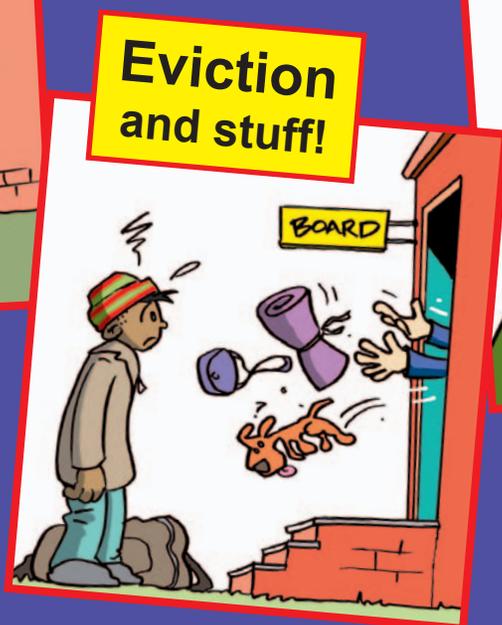


HOMELESS PERSONS' LEGAL SERVICE

Our Rights Matter!



Centrelink!



**Eviction
and stuff!**

Fines!



The voices of those who are or
have been homeless in Sydney

Submission to the National Consultation on Human Rights

15 June 2009

Contents

- 4 WHAT IS THE HOMELESS PERSONS' LEGAL SERVICE?
A closer look at the legal and policy work of the Homeless Persons' Legal Service
- 5 MILK CRATE THEATRE
The work of Milk Crate Theatre, a group producing inspiring and interactive theatre for homeless people.
- 6 STREET CARE
How representatives of the homeless community helped make these events happen!
- 7 HPLS'S HUMAN RIGHTS EXTRAVAGANZA
An overview of HPLS interactive human rights consultations with homeless people
- 11 ARE HUMAN RIGHTS CURRENTLY SUFFICIENTLY PROTECTED?
Homeless people in Sydney have their say about whether their human rights are being protected!
 - 12 THE RIGHT TO ADEQUATE HOUSING?
 - 13 TONY'S STORY
 - 14 THE RIGHT TO SOCIAL SECURITY
 - 15 LINDA'S STORY
 - 16 THE RIGHT TO PERSONAL SAFETY
 - 17 CARMEL'S STORY
 - 18 THE RIGHTS TO FREEDOM OF MOVEMENT AND ASSOCIATION
 - 19 THE RIGHT TO NON-DISCRIMINATION
 - 20 OTHER HUMAN RIGHTS THAT AFFECT HOMELESS PEOPLE
- 21 HOW CAN HUMAN RIGHTS BE BETTER PROTECTED?
A look at how HPLS consulted with homeless people on this vital question.
 - 22 THE PEOPLE'S CHOICE!
 - 23 A HUMAN RIGHTS ACT!

OTHER COMMENTS

Please find attached two documents containing all the comments provided by those experiencing homelessness at one of the consultation events.

Executive Summary

This submission has been prepared by the Homeless Persons' Legal Service (HPLS) on behalf of the homeless community of Sydney

HPLS believes that the Australian Government's announcement of a National Consultation on Human Rights protection should be a chance for us as advocates for homeless people not just to provide our own responses to the consultation questions, but also to listen to the voices and views of people on the streets.

In order to ensure the participation of homeless people in this consultation process, HPLS staged a series of four human rights workshops in homeless shelters throughout Sydney. These were jointly conducted by Milk Crate Theatre, a theatre group that produces theatre for the homeless and disadvantaged community, and funded and supported by the Public Interest Advocacy Centre and lawyers from members of the Public Interest Law Clearing House.

HPLS's Human Rights Extravaganza Consultation events sought to obtain the input of homeless people on two of the National Consultation's terms of reference; how homelessness people feel their human rights are currently being protected and how they could be better protected in the future.

Our consultations revealed a considerable disparity between Australia's international human rights commitments and the day-to-day experience of homeless people. The over 130 homeless people HPLS spoke to believed a wide-variety of their human rights were not being adequately protected; from the right to adequate housing to the right to privacy. They believed that breaches of their Economic, Social and Cultural Rights as well as their Civil and Political Rights directly caused, exacerbated and prevented them from overcoming their homeless status.

HPLS also asked the people we consulted with to vote on how they believed their human rights could best be protected in the future. Overwhelmingly homeless people believed the best way of doing this was through the adoption of a Human Rights Act. Tellingly not one person voted for retention of the current means of protecting human rights.

This submission contains the thoughts and ideas from homeless people about their human rights. We hope that this submission helps to add a human face to the discussion about human rights protection in Australia. We also hope that the stories contained in this book can be a reminder about how the neglect of human rights impacts directly on the lives of vulnerable people such as those experiencing homelessness.

Recommendations

1. That Australian Government adopt a Human Rights Act to best protect the human rights of vulnerable people such as those experiencing homelessness.
2. That a Human Rights Act protect Economic, Social and Cultural Rights as well as Civil and Political Rights.



Homeless Persons Legal Service

Legal help for the homeless and those at risk of homelessness

What is HPLS?



HPLS?

What is

In 2003, following an extensive consultation process HPLS was established by the Public Interest Advocacy Centre (PIAC) and the Public Interest Law Clearing House (PILCH). PIAC is funded by the NSW Public Purpose Fund through the support of the NSW Attorney General. HPLS provides free legal advice and ongoing representation to people who are homeless or at risk of homelessness.

It operates nine clinics on a roster basis at welfare agencies in the greater Sydney area. These are agencies that provide direct services, such as food and accommodation to people in housing crisis. The clinics are co-ordinated by HPLS and staffed by lawyers from PILCH members. Since the launch of HPLS in May 2004 it has provided advice to over 2700 clients.



Milk Crate

Theatre

Milk Crate Theatre is a joint project between the Darlinghurst Theatre Company and Wesley Mission's Edward Eagar Lodge that aims to create challenging and inspiring theatre with, by and for the homeless and disadvantaged community. The highlight of Milk Crate Theatre performances are that they are interactive and allow the audience to take control of the action. During a Milk Crate performance, the feature event is a rehearsed drama which is performed by professional actors from Darlinghurst Theatre Company.



STREET CARE

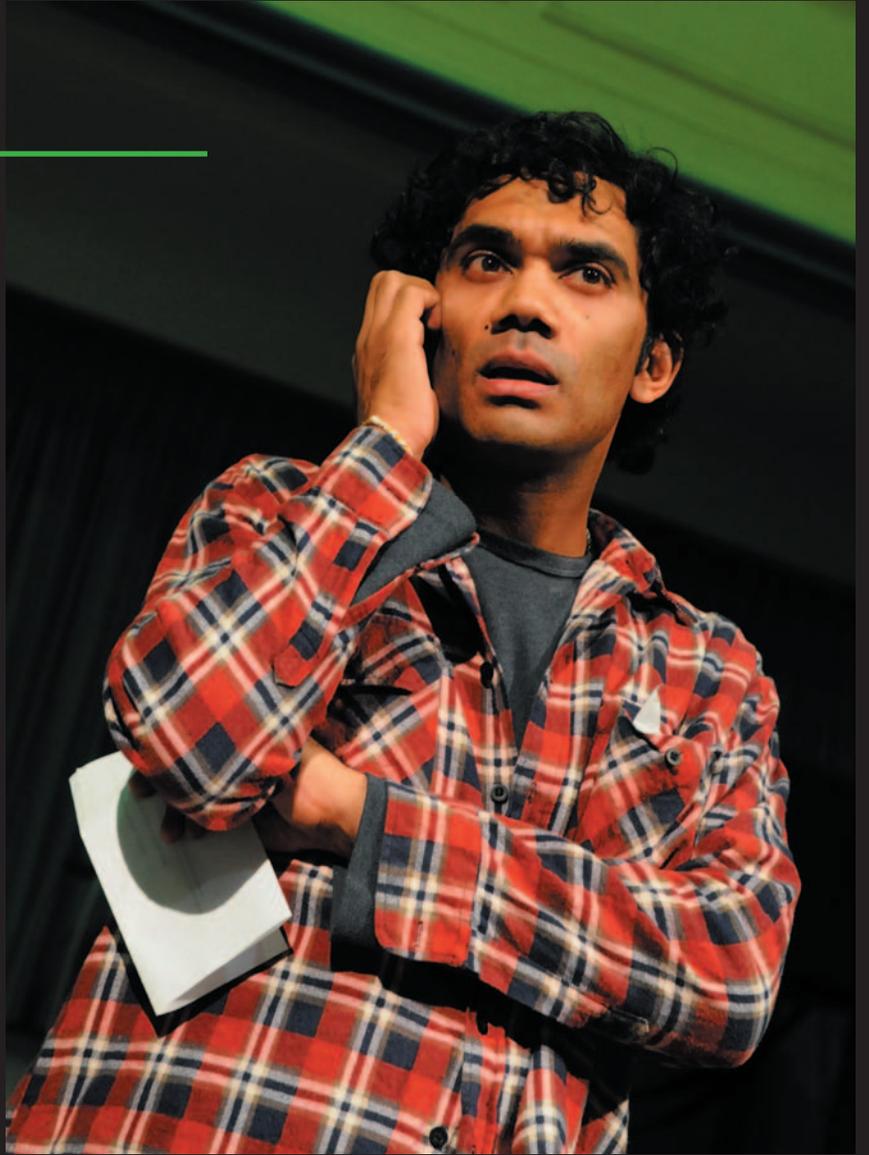
Street Care is an advocacy group consisting entirely of people who have or who are currently experiencing homelessness. Street Care's membership is quite diverse, representing the considerable diversity of experience among homeless people in Sydney.

The first group of this kind in New South Wales, Street Care is set up and supported by the Public Interest Advocacy Centre and the City of Sydney to provide advice to

government agencies and other groups seeking information about the best methods of consulting with homeless people.

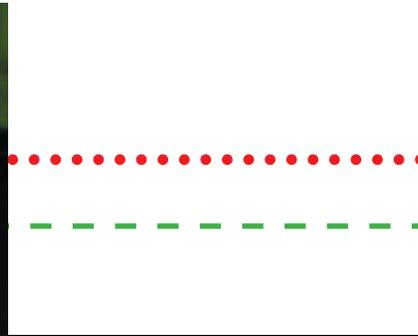
Members of Street Care assisted HPLS and Milk Crate Theatre in putting together the performances and helped conduct the consultations that followed them.

‘
Theatre can act as a rehearsal ground for the outside world, giving oppressed people skills to deconstruct, rethink and articulate their point of view and generally communicate for themselves.



’
Augusto Boal

Human Rights Extravaganza!

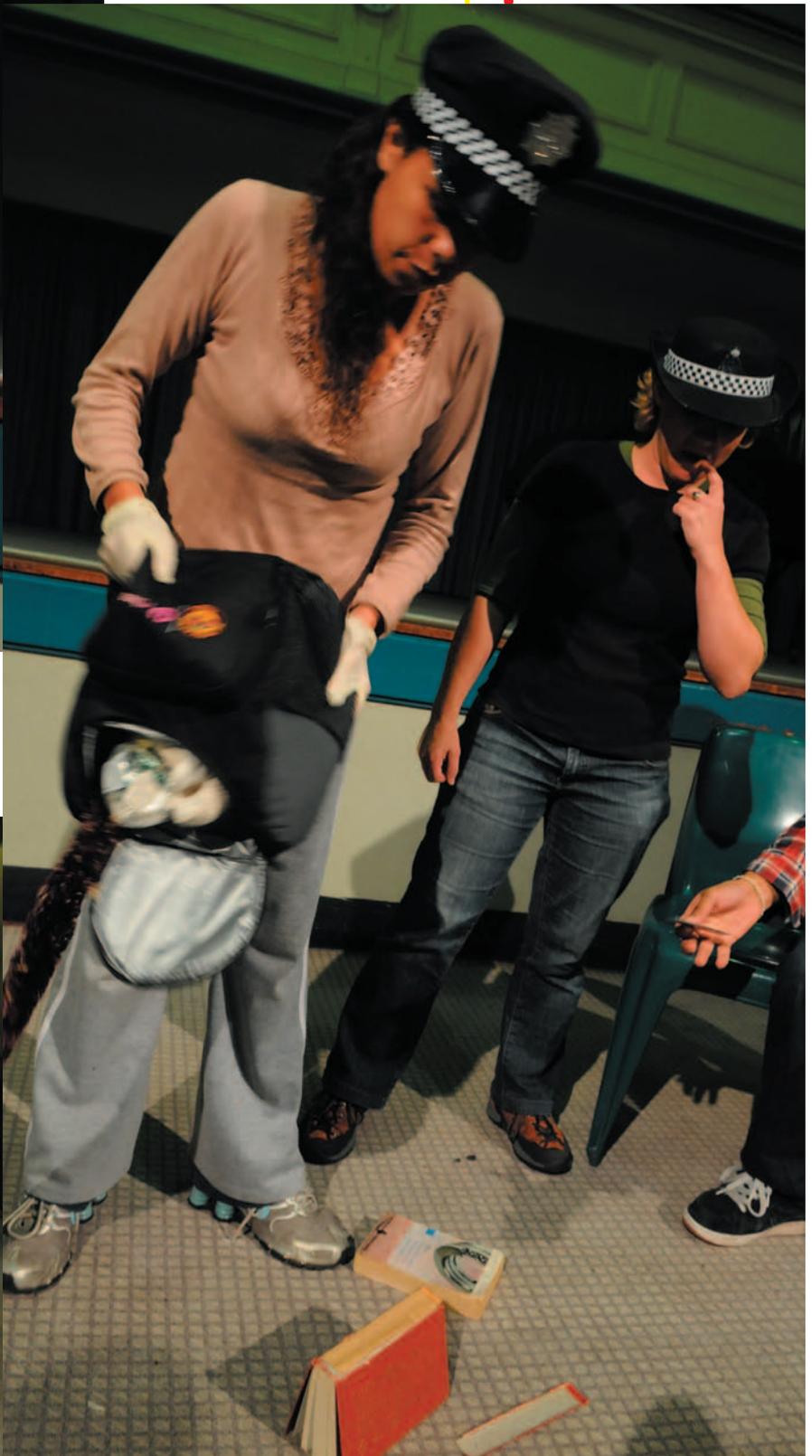


When the Federal Government announced a National Consultation on human rights protection in Australia, HPLS was keen to ensure that the opinions of people living on the streets were heard as part of this process.

In HPLS's experience, traditional consultation mechanisms struggle to effectively engage disadvantaged groups such as homeless people. In order to ensure that HPLS's consultations with homeless people were conducted in an accessible way, they were run jointly with Milk Crate Theatre.

These performances/consultations took place in four homeless shelters in inner-city Sydney: Edward Eagar Lodge (Wesley Mission), Samaritan House (Salvation Army), Newtown Mission (Uniting Church) and Streetlevel Mission (Salvation Army).

At each workshop, the actors from Milkcrate Theatre performed three stories that were inspired by the real life stories of people from the homeless community. Each of these stories reflected and explored a number of different human rights issues and how they are currently protected in law in Australia.



After these stories were presented, the audience was encouraged to throw suggestions that changed the plot and ultimately the outcome of the story, making new decisions for the characters that would achieve more rights respecting outcomes. Audience members also joined the actors on stage and played out their own, or someone else's suggestion. This feedback was captured

and recorded as part of the consultation. After the performance, homeless people in attendance were encouraged to provide their stories and ideas about how their human rights are protected in Australia and how those protections could be improved.

In total, approximately one hundred currently and formerly homeless people attended these consultation events.



This booklet contains the answers, ideas and suggestions that HPLS recieved from members of Sydney's the homeless community during these consultations events.



are HUMAN RIGHTS currently sufficiently protected?

After each of the performances by Milk Crate Theatre, HPLS asked homeless people in the audience if they felt their human rights were being adequately protected.

Australia has ratified most of the major international human rights treaties

such as the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD), the *Convention on the Rights of the Child* (CRC) and the *Convention on the Elimination of all Forms*

of Discrimination Against Women (CEDAW) .

However, it is clear from the comments received during HPLS's consultation events that these international human rights are rarely protected at a domestic level (especially for those experiencing

homelessness).

The following pages contain the answers of homeless people about how specific human rights are currently protected.

'No matter what your education level is, your mental health status' we are all humans first and we need a human rights act.'

The Right to adequate Housing



The right of homeless people to access adequate housing is often undermined by the practices of state and territory government housing agencies such as Housing NSW.

One example of this is the requirement that an applicant for public housing must respond to an offer of accommodation within two days of the letter's date of issue. Those experiencing homelessness have obvious difficulties receiving

mail. If a letter is received at all, it is highly unlikely that a homeless person will obtain it within two days of the letter's date of issue.

Other breaches of this right include the extremely high waiting times for public housing and the lack of available places in Supported Accommodation Assistance Program services.

I applied for priority housing. They told me it would be processed in a couple of months but it has not yet (a year and half later). While I wait I am living in a cockroach castle [a boarding house]. After payment of rent, I have about \$100 a week to live on. Something has to change.

Anonymous story collected at Edward Eagar Lodge

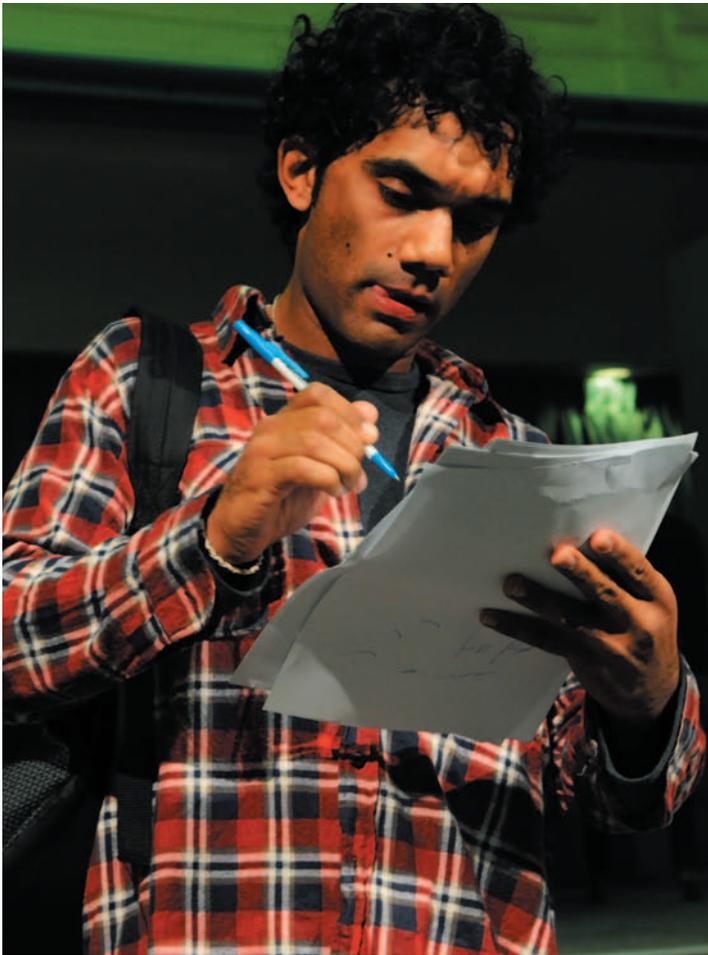
... the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

Article 11 of the International Covenant on Economic, Social and Cultural Rights

I was living in a boarding house where the rent had to be paid 4 weeks in advance. It was also \$460 a fortnight for a small room and \$50 a week for cleaning. It was disgusting; the area was surrounded by drugs and prostitutes. One day I woke up after cockroaches had bitten me. I complained to the owner and was kicked out. When you are homeless you just have to sit back and take it.

Anonymous story collected at Samariath House

TONY'S STORY



'How do they expect me to respond in two days if they know I'm homeless? They can't really expect me to be able to pick up my mail every bloody day!?'

The way homeless peoples' right to adequate housing is currently not being protected or promoted was highlighted during Milk Crate Theatre's performance of Tony's Story.

Tony decided that he needed to get a house and so he began the saga of filling in forms and lining up in queues at Housing NSW. Nine months later, after three separate applications he was just about to give up and resign himself to living on the streets for the rest of his days when one day he went to the drop-in centre where he picked up his mail once a week.

Tony collected his mail to discover that his letter from Housing had finally arrived. The letter told him, 'Your application for housing needs to be discussed. Should you fail to respond to this letter within two working days from the issue date, it will be assumed that you no longer require housing assistance.' The letter was dated over a week before Tony collected it at the drop-in Centre.

The Right to Social Security



Some homeless people do not receive the social security to which they are entitled because of restrictive Centrelink processes. Some people have given up and live from food vans, receiving no money at all. A common reason for this is their feeling of helplessness in the face of the unreasonably high levels of proof of identification documentation required to access a payment. Homeless people have many difficulties retaining identification documents and are often unable to afford the fees for obtaining new documentation.

Even if they are able to obtain social security, many homeless people are unable to meet the strict obligations that are attached to such payments. The requirements include attending job interviews, completing forms and replying to Centrelink correspondence. When these are not met, homeless people are cut-off from their payments and find it very difficult to survive.

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 9 of the International Covenant on Economic, Social and Cultural Rights.

Mutual obligation schemes shit me because all the obligation is on me. There should be a right to the basics. When I needed Centrelink they treated me like a gutter rat. There are more barriers when you need it the most. When things went bad they put up more barriers and made it more difficult – you're judged, classified and not treated like a person.

Anonymous story collected at Samaritan House

I am an asylum seeker who is on a temporary protection visa. To stay on a New Start payment at Centrelink they force me to apply for a number of jobs. I keep applying and taking temporary jobs but I do not speak good enough English to be employed. If I could afford to I would take an English course. I have also had my payment stopped without any reason. When you go to Centrelink they should warn you first before cutting the money out.

Anonymous story collected at Samaritan House

Linda's Story



*But I'm sure all that stuff
I sent to you guys – you
can't be telling me I have to
go through it all over again
– that's just crap – I just
need some money to eat!*

Another example of a breach of homeless people's right to social security was highlighted in Milk Crate Theatre's performance of Linda's Story

Linda's childhood was spent in a daydream – zoning out from the crossfire of her parents' fighting. The rest of the time she sought out better ways of escaping the warzone of life. She discovered drugs and was in and out of prison for many years. Eventually she was diagnosed as having mental health, drug and alcohol issues and she started receiving a Disability Support Pension.

One day she discovered that her pension has been cut off without any notice. When Linda went to the Centrelink office she was told there had been an internal audit and she didn't qualify for a benefit. It later was revealed that Centrelink had lost the documentation from Linda's doctor proving her disability. However, while she tried to negotiate to see her doctor to get another copy of the certificate, she had very little money to pay rent or indeed to eat!

The Right to Personal Safety



The personal safety of a person experiencing homelessness is often threatened. Homeless people are often victims of violent attacks not only from other homeless people but from members of the public.

Individuals sleeping rough are particularly vulnerable to attack on Friday and Saturday nights when they often attacked by people exiting bars and clubs.

HPLS routinely hears stories from homeless people about being violently attacked when they are attempting to sleep. However homeless people are often suspicious of law enforcement agencies and do not report such incidents.

The invisibility of homeless peoples' experience of victimisation and violence is also ensured socially, by beliefs that homeless

people are somehow deserving of violence because of their risky lifestyles, and institutionally, by the exclusion of homeless

people from national crime surveys that inform crime prevention policy.

Being on the street is such a violent way to live. There is one guy on the street who is trying to kill me. I know he has attacked heaps of people before and I have no doubt it could happen to me.

Anonymous story collected at Edward Eagar Lodge

Everyone has the right to liberty and security of person

Article 9 of the International Covenant Civil and Political Rights

I came to Edward Eagar Lodge after a domestic violence situation. I had previously gone to Swanton Lodge where I felt safe but this was closed down by the Howard Government. Now all I have is the fear of life on the street. A lot of beds for homeless women are missing.

Michelle's story



Carmel's Story

“
*hi Gary –
yeah – I know
I’ve got a new
place – it just
happens to
be down the
road – how
weird...!*
”

Another example of a breach of homeless people’s right to personal safety can be seen in Carmel’s story, which was performed by Milk Crate Theatre.

Carmel is an Indigenous woman trapped in a domestic violence situation with her partner, Gary. One night, when Gary was out with some mates, she snuck out and left him. But without anywhere to go she ends up living on the streets for a few days. She then made her way to Housing NSW. Luckily she found a ‘Sister’ working there who, after hearing her story, pushed her application along and told her how to work the system. She got housed and ended up in a lovely apartment. She was feeling lucky, until she realised her new apartment was just up the road from Gary’s place and sure enough one day she bumped into him on the street coming home from the shops

He followed her to her new home and being a trusting soul she let him into the apartment.

Gary – (losing it) ‘You stupid bitch – who you’ve been seeing?!’

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 9 of the International Covenant on Economic, Social and Cultural Rights.



Freedom of Movement and of Association - Tony's story

People who experience homelessness often have their freedom of movement and of association violated because of the use of 'move on' powers.

The public nature of the lives that homeless people are forced to live due to their lack of appropriate accommodation means that many homeless people are forced to conduct their private activities in public, for example, sleeping, toileting, eating and drinking. The public nature of this conduct

is what brings many individuals experiencing homelessness into contact with police and other law-enforcement agencies.

Most states and territories in Australia have laws that allow police to direct people in public areas to move on if they are considered to be disorderly, threatening or obstructing other members of the public. Too often, as in Tony's case, many actions of police officers go beyond what is absolutely necessary, which in turns negatively impacts on the rights of homeless people.

Tony's story involves a homeless man getting hassled by the police while sleeping at a train station. Tony had purchased a train ticket but, having missed the last train, had fallen asleep. Two junior officers kicked his foot hard to wake him up. He then had his bag searched and was questioned about why he was sleeping at the station. Luckily for Tony, a more experienced and senior officer intervenes. He rebuked the two junior police officers for their treatment of Tony and offered Tony a lift into the city.

The Right to Equality and Non-Discrimination



‘All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.’

Article 26 of the International Covenant on Civil and Political Rights

‘rights... will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’

Article 2 of the International Covenant on Economic, Social and Cultural Rights.

People experiencing homelessness suffer discrimination in a range of different contexts including when attempting to purchase goods and services, and obtaining accommodation. As many homeless people have prior criminal records they also often experience discrimination when attempting to obtain employment.

‘Discrimination is talked about but you soon find about it when you tell Centrelink you are in a refuge. You are then treated like a second-class citizen. Even social workers treat you differently and if they treat you like that how can you expect anyone else to treat you fairly. Maybe they think that because of mental illness that you won’t pick up on it.’

Anonymous story collected at Samaritan House

I have had heaps of issues with the police who never take me seriously. I have caught someone stealing from my stuff and when I told the cops, they refused to listen to me. I later tried to make a complaint about the way I had been treated and they didn’t listen because I live on the street. They physically evicted and threatened me. The police sometimes think they are bigger than the FBI.

Anonymous story collected at Newtown Mission

The Right to the Highest Attainable Standards of Health

Homelessness has a devastating impact on a persons; physical and mental health. However the devastating impact of sleeping rough is exaggerated for many homeless people because they are unable to access adequate dental, medical and mental health facilities.

Limited access to medical and dental facilities mean those experiencing homelessness have a life expectancy considerably lower than the general population.



Other *Human Rights* not enjoyed by Homeless People

Apart from those detailed above, there are a number of other rights that are seriously impaired for those experiencing homelessness. These include the Right to Privacy, the Right to Work and the Right to Vote.

The lack of protection and promotion of all of these rights directly contributes to many people becoming homeless. This lack of protection may also further exacerbate or severely impact a person's ability to exit homelessness.



How could your Rights be Better Protected?

HPLS also asked members of Sydney's homeless community about how they would like their human rights better protected in the future. This consultation took the form of a ballot in which homeless people in attendance were encouraged to vote on the model of

human rights protection they would like to see (a parliamentary committee, better education on rights protection, a Human Rights Act, or no change to the current protections).

In total over 60 members of the audiences voted on the model of human rights protection they would like

to see. Close to 60% of those that voted wanted to see a Human Rights Act to better protect their rights. Tellingly no votes were cast to retain the current levels of protection.

In addition, each person who voted had the opportunity of providing

reasons why they would like to see that particular model of protection.

Some of these comments HPLS received are provided in the next few pages.

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

*Article 12(1)
International Covenant
on Economic, Social
and Cultural Rights.*



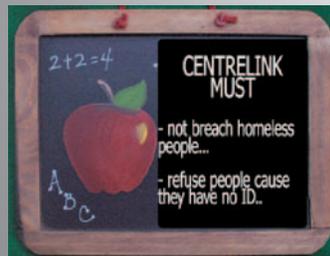
The People's CHOICE!

A Human Rights Act •



57%

Better Education •



25%

Parliamentary Committee •



18%

No Change •



0%

A Human Rights Act!



'No matter what your education level is, your mental health status- we are all humans first and we need a Human Rights Act'.

'A Human Rights Charter to clearly identify and codify peoples' rights. With education follow-up on how to access, protect and realise those rights if they are transgressed'.

'To be human requires human rights. To be right in humanity, we need to have written explanations for people who don't understand humanity itself! The Law? If that can teach them: then make it one! Thank you'.

'It is about time that Australia has a Human Rights Act. We need human rights to be put down in law'.

'We need an enforceable right to shelter!'

'A Human Rights Act! We need a government or non-government body to inform people of their rights and to assist in cases where their rights are not being protected'.

'For human rights for domestic violence and for homeless people that get the royal run- around by government departments'.



Conclusion

'To be human requires human rights. To be right in humanity, we need to have written explanations for people who don't understand humanity itself! The Law? If that can teach them then make it one!'

Participant at Samaritan House Human Rights Extravaganza

The human rights of homeless people are not being sufficiently protected under the current system. Homeless people are subjected to repeated violations of their economic, social, cultural, civil and political rights.

Homeless people in Sydney believe that the best way of

addressing and preventing these rights violations is for the Australian Government to pass a Human Rights Act. They also clearly believe that to retain the current level of protection or to do a halfway measure such as to require government agencies or parliament to better consider rights in the development of

policies will have little impact on their day-to-day experience.

Homeless people in Sydney have had their say about human rights protection in Australia. Lets hope you listen!

■ HPLS Staff, June 2009

