

STREET RIGHTS

newsletter of the pilch homeless persons' legal clinic
issue 49 may 2009



Righting the Wrongs of Homelessness

Over the past two months, the HPLC has been conducting workshops with people experiencing homelessness about the National Human Rights Consultation that is currently taking place throughout Australia. The National Human Rights Consultation is a government initiative, which is considering whether Australia needs to improve its protection of human rights.

The purpose of conducting these workshops was to promote active, informed and inclusive participation in the Consultation by people experiencing homelessness; people who are often excluded from engaging in important community debates. The workshops gave people an opportunity to learn more about human rights and have their say, based on their own personal experiences, about the current condition of human rights in Australia. Participants at the workshops considered the three questions posed by the National Human Rights Consultation:

- 1) Which human rights and responsibilities should be protected and promoted?
- 2) Are human rights currently sufficiently protected and promoted?
- 3) How could Australia better protect and promote human rights?

The HPLC's submission to the Consultation will be greatly informed by the many comments and ideas put forward by participants at the workshops.

Some of the human rights that participants' considered most important were:

The right to **adequate housing**;

The right to **social security**, which enables people to access basic necessities and live life with dignity;

The right to **education**;

The right to enjoyment of the highest attainable standard of **health**;

The right to **equality and freedom from discrimination**;

The right to a **fair hearing**; and

The right to be treated with **dignity and respect**.

All participants agreed that human rights are not currently sufficiently protected or promoted in Australia. Participants recommended many ways to improve protection of human rights in Australia including by introducing a Federal Human Rights Act and by undertaking a human rights education and awareness campaign across the country and throughout all sectors of the community.

Many participants completed their own written submissions, which are being sent directly to the government. All workshops participants also completed a survey, the results of which will be sent to the government to demonstrate the issues and concerns raised by people experiencing homelessness. Some of the key things people are telling us:

Over 85% of participants said that accommodation and housing services in Australia are either inadequate or very inadequate.

Over 80% of participants stated that the amount of social security that they receive is inadequate to meet their most basic needs.

Over 80% of participants reported having been treated in a cruel and degrading way while experiencing homelessness.

99% of participants said the law must change to better protect their human rights.

99% of participants said that Australia should have a Human Rights Act that adequately protects their human rights.

The HPLC hopes that the government will listen and pay attention to the many comments and ideas given by workshop participants. We will make these clear in our submission, and the survey results will also be provided to the government. We also strongly encourage the government to carefully consider the articulate written submissions of people who are experiencing homelessness. These individual submissions clearly describe how people experiencing homelessness endure daily violations of their human rights.

It is extremely important that the Consultation listen to the voices of the voiceless in our community; the powerless, the disadvantaged; the marginalized; the people who endure daily violations of their human rights. The government must listen to these people because they know. They know about human rights violations from their own experiences, and they can tell the government what needs to be done to ensure that their rights are better protected.

Finally, the HPLC extends its sincere thanks to the many people who participated in our human rights workshops. Thank you for your time and expertise and for openly and courageously sharing your stories with us. We hope that we do justice to your stories and experiences in our submission. Most importantly, we hope that the government delivers you justice by improving protections of your human rights.

What are My Rights? Public Order Offences

Without a home to go to, people experiencing homelessness are often forced to conduct their private activities in public. The public nature of their conduct is what brings many homeless people into contact with police and other law enforcement agencies. So what are your rights and obligations when you're in public?

Can I drink alcohol in public?

Drinking alcohol in public is not necessarily illegal. Whether you get in trouble with the police will depend both on your behaviour and what local council you are in.

For example, in the City of Yarra you are allowed to drink alcohol in public (including on the streets), but in the CBD of Melbourne it is completely prohibited. If you are found drinking alcohol or in possession of an open bottle in the CBD area, you could be fined \$100 by the police or council. Outside of the CBD, drinking alcohol (responsibly) in public parks and gardens is generally not illegal.

The situation is different if you are underage, found drunk, or drunk and disorderly in a public place. In this case, you could be fined or charged with a criminal offence and asked to attend court.

The police can also issue on-the-spot fines of about \$225 for failing to leave licensed premises when requested.

Can I swear in public?

It is illegal to use indecent language or behave in a way that is likely to scare, anger or hurt someone in public, or within the hearing or sight of a public place. If caught, police have the choice of issuing an official warning, an on-

the-spot fine of about \$225, or charging you with a criminal offence and directing you to attend court.

The penalty the police choose will depend on how offensive your behaviour is, and who it is directed towards. It is important to remember that the police are more likely to charge you and ask you to go to court if the offensive behaviour is directed at them.

Can I leave my belongings in a public place?

It is not against the law to leave your belongings unattended in public. They might get stolen, but you won't get in trouble with the police.

Most people who sleep in public places don't encounter any problems with leaving their swags or other belongings lying around. It is only if the Council receives a complaint (perhaps because of the area you are sleeping in) that they may consider taking your things to the Council depot or police station for safe keeping. You may also find a notice on your things saying that they will be taken by the Council if they are not removed from that particular area. If you find that your belongings have moved from where you last left them, you should contact your local police station or head down to your local Council depot.

What other offensive behaviour may I get in trouble for?

If you purposely damage property, the police can now issue an on-the-spot fine of up to \$500.

Going to the toilet in a public place is also illegal, and you may be fined \$250 if you're caught. You also can't

Q&A

Eddie Bao
Mallesons Stephen Jaques



What inspires you to volunteer as an HPLC lawyer?

HPLC is a chance for me to practice what I think as 'everyday' law - things that are important to individuals on a daily basis. It's great to help people on a personal level and see it make a difference to their everyday lives. And it's also handy when friends ask me those legal questions to try to avoid paying fines.

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

Soccer takes up quite a bit of my spare time whether it be playing futsal with mates, supporting the Melbourne Victory or the Socceroos. I plan to be in South Africa in June 2010 cheering on the Socceroos (and seeing them win the world cup!)

deliberately expose yourself in a public space or where you can be seen from a public place. If you do, you can be fined or asked to go to court. At court you may get a fine and there is a chance you will go to jail.

What do I do if I receive a fine?

If you have received a fine or have been charged with any of the above offences, please contact the Homeless Persons' Legal Clinic for information or advice on 1800 606 313 or go to www.pilch.org.au/hplc.

The CAG Chronicle May 2009

With everyone's minds fixated on this global recession, we've come close to losing our Australian sense of self-worth, empathy and, most importantly, our ability to believe that we as individuals can go through our day-to-day lives with a sense of worthiness and happiness.

We've marvelled at the notion of two endangered pandas seeking 10 years asylum in an Adelaide zoo in an effort to help with the survival of the species - **but what of the human species?** Our country has and will continue in its expanse of multiculturalism, and it's only according to our old ways of racial indifference that we hinder any of the good to come from this.

I'm a 39 year old Australian man. I sit on the Consumer Advisory Group and I am proud to represent and bring to the group my beliefs and experiences that effect the indigenous peoples of this country. I am a proud member of the Wemba Wemba, Warka Warka and Wuradjuri tribes that neighboured one another in the South Easterly regions of our country in the Dreaming. Having a mixed lineage with traces of German, English and Scottish tribes in the kit, I was in my mid 20s when I finally dealt with the dissolutions that arose because of my mixed origins and yearned towards my final identity (a yearning that has stirred my soul since childhood). With the pieces of my identity jigsaw in better stead I believe I now have a grasp on this world with a very unique perspective, just as every individual does.

I believe we reside in one of the worlds luckiest and most resourceful countries. For me, my travels around the globe at age 19 confirmed these notions.

I feel very fortunate that I've been able to follow my dreams and pursue my goals. Of course, I've experienced both the highs and lows that are offered with life and getting through these ups and downs has brought me the internal dialogue that gives me the opportunity to bring a lot to my work with the CAG.

A couple of weeks ago I had the privilege to sit down with some very intelligent young people in a human rights roundtable gathering to share some ideas concerning the issues of homelessness in our country today. This has only strengthened my resolve. The CAG concentrates on the endemic issues concerning homelessness. Each individual that sits on this panel bring their own personal struggles and strengths to the table. The group has run for a healthy 3 and a half years and I am proud to be one of the original cast members.

- Troy

HPLC good news stories

Kevin, who lived in a rooming house, faced eviction because he had not been able to keep up with his rental payments. He fell behind with his rent when he became unemployed. A few weeks before the birth of his first child, Kevin received a notice from VCAT informing him of a hearing of his landlord's application for his eviction. Assisted by the HPLC, Kevin successfully negotiated a payment plan with his landlord, allowing him to stay in the rooming house and pay his overdue rent back over a period of some months.

Unfortunately, due to circumstances beyond his control, Kevin failed to make one of the payments under this payment plan. However, with further assistance from the HPLC, Kevin succeeded in having the Application for Possession filed against him dismissed by VCAT, meaning that he did not have to repay the rental arrears. Although he was not able to remain at the rooming house, he has found alternative accommodation which is more comfortable and secure, and looks forward to raising his child in a more peaceful environment.

* Names 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

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

Loddon Mallee Housing

Services

20-30 View Street

Every second Tuesday, 2pm - 4pm

St Luke's Anglicare

175 Hargreaves Street, Bendigo

Every second Friday, 10am - 12pm

PILCH

Level 17, 461 Bourke Street

Melbourne, VIC 3000

(03) 8636 4408 or 1800 606 313

www.pilch.org.au