
HOMELESSNESS, HUMAN RIGHTS AND THE LAW RESOURCE BULLETIN
Edition No 13 – November 2006

Published by [Homelessness Legal Rights Project](#)
Gilbert + Tobin Centre of Public Law, UNSW, Australia
in partnership with the [PILCH Homeless Persons Legal Clinic](#)
Funded by the NSW Law and Justice Foundation

In this Edition, read about...

CAMPAIGNS, CASE LAW AND ADVOCACY..... 2

- *Charge against Homeless Person for using Public Toilets – Video of Arrest Causes Concern – Queensland Homeless Persons Legal Clinic – October 2006** 2
- * Urgent Alert – Impending Forced Eviction of Caravan Residents at Casa Paloma Caravan Park – Liverpool City Council, New South Wales – Update** 2
- *Coalition of NGOs submits Urgent Communication to the UN Special Rapporteur on Adequate Housing, UN Special Rapporteur on the Right to Health, the Independent Expert on the Right to be Free from Extreme Poverty, the Special Rapporteur on the Rights of Women and the Special Rapporteur on the Rights of Indigenous People – November 2006** 3
- *Housing Rights Violations in Victorian Boarding Houses Exposed – Minister pledges Law Reform and increased Funding for Case-Management – October 2006** 4
- *Campaign to Encourage Vote by People experiencing Homelessness underway in lead up to Victoria State Election – PILCH Homeless Persons Legal Clinic – October 2006** 5

NEWS AND EVENTS..... 5

- *‘Economic Social and Cultural Rights Workshop: Advocacy, Litigation and Implementation Strategies – Facilitated by Malcolm Langford, Centre on Housing Rights and Evictions – Human Rights Law Resource Centre – Melbourne, Victoria – Thursday 30 November 2006** 5
- * Loddon Campaspe Community Legal Centre to establish New Homeless Persons Legal Clinic Bendigo - Funding support provided by Clayton Utz Foundation - February 2007** 5
- *New South Wales Legal Aid Commission develops Strategy to improve Service Delivery to People who are Homeless – November 2006** 6

INTERNATIONAL DEVELOPMENTS..... 6

- *International Non-Government Organisations working with People living in Poverty in Informal Settlements and Slums around the World Promoting the Right to Security of Tenure and Adequate Housing – Overview – November 2006** 7

PUBLICATIONS AND RESEARCH..... 8

- * Theresa H. Wang, Trading the People’s Homes for the People’s Olympics: The Property Regime in China (2006) 15 *Pacific Rim Law and Policy Journal* 599 8
- *Centre on Housing Rights and Evictions, *Housing and ESC Rights Law Quarterly* – Vol 3(2) July 2006** 8
- *Centre on Housing Rights and Evictions, *Defending the Housing Rights of Children* - New Report - June, 2006** 8

CAMPAIGNS, CASE LAW AND ADVOCACY

Charge against Homeless Person for using Public Toilets – Video of Arrest Causes Concern – Queensland Homeless Persons Legal Clinic – October 2006*

A client of the Homeless Persons Legal Clinic in Queensland unsuccessfully defended charges of contravening a police direction, issued under the move-on power contained in the *Police Powers and Responsibilities Act 2000* (QLD), as well as an assault and obstructing police charge after he was told to move away from public toilets where he was getting changed. When the homeless man asked for more time, five police officers pinned him to the ground and kned him. The client, a 65 year old pensioner, had been living on the streets for months after experiencing a depressive illness as a result of the death of his wife of over 40 years.

On 27 October 2006, the Magistrate found the pensioner guilty on all charges but determined not to record a conviction in light of his personal circumstances. The Homeless Persons Legal Clinic has now lodged an appeal to the District Court. As noted by his lawyer, Monica Taylor,

Our view is that public space laws disproportionately and detrimentally impact on homeless people because they're heavy users of public space. Because homeless people in that situation have no alternative but to conduct their very private activities in public, they become overly susceptible to police interest and, therefore, the public space laws (ABC TV 7.30 Report, 30 October 2006)

For press coverage of the case, see:

- The Age at <http://www.theage.com.au/news/National/Inquiry-sought-into-Old-police-training/2006/10/27/1161749300527.html>;
- The Daily Telegraph at <http://www.news.com.au/dailytelegraph/story/0,22049,20673460-5001028,00.html>;and
- ABC TV 7.30 Report Transcript at <http://www.abc.net.au/7.30/content/2006/s1777152.htm>.

*** Urgent Alert – Impending Forced Eviction of Caravan Residents at Casa Paloma Caravan Park – Liverpool City Council, New South Wales – Update****

Contributions by Nassim Arrage, Tenant's Union of New South Wales, and Ken Fernandes, Asian Coalition of Housing Rights

In the September 2006 Edition of the *Homelessness, Human Rights and the Law Resource Bulletin*, an Urgent Alert was included regarding an impending forced eviction of residents from the Casa Paloma Caravan Park as a result of a private development proposal by Berlyn Properties Pty Ltd to turn the caravan park into a manufactured home park. The development proposal was under consideration by the Liverpool City Council in New South Wales.

A range of individuals and non-government organisations from Australia and internationally responded to the Urgent Alert, including the Federation of Community Legal Centres in Victoria, the Punjab Urban Resource Centre (Pakistan), Eviction Watch and Urban Poor Associates (Philippines), Lumanti Support Group for Shelter (Nepal),

Urban Resource Centre (Pakistan), Borderlands Cooperative, Sahmakum Teang Tnaut Phom Penh (Cambodia), GetUp Australia, Public Interest Law and Advocacy Project (Cambodia), Hallam Goad (Cambodia), and the Homeless Persons Legal Rights Project (Australia). Appeal letters were forwarded to the Council calling on the housing rights of residents to be respected.

On 10 November 2006, the Liverpool City Council gave development consent to the proposal. This decision will mean the eviction of Casa Paloma's permanent residents. Currently, there are close to 50 households that will be affected. The Council has placed a condition on development approval that residents are to be paid between \$1000 and \$2000 depending on how long they have lived in the park and payment of an additional \$500 to those with dependent children and those who are frail or disabled. This additional payment is at the developer's discretion. If the residents want to return after the development, they will need to pay between \$100,000 and \$150,000 to buy a new home. The remaining residents cannot afford to pay that amount of money for a new home.

The Tenants' Union of NSW is assisting the residents explore their legal and alternative housing options.

The residents want to express their gratitude to all those who wrote Appeal Letters and the organisations and people who are supporting them to through this process.

Coalition of NGOs submits Urgent Communication to the UN Special Rapporteur on Adequate Housing, UN Special Rapporteur on the Right to Health, the Independent Expert on the Right to be Free from Extreme Poverty, the Special Rapporteur on the Rights of Women and the Special Rapporteur on the Rights of Indigenous People – November 2006*

The PILCH Homeless Persons Legal Clinic and the Human Rights Law Resource Centre have coordinated and compiled an NGO 'Urgent Communication' which has been sent to key UN Human Rights Mandate Holders in Geneva, including the Special Rapporteur on Adequate Housing, and the Special Rapporteur on the Rights of Indigenous People. The Urgent Communication details the various ways in which the violation of people's housing rights are leading to broad-based human rights violations for some of the most disadvantaged communities in Australia. The Urgent Communication calls for the Special Rapporteurs and other UN Human Rights Mandate Holders to take urgent action to investigate these concerns with Australian governments.

According to Kristen Hilton, Coordinator of the Homeless Persons Legal Clinic,

...the report contains current information from a number of wonderful housing and homelessness organisations as well as direct insights from homeless people across Australia. It seeks to further assist and inform the [UN Special Rapporteur on Adequate Housing, Miloon Kothari] in his final country report on Australia to the UN Human Rights Council ... The report is also addressed to the Special Rapporteur on the Right to Health, the Independent Expert on the Right to be Free from Extreme Poverty, the Special Rapporteur on the Rights of Women and the Special Rapporteur on the Rights of Indigenous People. The report elucidates the practical implications of the violations of housing rights and the impact that this has on other human rights. It is hoped that the information contained in the report will prompt independent investigations into these areas.

With lead coordination and drafting by HLPC and HRLRC, the Report is the culmination of efforts by a network of non-government organisations working to promote the basic rights of people facing homelessness and poverty, including the Tenants Advice Service of WA (Michelle Bergemeister and Rob Spinks), Shelter Northern Territory (Jonathon Pilbrow), Homeless Persons Legal Clinic South Australia (Bill Manallack), Australian Federation of Homelessness Organisations (Elena Roseman), Homeless Persons Legal Clinic Queensland (Monica Taylor), Urban Seed Victoria (Sue Hogan), ACT Council of Social Services (Llewellyn Reynders), and the Homelessness Legal Rights Project at the University of New South Wales (Cassandra Goldie).

To view the NGO Urgent Communication to the United Nations Mandate Holders, go to <http://www.pilch.org.au/files/ZAIUK2V1EI/Urgent%20Communication%20Housing%20-Final.pdf>.

To view the August 2006 Preliminary Observations regarding Australian Housing Rights Violations by the Special Rapporteur on Adequate Housing, go to: http://www.ohchr.org/english/issues/housing/docs/preliminary_observations_230806.doc.

Housing Rights Violations in Victorian Boarding Houses Exposed – Minister pledges Law Reform and increased Funding for Case-Management – October 2006*

Recent press coverage in *The Age Newspaper* in Victoria has brought to public attention the large number of boarding houses that are operating under sub-standard conditions whilst charging high rates to people who are facing homelessness and have few or no other options for securing some form of housing. The Tenants Union of Victoria has been reporting cases to the Department of Consumer Affairs with limited success. The Housing Minister has recently announced her intention to review the *Residential Tenancies Act* with a view to increasing legislative standards of protection for boarding house residents, as well as \$6.6 million ‘to fund case workers trained to intervene before vulnerable people slide into homelessness.’

To view a copy of *The Age* report, go to <http://www.theage.com.au/news/national/state-crackdown-on-dodgy-rooming-houses/2006/10/27/1161749315265.html>.

For details on the campaign by the Tenants Union of Victoria to achieve legislative reforms to the *Residential Tenancies Act* to require minimum community standards of health, safety and energy efficiency, go to http://www.tuv.org.au/social_change/current_projects.aspx and download the Rental Standards Information Sheet (March 2006).

Campaign to Encourage Vote by People experiencing Homelessness underway in lead up to Victoria State Election – PILCH Homeless Persons Legal Clinic – October 2006*

The PILCH Homeless Persons Legal Clinic, the Council to Homeless Persons and the Victorian Electoral Commission are undertaking a community education campaign to support and encourage the participation of people who are homeless in the up coming Victorian State Election on 25 November 2006. Information Kits are to be distributed through a network of outreach and community-based housing and other access points.

For more information, see the Press Release at <http://www.pilch.org.au/files/3U44AAZCJ1/Voting%20Press%20Release.pdf>.

NEWS AND EVENTS

‘Economic Social and Cultural Rights Workshop: Advocacy, Litigation and Implementation Strategies – Facilitated by Malcolm Langford, Centre on Housing Rights and Evictions – Human Rights Law Resource Centre – Melbourne, Victoria – Thursday 30 November 2006*

This free Workshop will cover a range of practical issues relevant to Australian lawyers and advocates aiming to promote economic, social and cultural rights, including examples of litigation using both civil and political rights as well as ESC rights laws to promote better social policy outcomes for people in areas such housing and health. Malcolm Langford is a human rights lawyer with the Centre on Housing Rights and Eviction, an international human rights organisation based in Geneva. He is also European Research Associate at the Australian Human Rights Centre and a Senior Research Associate at the University of Mannheim in Germany. Malcolm has published over forty articles and books on human rights with a major book, *Socio-Economic Rights Jurisprudence: Emerging Trends in International and Comparative Law* to be published by Cambridge University Press in late 2006. His other publications include *Road to a Remedy: Current Issues in the Litigation of Economic, Social and Cultural Rights* (2005).

For more information or to register, go to the Human Rights Law Resource Centre website at http://www.hrlrc.org.au/html/s02_article/article_view.asp?id=138&nav_cat_id=140&nav_top_id=60&view=&history=1&gback=home&dsa=224.

*** Loddon Campaspe Community Legal Centre to establish New Homeless Persons Legal Clinic Bendigo - Funding support provided by Clayton Utz Foundation - February 2007****

Contribution by Peter Noble, Principal Solicitor, Loddon Campaspe Community Legal Centre

The Loddon Campaspe Community Legal Centre, based in Bendigo, has recently been successful in securing a two year Foundation Fellowship from the Clayton Utz

Foundation to provide the funding to employ a graduate solicitor to establish a new Homeless Persons' Legal Clinic (as well supporting the establishment of an Older Persons' Legal Program).

This is the inaugural Clayton Utz Foundation Fellowship and will commence by February 2007. The Fellowship scheme has been established to build capacity for the community legal sector in regional and remote Australia.

The new Homeless Persons' Legal Clinic in Bendigo will be established through collaboration between the Loddon Campaspe Community Legal Centre and the PILCH Homeless Persons' Legal Clinic, based in Melbourne. PILCH had identified Bendigo as an ideal location to trial a regional service, which will be the first of its kind in Victoria. Bendigo is ideal for the trial partly due to the well-established and mobilised social housing services network.

Clayton Utz is already an active provider of pro bono services to PILCH and has considerable expertise in the delivery of legal services to people who are homeless.

New South Wales Legal Aid Commission develops Strategy to improve Service Delivery to People who are Homeless – November 2006*

Contribution by Monique Hitter – Legal Aid Commission of New South Wales

The NSW Legal Aid Commission recently identified homeless people as a priority group requiring specialised service delivery to support their specific legal needs. It is now in the process of developing a cross-program approach to improve the access and range of legal aid services available to homeless people in metropolitan and regional areas of New South Wales.

The Commission is intending to address some of the barriers experienced by homeless people to obtaining legal assistance by developing a comprehensive package including community legal education initiatives. Legal officers can also access a web-based accommodation referral directory administered by the Commission's social workers.

The Commission is also considering specific training for duty lawyers in working with the homeless including communication skills in dealing with clients with mental illness.

The Commission intends to work closely with other agencies providing legal services to homeless people such as the Homeless Persons Legal Service (HPLS), including support and training for volunteer lawyers particularly in family and criminal law.

INTERNATIONAL DEVELOPMENTS

International Non-Government Organisations working with People living in Poverty in Informal Settlements and Slums around the World Promoting the Right to Security of Tenure and Adequate Housing – Overview – November 2006*

Globally, it is estimated that more than one billion people living in inadequate housing conditions and a further one billion people live without security of tenure or access to clean and affordable drinking water. In the Asia-Pacific Region alone, it is estimated that 570 million people live in slums or informal settlements, with no security of tenure, adequate shelter or other minimum standards of housing, recognised as a human right under the United Nations *International Covenant on Economic, Social and Cultural Rights*. The role of the law and the legal system in advocating for the fulfilment of these has its place in achieving progressive reform and improvement of conditions. However, any reform process must involve organisation and mobilisation by people living in these communities to build their capacities to lead reform processes in conjunction with government authorities, funding bodies, and non-governmental advocacy and development organisations including legal groups. A number of international non-government organisations are dedicated specifically to supporting grass-roots, community-driven initiatives to improve housing conditions and fulfil housing rights. The evident success of developments that are driven by community people is perhaps an important lesson for Australian communities experiencing housing crisis and homelessness. To read more about these community-based initiatives, go to:

Asian Coalition of Housing Rights www.achr.net

ACHR recently organised an exchange between survivors of Hurricane Katrina, and survivors of the Tsunami in Southern Thailand, and in Aceh, Indonesia. The visits are a part of the series of ACHR's Survivors' Dialogue Exchanges to promote people centred recovery efforts. To read the inspiring exchanges during these visits, go to <http://www.achr.net/achrdownloads.htm>.

Homelessness International www.homeless-international.org

Homelessness International works in Africa and Asia to support local communities to address poverty and improve living conditions. It has recently profiled two articles about the successes of community-drive approaches to land and housing development by people living in poor urban communities.

Read the article by Diana Mitlin and Sheela Patel, *Re-Interpreting the Rights-Based Approach – A Grass-Roots Perspective on Rights and Development* (2005) at <http://www.gprg.org/pubs/workingpapers/pdfs/gprg-wps-022.pdf>.

Read the article by Celine d'Cruz and David Satterthwaite, 'The Role of Urban Grassroots Organisations and their National Federations in Reducing Poverty and Achieving the Millenium Development Goals' (2006) 2(1) *Global Urban Development Magazine* at <http://www.globalurban.org/GUDMag06Vol2Iss1/d'Cruz%20&%20Satterthwaite.htm>

PUBLICATIONS AND RESEARCH

*** Theresa H. Wang, *Trading the People's Homes for the People's Olympics: The Property Regime in China* (2006) 15 *Pacific Rim Law and Policy Journal* 599**

This article provides an analysis of the extensive practice of forced evictions in the Peoples Republic of China, particularly in the lead up to the 2008 Olympics. It is estimated that the preparations for the Olympics have resulted in the forced eviction of about 300 000 people every year. The evictions occur often with force, and almost invariably without any compensation and offers of alternative accommodation.

Aware of the global attention that the Beijing Olympics would attract, many countries with an eye on China's treatment of human rights supported the bid in hopes that the government would respond by loosening its social controls. Instead of fulfilling these aspirations, the [Chinese Communist Party] has responded to evictee protests with incarceration and other methods of suppression, disregarding petitions and international calls for legal reform while touting advances toward the rule of law. This inconsistency, given China's current position on the world stage, cannot continue unnoticed or overshadowed by the country's wealth.

The author provides suggestions for legal and policy reform that would be more coherent with international human rights standards.

Centre on Housing Rights and Evictions, *Housing and ESC Rights Law Quarterly – Vol 3(2) July 2006**

For the latest edition of the COHRE Housing and ESC Rights Law Quarterly, go to http://www.cohre.org/view_page.php?page_id=125.

The Quarterly includes a round of recent domestic, regional and international legal cases that deal with the protection and promotion of economic, social and cultural rights, including the right to adequate housing. This edition includes a feature on the use of collective complaints procedures in Argentina, made possible through constitutional amendments in 1994, to pursue effective remedies for housing and health rights violations, as well as an update on the efforts to achieve adoption of an *Optional Protocol* to the *International Covenant on Economic, Social and Cultural Rights*, and summarises several housing rights cases, including litigation against the Government of Italy in support of Roma people's housing rights using the *Revised European Social Charter*. The Charter places a number of duties on States parties to protect economic, social and cultural rights including a duty to promote access to housing of an adequate standard (art 31(1)) and the duty to prevent and reduce homelessness with a view to its gradual elimination (art 31(2)).

Centre on Housing Rights and Evictions, *Defending the Housing Rights of Children - New Report - June, 2006**

The Centre on Housing Rights and Evictions has released a new report that documents the diverse and extensive ways in which children experience housing rights violations contrary to international legal norms, around the world. The Report estimates that over

150 million children live on the streets with over 40% of those children being literally homeless in that they have no other place to live and are typically alone. UNICEF estimated in 2005 that, in total, over 650 million children lived in sub-standard housing conditions, which fell below international housing rights norms. The Report also provides country-specific examples, such as , in India, it is estimated over 18 million children are ‘pavement dwellers’ living on the streets and in Britain, one in 12 children will suffer health problems attributable to living in poor housing conditions.

The Report calls on all countries to, *inter alia*, develop a national strategy for the protection of children’s housing rights, provide security of tenure for all children and their families, and prioritise vulnerable children in all matters relating to housing. The Australian government currently does not have policies in place to achieve these outcomes.

To download a copy of the Report, go to <http://www.cohre.org/index.php>.

To subscribe to the moderated Homelessness, Human Rights and the Law Email List, email majordomo@explode.unsw.edu.au with the message 'subscribe homelessness-humanrights'.
To unsubscribe, email majordomo@explode.unsw.edu.au with the message 'unsubscribe homelessness-humanrights'.
To post a message to the List, email to homelessness-humanrights@explode.unsw.edu.au.