. Also, one can witness the cultural and historical development of the city in the 20s and 30s, how it grew from a small fishing village into an international metropolis with typical Shanghai lanes alongside numerous pieces of international architecture. Hence there is a saying--- Duolun Road reflects the old Shanghai 100 years before the People’s Republic of China”.

Testimonials translated by Stacy Mosher

when disputes have arisen in negotiations over clearance, there has been no just, objective and independent judicial recourse. As a result the problems arising from neighborhood clearance have not had any effective legal solution. Administrative problems have become social problems, and in some cases have even become political problems.”

As a first step in addressing the chronic problems attached to urban redevelopment projects, Zheng Enchong advocates amending Article 10 of China’s Constitution to take into account the interests of residential property owners.

In the meantime it appears that householders from redeveloped neighborhoods will continue to brave SARS and arrest to fight for their rights, not because they don’t know better, but because in their desperation they feel they have no choice.

China has many more such disregarded people whose rights have been violated to such an extent that social unrest is inevitable. The causes of discontent are rooted in the official system. While there is hope that the authorities might be able to work out an equitable resolution with protesters in individual situations, no long-term solution will be possible until the authorities address the systemic flaws that put developers at such an unfair advantage over individual householders.

In particular the government needs to ensure that laws applying to redevelopment projects are executed thoroughly and fairly, and to make revisions in laws and procedures where necessary. That is the only way to permanently defuse the time bomb ticking below Shanghai’s surface.

Translated by Stacy Mosher

Postscript:

On May 28, 2003 Shanghai’s Jing’an District People’s Court began hearing a lawsuit by Shen Junsheng, Ma Kangyi, Zhou Daye, Wei Qin, Ding Jundi and Zhang Yulan representing 2,159 original residents of a property in West Beijing Road. The plaintiffs claim that Jing’an officials improperly allowed a company controlled by a wealthy businessman, Zhou Zhengyi, to redevelop the 43,429 square meter property without paying a land lease valued at 300 million yuan.

Developers can avoid paying for land use rights if they return displaced residents to the redeveloped site, but the plaintiffs allege that Zhou Zhengyi moved them to a fringe district with very poor transportation and communication links.

The residents have also written an open letter to President Hu Jintao and State Council Premier Wen Jiabao claiming that Zhou Zhengyi was a close confederate of Huang Ju, a member of the Standing Committee of the Communist Party Politburo, when Huang was mayor of Shanghai.

Zhou Zhengyi (also known as Chau Ching-ngai), now a resident of Hong Kong, is the chairman of Shanghai Nongkai Development Group, and was named by Forbes Magazine as China’s 11th richest person. His wife, Mo Yuk-ping, was arrested by Hong Kong’s Independent Commission Against Corruption on June 2 on suspicion of bank fraud.

On June 6th Shanghai police arrested lawyer Zheng Enchong. He is accused of illegally obtaining and revealing state secrets.