

STREET RIGHTS

newsletter of the pilch homeless persons' legal clinic
issue 53 september 2009



The streets of Phnom Penh are all hustle and bustle - hawkers sell their wares, tuk-tuk and moto drivers pitch to uncooperative customers at every opportunity and the smell of noodle soups and BBQ meats waft from a dozen different roadside restaurants. At first glance, Phnom Penh looks like a city on the move and full of life, but beyond a tourist's fleeting glance you can see that Cambodia is a country of both light and darkness.

For many Cambodians, the horrors of the genocide that occurred here 30 years ago under the Khmer Rouge are a constant memory. Alongside the country's struggle out of that darkness is its economic progress, including large infrastructure projects and property developments. The massive gap between rich and poor here makes it difficult to tell what the benefits of this development are.

The poverty gap is obvious on the streets of Phnom Penh where brand new Hummers, Mercedes and 4WDs cruise the city streets, and the pavement is crammed with poor hawkers selling string bracelets and young children begging. Many Cambodians live without access to healthcare, education or a social security system.

As an intern with the South-East Asia Program of the Centre on Housing Rights and Evictions (COHRE) I've been exposed to one of the huge social costs of the Cambodian government's push for economic progress; the forced eviction of thousands of families from their homes. There have been two ma-

Amy Barry-Macaulay interns at the Centre for Housing Rights and Evictions (COHRE), Cambodia

major forced evictions this year in Phnom Penh alone. The Dey Krahorm eviction of 24 January 2009 saw over 300 police and security hired by the private company developing the land, forcibly evict over 400 families in the early hours of the morning. More recently, over 78 families were forcibly evicted from their homes to make way for a new development. Any day now, another large community of over 3000 families bordering the Boeung Kak Lake area in Phnom Penh is at risk of eviction by a private company. The company has already begun to fill in the Lake to create more land for development.

These evictions are illegal under international human rights law. In particular, they violate the right to adequate

housing. They have a broad impact on the lives of those affected by the evictions - they make families poorer, jeopardise their physical and mental health, disturb children's education and make families more vulnerable to other violations of their human rights.

Forced evictions continue in Cambodia with support of the government. The people affected by the evictions are ig-

nored. Local and international organisations like COHRE do their best to assist the people affected by the evictions but it is incredibly difficult to help them and advocate on their behalf when the Cambodian government refuses to engage.

The work that I am doing with COHRE has opened my eyes to the complex social and economic issues in developing nations. It has also made me really appreciate the right to freedom of expression and the many opportunities individuals and organisations have in Australia to conduct effective advocacy and lobbying around important human rights issues.

A win for the HPLC!

The HPLC was last month awarded the prestigious Melbourne Award for Contribution to Community. According to the Lord Mayor, the awards "celebrate the achievements and courage upon which our city is founded. As well as honouring our shining lights, they also inspire other potential achievers to make their contribution." The award was given in recognition of the outstanding work of the HPLC team past and present and the fantastic contribution of our law firm members and volunteer lawyers who provide assistance and advocacy for some of our community's most marginalised and disadvantaged people.



Some changes to Team HPLC

The HPLC is very pleased to welcome James Farrell as the new Manager and Principal Lawyer of the HPLC. James comes to PILCH from Corrs Chambers Westgarth. Also joining the HPLC this month is lawyer Caris Cadd on secondment from Freehills until March next year. Caris is also a team leader and volunteer lawyer at our newest women's clinic in St Kilda. We are very glad to have her on board.

What are My Rights? Victims of Crime Compensation

If you have been a victim of a violent crime that was committed in Victoria, you may be able to get compensation.

Victims of violent crime can apply to the Victims of Crime Assistance Tribunal (VOCAT) to receive financial help. This financial help is intended to cover expenses that you incurred as a result of the crime - for example, any medical or counselling bills that you had to pay.

Who can apply?

If you want to apply for assistance you must have been the victim of an act of violence that has occurred in Victoria. The crime has to be punishable by imprisonment on conviction, and have resulted in injury or death to at least one person.

There are three types of victims who can receive compensation:

1. someone who is injured or dies as a result of the violent act (a **primary victim**);
2. a victim who is injured as a result of witnessing a violent act, or who becomes injured after becoming aware that their child has been the victim of an offence (a **secondary victim**); and
3. a victim who is a close family member or dependent, or a person who had an intimate personal relationship with someone who has died as a result of a violent act (a **related victim**).

You can apply to receive financial assistance if the injury you received was physical or mental. For example, a victim of rape may have suffered both physical or mental injuries for which they could receive financial assistance. Except in special circumstances, the crime which caused the injury must have been reported to the police. In most circumstances, the crime must have oc-

curred on or after 1 July 2000.

How much assistance can I receive?

VOCAT will award different levels of compensation depending on whether you are a primary, secondary or related victim. Primary victims can receive financial assistance of up to \$60,000. Secondary or related victims can be awarded up to \$50,000. It can be paid as a lump sum or in instalments. If VOCAT decides that you are unable to look after the money yourself, it may be held in trust for you.

Am I guaranteed to get assistance?

No. VOCAT could refuse to give you assistance for a number of reasons, including if:

- VOCAT decide that the act of violence was not reported to the police within a reasonable time;
- You did not give reasonable assistance to the police or anyone else who investigated the act of violence; or
- You are making the application with the person who allegedly committed the act of violence.

How do I apply?

You will need to fill out an 'Application for Assistance' form and submit it to VOCAT. You can get the form from the VOCAT website (www.vocat.vic.gov.au) or by calling them on 1800 882 752.

The form needs to set out all the circumstances relating to the act of violence including the nature of injuries or cause of death, and whether the matter was reported to the police. You can apply to have the application decided without a hearing, but VOCAT may decide that a hearing would be better if you have not provided enough information to allow them to make a decision.

Q&A

Caris Cadd
Freehills



What inspires you to volunteer as an HPLC lawyer?

It's fantastic the way that HPLC gives clients in need the opportunity to access legal advice and also allows us to make a small difference. It's good to feel that I can use those 5 years of uni and the skills I've learnt at work to help someone directly. I also really enjoy handling my own files and the contact I get with clients.

What do you do when you're not being a lawyer?

I'm not originally from Melbourne so I'm still enjoying discovering new parts of Victoria and going to all the different events and festivals that Melbourne offers. This year I have been helping set up a vineyard in the Yarra Valley - it takes up most of my weekend but it's good to get outside and do something physical after a long week in the office.

If you do decide to have a hearing you can appear by yourself or with a lawyer. VOCAT is intended to be more informal than a court hearing. You will be notified of VOCAT's decision in writing.

For more information, or if you would like help to make an application to VOCAT contact the HPLC on 1800 606 313.

The CAG Chronicle September 2009

As part of the CAG, we are often asked to attend to the educational task of speaking to students. Earlier this month, myself, James Farrell (the HPLC Manager), and another CAG member presented to students at La Trobe University. We spoke about the HPLC and the role of the CAG, and also had the chance to relate our own personal dialogues about our experiences of homelessness. The event was quite a success - the convenor thanked us heartily and invited us to return next year to repeat the event.

Last month the Lord Mayor's Charitable Fund held a homelessness forum at the Town Hall, which was well presented and attended. A member of the CAG was invited to be one of 3 guest speakers launching the discussion. She spoke very eloquently and from the heart about her experiences of homelessness, and about 3 important women that had supported her along the way. She received loud applause from the audience. At the forum, the Mayor alluded to the fact that a large sum of money from the fund had been put aside for various homelessness projects in the city of Melbourne. Maybe there is a chance that Melbourne could become a shining light in regards to dealing with homelessness and associated problems.

The comings and goings of HPLC staff and other CAG members has meant that we need to recruit 2 or 3 new members to the CAG. With Caro (the former HPLC Manager) off to the US, Amy on an internship in Cambodia for the next 6 months, other things going on in CAG members' lives and my own illness, we are sadly undermanned. We recently distributed flyers asking for expressions of interest and received a disappoint number of responses. We continue to look for new members to join our group. In the meantime, we must welcome James Farrell as the new HPLC Manager and lawyer Caris Cadd from Freehills who will be with the HPLC until March next year. It is great to have them both on board.

- Diarmuid Shaw

HPLC good news stories

Darren* was issued with a Notice to Vacate from his landlord for an alleged failure to pay rent for 14 days or more. As Darren did not vacate the premises within the time specified in the Notice, his landlord applied to VCAT for a possession order.

HPLC lawyers attended the hearing on Darren's behalf and requested an adjournment of the application for a possession order. At the time of the hearing, Darren was over \$3000 in arrears because he had stopped paying his rent after receiving the Notice to Vacate.

Darren was successful in adjourning his landlord's application for a possession order on the basis that VCAT was satisfied that arrangements could be made to avoid financial loss to the landlord. On behalf of Darren HPLC Lawyers proposed that, in addition to his fortnightly rental payments, he would pay an additional \$200 toward the arrears. Under this arrangement, Darren would pay back the arrears in about 7 months. VCAT was satisfied that there would be no financial loss to the landlord if these arrangements were put in place and adjourned the landlord's application for a possession order.

* Name have been changed

Subscribe

Please contact 1800 606 313 or hplc@pilch.org.au to subscribe, or to have your say.

The HPLC provides free legal advice at these locations and times:

Melbourne Citymission
214 Nicholson Street
Footscray 3011
Mon: 10:30am - 1:00pm
Footscray train station - Tram 82 (Droop St)

Ozanam House
179 Flemington Rd
North Melbourne 3051
Tues: 10:00am - 12:00pm
Flemington Bridge train station
Trams 55, 59, 68 (Flemington Rd)

Urban Seed (Credo Café)
174 Collins St, Melbourne 3000
(Approach via Baptist Pl, off Little Collins)
Tues: 12:00pm - 1:00pm

St Kilda Crisis Contact Centre
(for women and their accompanying children)
29 Grey St
St Kilda 3182
Tuesdays 12pm - 3pm
Trams 79, 96, 112

Flagstaff Crisis Accommodation
9 Roden St,
West Melbourne 3003
Tues: 1:00pm - 2:30pm
North Melbourne train station - Tram 57
(Victoria Street)

Salvation Army Life Centre
69 Bourke Street
Melbourne 3000
Tues: 12:30pm - 2:00pm

The Lazarus Centre
203 Flinders Lane
Melbourne 3000
By appointment - call 9639 8510

St Peter's Eastern Hill
15 Gisborne Street
East Melbourne 3002
Wed: 7:30am - 9:00am
Parliament train station - Trams 24, 42, 109 (Victoria Parade)

Hanover Southbank
52 Haig St, Southbank 3205
Wed: 1:15pm - 3:00pm
Southern Cross train station - Tram 112
(Clarendon Street)

HomeGround Housing
1A/68 Oxford Street
Collingwood 3066
Thurs: 12:00pm - 2:00pm
Collingwood train station - Tram 86 (Smith Street)

VACRO
116 Hardware Street
Melbourne 3000
Thurs: 1.00 - 3.00pm
Melbourne central station - Tram 19, 57 and 59
(Elizabeth Street)

Koonung Mental Health Clinic
Friday 1pm - 3pm
Level 1, 43 Carrington Road
Box Hill 3128
Ph: (03) 9843 5800

The Big Issue
148 Lonsdale Street
Melbourne 3000
Fri: 2pm - 3pm

St Luke's Anglicare
175 Hargreaves Street, Bendigo
Every Friday, 10am - 12pm

PILCH
Level 17, 461 Bourke Street
Melbourne, VIC 3000
(03) 8636 4408 or 1800 606 313
www.pilch.org.au