

STREET RIGHTS

NEWSLETTER OF THE PILCH HOMELESS PERSONS' LEGAL CLINIC

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HOMELESSNESS & PROBLEM GAMBLING: CONSUMER PROTECTION & THE VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES

On 26 June 2007, PILCH and the HPLC presented at *Who's Taking Responsibility for Gambling Harm*, an international conference hosted by The Council of Gamblers' Help Services and the City of Yarra. The presentation illuminated the link between problem gambling and homelessness and considered how the Victorian Charter of Human Rights and Responsibilities ('Victorian Charter') may assist and protect the rights of problem gamblers and their families.

A 2005 study by the South Australian Department for Families and Communities found that problem gambling can be a pathway into homelessness if it reduces an individual's capacity to pay their rent/mortgage or causes credit and debt issues. Problem gambling can also contribute to family breakdown which may result in one or both partners seeking new accommodation with limited financial means. The study also found that problem gambling creates a new category of homelessness. There is evidence to suggest that problem gambling may trigger homelessness for people who would not otherwise be at risk of homelessness, given their personal circumstances and socio-economic profile.

The joint presentation also highlighted the problem gambling related casework undertaken by PILCH and the HPLC. An example of the casework discussed was a matter that settled with a bank, where a customer received an offer for a new credit account despite the bank being on notice that the customer had a history of problem gambling.

The application of the Victorian Charter to gambling legislation was also discussed, particularly the potential relevance of the right to freedom from discrimination on the basis of problem gambling, and the right to protection of children and families where one or more parent is a problem gambler. Conference attendees were invited to contact PILCH and the HPLC if they identify systemic issues with the current gambling legislative framework that may be redressed through strategic rights-based litigation or law reform initiatives.

Louise Edwards
PILCH Seconded Solicitor

THE NATIONAL YOUTH COMMISSION INQUIRY INTO YOUTH HOMELESSNESS

The National Youth Commission Inquiry into Youth Homelessness is due to submit a draft report to the Federal Government in September. It is the first independent inquiry since 1989 into youth homelessness.

HPLC lawyers Mat Tinkler and John-Paul Cashen made submissions to the inquiry on major legal issues facing youth, including public transport infringements. They argued that access to public transport is part of the basic human right of freedom of movement. Given that access to services and a connection to the community are vital to young people, a safe, affordable and reliable public transport system is an essential factor in promoting movement out of homelessness.

A significant number of disadvantaged young people are facing fines and debts associated with public transport. Many of these people are homeless and some suffer serious mental illness or drug addiction. Often, their circumstances mean they simply cannot afford a ticket at the time of travel. As a result, they are unable to reach essential support, advocacy, health and welfare services without the fear of being fined. The escalation of debt with each non-payment exacerbates the problem, leading to further emotional and psychological stress.

The HPLC submitted that the *Infringements Act*, which came into effect on 1 July 2006, has been a step in the right direction. It acknowledges, to a degree, that some people are genuinely unable to pay fines and may have had little control over the circumstances causing the infringement. This acknowledgement lies in the broadening of the class of people who may be eligible to revoke their fines on the basis of special circumstances without having to appear in court. People who face homelessness, have drug and alcohol problems or mental illnesses are now eligible to apply to have their fines revoked.

However, there is still a long way to go. The HPLC stressed that the system needs to wholeheartedly recognise that young people experiencing homelessness should not be subjected to the criminal justice system.

Anu Nagar
PILCH Volunteer Intern

NEWS BULLETIN

For the past four months the HPLC has been involved in an exciting photographic project called *No Forwarding Address: Homelessness Through Our Eyes*. The project's aim has been to challenge negative stereotypes and raise awareness in relation to issues of homelessness in Melbourne. Volunteer artists have been partnered with professional photographer mentors in order to develop their skills and confidence so they can produce photos which capture their unique life experiences. Through this process, the project also hoped to empower people who have been otherwise disadvantaged and marginalised, and to act as a celebration of their talents and skills.

The *No Forwarding Address* exhibition will be on display at Federation Square from 5-12 August 2007, coinciding with National Homeless Persons' Week. It will give the artists involved the opportunity to share their inspirational stories and showcase their amazing works. As a second part to the project, a series of free postcards, featuring the work of some of the artists, will be produced and distributed to further help raise community awareness.

We hope to see as many of you there as possible – we promise you won't be disappointed!

GOOD NEWS STORIES

*Names have been changed

Housing: HPLC lawyers acted for a Sarah* and her two children who were facing forcible eviction from their public housing. VCAT had made a 'possession order', the basis of which was that Sarah had 'permitted' her husband to traffic drugs from her home. In fact, Sarah was estranged from her husband, there had been a history of domestic violence and she had no knowledge of the alleged drug dealing. HPLC lawyers applied to the Supreme Court arguing that Sarah was denied natural justice in that she was not represented and did not have an adequate translator present at the VCAT hearing. They also argued that there was insufficient evidence that she had 'permitted' the illegal activity to take place. After hearing the arguments, the Director of Housing reconsidered the case and agreed to drop any action for eviction.

RIGHTING AUSTRALIA'S NATIONAL HOUSING CRISIS

In a recent Canadian poll housing affordability came in just behind national security as most the important issue for Canadians. The Canadian government responded promptly to concerns by releasing a new housing affordability and homelessness plan. Earlier this year in the French national elections, housing and homelessness became major campaign issues after a cleverly organised campaign around rising homelessness saw people from all levels of French society camping in protest along the Seine in one-man tents in the middle of winter.

It remains unclear just what needs to be done in this country to get our federal government to take housing issues seriously. Unfortunately, the federal government's dismissive response to a recent UN report which investigates the state of the housing in Australia offers little promise that we will start to see a new commitment to making housing more accessible and affordable for all Australians.

The report presented at the UN Human Rights Council in Geneva in mid-June, is based on observations made by the UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, during his three week visit to Australia in August last year. In his report, Kothari describes what he saw as a 'serious hidden national housing crisis' that in some parts of the country has resulted in a 'humanitarian tragedy'.

The report highlights appalling housing conditions for indigenous people, women (particularly those fleeing family violence) and the large homeless population spread through our cities, our towns and in the bush. The report concludes that Australia has failed to implement its obligations to fulfil the right to adequate housing. The report also makes a number of specific, practical recommendations, including the establishment of a national housing ministry, increased spending on public housing and crisis accommodation services, and the amendment of various laws that impact disproportionately on people experiencing homelessness. It also stresses the need for greater consultation with groups that are most significantly affected by inadequate housing.

That we are in the grip of a housing affordability crisis will come as little surprise to most Australians. Latest estimates indicate that 35% of low-income households are under 'housing stress' meaning that their housing costs are so great that there is not enough left over to meet other basic needs.

But instead of engaging with the substance of the report, instead of tackling the issues in a constructive way, the government admonished the UN for dedicating its resources to a country where human rights violations are not 'serious', dismissing the report as 'unbalanced' and 'inadequate' and pandering to 'special interest' groups.

Not only does such a statement reveal a critical misunderstanding of what the Australian government's obligations are in relation to the right to adequate housing – that is to devote the maximum of its available resources to ensure conditions that allow all people to live with basic dignity – it suggests that adequate housing is low on the government's priority list.

The government's response is not just bad news for diplomacy it is bad news for the 100,000 people across Australia who experience homelessness on any given night. It is bad news for those who are regularly refused crisis accommodation because of a desperate lack of resources. It is bad news for those who, even after 10 years, are still waiting for public housing. And, it is bad news for those low and middle income Australians who are feeling the pinch of high rentals and impossibly high mortgage repayments.

Consider for a moment the response of the Spanish government, which was also criticised for the poor state of housing in some areas of Spain. While not conceding to all of the issues raised, Spain welcomed the analysis and the practical recommendations for reform and committed itself to addressing low levels of public housing.

One of the primary criticisms in the Australian report is that there appears to be very little political will at a federal level to tackle the issue of affordable, safe and culturally appropriate housing in a long-term, holistic way. Unfortunately the government's reaction seems to serve only to reaffirm this point.

Let's hope that the response was just hot headed and reactive. Let's hope that upon a more sober reflection of the report there will come recognition of the fundamental importance that having somewhere safe and secure to live plays in every social, employment, educational, justice and health initiative. Let's also hope that the state and territory governments to whom the same human rights obligations apply, step up to the plate and show that these are serious issues that are worthy of serious attention.

The Australian Federal Government recently announced a budget surplus – its tenth in eleven years – of \$10.6 billion. With domestic and international pressure mounting, surely it is now time for the government to understand that unless there is long-term, comprehensive investment into addressing the housing crisis and its consequences, those relegated to the footnotes of the government's economic success story will hit the front page.

Kristen Hilton
HPLC Coordinator

THE CLINIC PROVIDES FREE LEGAL ADVICE AT THESE LOCATIONS AND TIMES:

The Big Issue
148 Lonsdale Street
Melbourne 3000
Mon: 10:00am - 11:00am

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, Melb 3000
Tues: 12:00pm - 1:00pm

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

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 Pde)*

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

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

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

PILCH
Level 1, 550 Lonsdale St
Melbourne VIC 3000
(03) 9225 6684
www.pilch.org.au