

SUBMISSION TO THE HOUSE OF REPRESENTATIVES' STANDING COMMITTEE ON FAMILY, COMMUNITY, HOUSING AND YOUTH: *INQUIRY INTO HOMELESSNESS LEGISLATION*

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Introduction

1. This document sets out in brief terms the considerations which we believe should be reflected in the process of providing services to homeless people and those at risk of homelessness. The submission is based on the Terms of Reference for the Inquiry and addresses each Term seriatim.

Executive Summary

2. The essence of the submission is that homelessness and the risk of becoming homeless is a human rights issue and that any legislation addressing it will be workable if and only if it statutorily encodes the right to housing and the other basic rights in Article 25 of the *Universal Declaration of Human Rights*¹ (UDHR) such as the rights to enough food, clothing, health care and social services. These and other rights in the UDHR also need to be recognised in addressing homelessness and in formulating legislation in this area of life.

3. Legislation should address homelessness as a particular symptom of a more general problem of marginalisation and denial of higher human needs for inclusiveness experienced by homeless people along with refugees, internally displaced persons (IDPs) and other marginalised individuals and groups.

The principles that should underpin the provision of services to Australians who are homeless or at risk of homelessness

4. Involuntary homelessness is a human rights violation. People at risk of homelessness are vulnerable and at risk of losing their dignity and community inclusiveness. Homeless people and those at risk of it have reduced scope for accessing housing and shelter along with access to enough food, potable water, clothing, health care and social services. These correspond to a number of rights included in Article 25 of the UDHR.

5. The principles that should underpin the provision of services to Australians who are homeless or at risk of homelessness should include the following:

- Everyone is born free and equal in dignity and with rights²
- Everyone has the right to freedom of movement within their country and also the right to leave a country and return home³

¹ This is the document collaborative produced by the United Nations on 10 December in 1948. It contains 30 articles altogether.

² UDHR, Article 1

- Everyone has a right to social security⁴
- Everyone has the right to work, to good working conditions, to equal pay for equal work and to form and join trade unions⁵
- Everyone has the right to a decent life, including enough food, clothing, housing, medical care and social services⁶
- Nobody is to be stopped from participating in the cultural life of a community⁷.
- Social isolation, is often an unintended consequence of homelessness and the provision of services to Australians who are homeless should be governed by the same principles applicable to people experiencing social isolation. This needs to include the management of socially isolated people in such a way as to ensure that they have proper access to services and to people who can assist in articulating their needs to policy makers and frontline providers.

The scope of any legislation with respect to related government initiatives in the areas of social inclusion and rights.

6. Legislation addressing homelessness should focus the balance of compassion in favour of the needs of the most vulnerable person in the subject circumstances. Thus, in the same way that family law views access as the right of a child rather than the non-custodial parent and bankruptcy legislation focuses greater emphasis on the needs of the insolvent rather than the creditors so should homelessness legislation protect the disadvantaged rather than other stakeholders such as residents near homeless persons' refuges and shelters who lack empathy and seek the exercise of state powers to limit access by homeless persons to common areas and public places.

7. A further parallel should be drawn to legislative principles governing asylum seekers, to ensure that homeless persons are accorded all human dignity at every stage of their processing into housing such that the perceived needs and interests of the host area do not assume primacy in the same way that the perceived needs and interests of Australia as the host nation received a level of primacy which led to human rights abuses for many refugees.

The role of legislation in improving the quality of services for people who are homeless or at risk of homelessness

8. Legislation needs to focus on promoting systems which are customer focussed in that they seek the needs of the client before case-based decisions are made.

9. The efficacy of legislation in this area should be reviewed annually using two measures, being compliance with natural justice and also compliance with the principles of human rights enshrined in the UDHR. The latter must extend to the right to access to good, decent, paid work as this is a major contributor to stopping people from becoming homeless. With the current very high casualisation of the Australian workforce, many people are working but not earning enough to afford housing.

³ UDHR, Article 13

⁴ UDHR, Article 22

⁵ UDHR, Article 23

⁶ UDHR, Article 25

⁷ UDHR, Article 27

The effectiveness of existing legislation and regulations governing homelessness services in Australia and overseas.

10. A more holistic approach needs to be applied to homelessness so that the problem, of involuntary homelessness is seen as part of a more general problem pertaining to refugees and IDPs.

11. Existing legislation on homelessness does not have this perspective. It needs to acknowledge that whilst the causative factors leading to homelessness in some cases may differ from those relating to refugees and IDPs, the symptomology is identical, This highlights the need for a more homogenous legislative management scheme.

12. Similarly, the legislation needs to be drafted so as to ensure accurate visibility of local areas having a higher incidence of homelessness. For example, currently the NSW Central Coast has a greater homelessness problem than other areas in NSW because the Australian Bureau of Statistics does not recognise the Central Coast as being a separate entity from Sydney. This is causing inequitable distribution of Federal and State Government funding allocations for homeless people⁸.

The applicability of existing legislative and regulatory models used in other community service systems, such as disability services, aged care and child care, to the homelessness sector.

13. The existing systems are too compartmentalised to be fully effective in addressing the need for statutory recognition of the full spectrum of rights set out in the UDHR. For this reason only if a fully integrated system of human rights compliance and client focus are built into homelessness legislation will the legislative scheme achieve its full potential to eliminate homelessness, the risk of it and actual and potential social isolation.

Conclusion

14. The challenges presented by homelessness demand a response that creates conditions which empower marginalised people to become more engaged with the systems associated with policy making and the processes associated with case management of homelessness. Legislation which encodes key articles from the UDHR, especially Article 25, will help to create these conditions.

15. Legislation should also define homelessness in terms which recognise it as belonging within a broader spectrum of conditions which include refugee and IDP circumstances. With this in mind, and acknowledging the unique client needs of each group found along that continuum, a more holistic approach to legislative attention in these areas will create better human rights compliance in the continuous improvement of delivery of services to homeless people and those at risk of homelessness.

Signed.....
on behalf of the Central Coast Group, Amnesty International

⁸ See *Central Coast Express Advocate*, 12 August 2009.

