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Office of the High Commissioner for Human Rights
United Nations Office at Geneva
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SWITZERLAND

By email: urgent-action@ohchr.org

To: Special Rapporteur on the Right to Adequate Housing, Mr Miloon Kothari
And To: Special Rapporteur on the Right to Health, Mr Paul Hunt
And To: Independent Expert on Extreme Poverty, Mr Arjun Sengupta
And To: Special Rapporteur on the Rights of Indigenous People, Mr Rodolfo Stavenhagen
And To: Special Rapporteur on Violence Against Women, Dr Yakin Erturk

1. Request for Urgent Action in Relation to People Experiencing Homelessness in Australia

We are gravely concerned about the ongoing serious human rights violations experienced by people who are homeless in Australia, including in relation to the right to adequate housing, the right to the highest attainable standard of health, the right to be free from extreme poverty, and the rights of Indigenous people.

From 31 July to 16 August 2006, the Special Rapporteur on the Right to Adequate Housing conducted an official country visit to Australia to investigate the situation on the ground in relation to the implementation of the right to adequate housing. In his preliminary observations, he notes that there is a 'serious, hidden national housing crisis in Australia'. This report is intended to further inform the Special Rapporteur on the Right to Adequate Housing for the purposes of completing his final report and also to urge investigation of the

situation in Australia by the Special Rapporteur on the Right to Health, the Independent Expert on Extreme Poverty, the Special Rapporteur on the Rights of Indigenous People and the Special Rapporteur on Violence Against Women.

The information contained in this document has been provided by a number of community and non-profit organisations throughout the country in an attempt to provide a comprehensive overview of the national situation with respect to the promotion and protection of the right to adequate housing. The report also demonstrates the government's failure to adequately realise the right to housing impacts on the right to health, the right to be free from extreme poverty, the rights of Indigenous people, the rights of women to be free from violence and the right of all people to be free from discrimination.

2. Overview of Organisations Submitting the Report

2.1 PILCH Homeless Persons' Legal Clinic

The PILCH Homeless Persons' Legal Clinic ('the Clinic') is a project of the Public Interest Law Clearing House (Vic) Inc. The Clinic was established in 2001 in response to the great unmet need for targeted legal services for people experiencing homelessness. Since its establishment in 2001, the Clinic has assisted over 2200 people at risk of, or experiencing homelessness in Victoria alone. The Clinic provides free legal services at 10 homelessness assistance services in Melbourne to people who are homeless or at risk of homelessness. The Clinic also undertakes significant community education, public policy advocacy and law reform work to promote and protect the right to housing and other fundamental human rights.

2.2 The Human Rights Law Resource Centre

The Human Rights Law Resource Centre Ltd, a joint initiative of the Public Interest Law Clearing House (Vic) and Liberty Victoria, is an independent community legal centre.

The HRLRC aims to:

1. Contribute to the harmonisation of Australian law and policy with international human rights norms;
2. Support and enhance the capacity of the legal profession, judiciary, government and community sector to develop Australian law and policy consistently with international human rights standards; and
3. Empower people that are disadvantaged or living in poverty by operating within a human rights framework.

The HRLRC achieves these aims by conducting and supporting human rights legal services, litigation, education, training, research, policy analysis and advocacy.

3. Homelessness and the Right to Adequate Housing in Australia

Pursuant to art 11 of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*,¹ all people have the right to adequate housing, which includes a right to live

¹ Opened for signature 19 December 1966, 993 UNTS 2 (entered into force 3 January 1976).

somewhere in security, peace and dignity.² The *ICESCR* entered into force for Australia in 1976.

According to the United Nations Committee on Economic, Social and Cultural Rights (*CESCR*), at a minimum, housing must be affordable, accessible to disadvantaged groups, habitable, culturally appropriate, provide occupants with security of tenure and afford access to appropriate services, materials, facilities and infrastructure, including employment, health care, schools and other social facilities.³

Under art 2(1) of the *ICESCR*, realisation of the right to adequate housing requires that federal, state and territory governments devote the maximum of available resources to progressively ensuring that all people have access to adequate housing. This requires 'concrete', 'targeted', 'expeditious' and 'effective' steps, including budgetary prioritisation.⁴ In his 2005 Annual Report, the Special Rapporteur on Adequate Housing called on governments to 'explore the range of policy options available to them in financing "strong social housing programmes", including the reallocation of existing budgetary resources'.⁵ Retrogressive measures, such as cuts in expenditure on public housing or homelessness services, are permissible only in 'exceptional circumstances'.⁶ In the 2006 Federal Budget, the Federal Government announced a surplus for the ninth time in ten years and has forecast a surplus of \$10.8 billion for 2006-2007. Arguably, 'exceptional circumstances' that would encompass permissible cuts to public housing and homelessness services do not exist in Australia.

In 2004, the PILCH Homeless Persons' Legal Clinic became aware of plans to reduce funding to SAAP services by \$30 million despite an already clear shortage of resources. Community organisations and civil society lobbied against these proposed cuts, drawing to the government's attention its obligations of progressive realisation of the right to adequate housing for all Australians. Although the government did not proceed with the funding cuts, the 'incident' highlights a disturbing and regressive government approach.

A lack of available affordable, quality housing stock, whether in the public or private market, is recognised as a structural cause and exacerbation of homelessness, poverty and social isolation. Research conducted in 2004 by Hanover Welfare Services and the Brotherhood of St Laurence found that the "number of Australians unable to afford housing is increasing at an alarming rate and is contributing significantly to poverty in Australia."⁷

3.1 Overview of Homelessness in Australia

According to the Australian Bureau of Statistics, over 100,000 people experience homelessness across Australia on any given night. This includes over 14,000 people sleeping rough or in squats, more than 14,000 in crisis accommodation or refuges, almost 23,000 in

² CESCR, *General Comment 4: The Right to Adequate Housing*, UN Doc HRI/GEN/1/Rev.5 (2001) 22.

³ CESCR, *General Comment 4: The Right to Adequate Housing*, UN Doc HRI/GEN/1/Rev.5 (2001) 22.

⁴ CESCR, *General Comment 3: The Nature of States Parties' Obligations*, UN Doc HRI/GEN/1/Rev.5 (2001) 18.

⁵ Special Rapporteur on Adequate Housing, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, Miloon Kothari, E/CN.4/2005/48 (2005).

⁶ CESCR, *General Comment 3: The Nature of States Parties' Obligations*, UN Doc HRI/GEN/1/Rev.5 (2001) 18; CESCR, *Substantive Issues Arising in the Implementation of the International Covenant in Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights*, UN Doc E/C.12/2001/10 (2001) 4-5, [15]-[18].

⁷ Western Australia Submission, Tenants Advice Service, *Why Won't Tenants Enforce Their Rights*, 2006, 13.

boarding houses, and nearly 49,000 people staying with friends or relatives.⁸ A further 23,000 people across Australia live temporarily in caravan parks.⁹

The causes of homelessness in Australia are complex and varied. However, they are generally acknowledged to include:

- poverty, severe financial hardship and lack of access to adequate income support;
- unemployment;
- lack of affordable housing;
- domestic and family violence;
- mental illness and lack of access to health care;
- drug and alcohol disorders and lack of access to drug treatment services;
- problem gambling;
- discrimination;
- disability; and
- evictions.¹⁰

In many cases of homelessness, these causes are intersectional and inter-related.

The primary government response to homelessness in Australia is through the national Supported Accommodation Assistance Program ('SAAP'). This program is jointly funded by Australian Federal and State governments and administered by the States within a legislated national policy framework.¹¹ SAAP provides financial assistance to non-government organisations and local government authorities that provide a range of supported accommodation and related support services to people who are temporarily or permanently homeless.

Recent data from the Australian Institute of Health and Welfare, demonstrates that approximately 153,000 people accessed homelessness assistance services provided through SAAP in 2003–04.¹² However, the demand for homelessness assistance services continues to significantly exceed supply, with 56% of requests for crisis accommodation by homeless people generally being unable to be met, and 63% of requests from homeless families with children remaining unmet in 2003–04.¹³

In addition to those experiencing homelessness, it is estimated that up to 35% of low income people experience 'housing stress' meaning that their housing costs are so great relative to their income so as to jeopardise their ability to meet other basic needs. Further, almost 10% of low income people experience 'extreme housing stress' meaning that they are required to

⁸ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 2.

⁹ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 6.

¹⁰ See generally, Australian Bureau of Statistic, *Counting the Homeless 2001* (2003); Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003–04* (2005); Senate Community Affairs References Committee, *A Hand Up Not a Hand Out: Renewing the Fight Against Poverty* (2004).

¹¹ Second Reading Speech, Supported Accommodation Assistance Bill 1985, House of Representative, 27 March 1985, Hansard 1020.

¹² Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003–04* (2005) 9.

¹³ Australian Institute of Health and Welfare, *Demand for SAAP Accommodation by Homeless People 2003–04* (2006).

spend more than 50% of their income on rent to avoid homelessness.¹⁴ Despite this, Australia does not have a national housing strategy or a national homelessness action plan that addresses both the provision of homelessness services and the issue of housing affordability. In the absence of government leadership in the area of housing and homelessness, the not-for-profit and community sector has been forced to fill the gap.

3.2 Public Housing

Notwithstanding Australia's wealth and the sustained period of prosperity it is currently experiencing, funding for public housing projects has progressively decreased in recent years. Public housing programs are in a similarly parlous state across Australia, with insufficient housing stock to meet demand and unacceptably long waiting lists.

For example, in the state of Queensland, there has been a 50% reduction in public housing construction over the last 5 years, and in Western Australia ('WA') public housing stock has been reduced by 1,500 dwellings in the last 8 years.¹⁵ Similarly, in 2005-2006 the number of available public housing dwellings in the Northern Territory ('NT') went from 6,130 to 5,555, a decrease of 9% despite the fact that there was a 12% increase in housing applications the year before.¹⁶

While supply has decreased, the number of people seeking access to public housing has either remained the same, or in many cases, increased. As a result, people can spend up to several years on public housing waiting lists. Even for priority allocations in the case of, for example, recurring homelessness, extreme housing crisis or imminent risk of homelessness, it is common for people to wait for up to one year to access public housing.

In the Australian Capital Territory ('ACT'), the average waiting time for even the most urgent allocation of public housing is 212 days, or over seven months. In the case of standard or less urgent allocations, the waiting time is approximately 3 years.¹⁷

As at 30 June 2006, in Queensland and South Australia ('SA') there were 35,038 and 25,000 applicants waiting for public housing, respectively. Housing allocations in Queensland in the same period totalled 4,623 and the average waiting time for an allocation is currently 2.43 years.¹⁸ In South Australia, the figures in respect of public housing allocations are very similar.

At a recent Homelessness Consumer Forum held in Melbourne, Victoria in August 2006 and attended by over 50 homeless people (the 'Melbourne Consumer Forum'), 75% of surveyed people stated that they had spent over two years on public housing waiting lists.¹⁹ Even more concerning is anecdotal evidence from both people experiencing homelessness and housing agencies across Australia that some applicants can wait as long as 10 years for a public housing allocation.

¹⁴ Senate Community Affairs References Committee, *A Hand Up Not a Hand Out: Renewing the Fight Against Poverty* (2004) 123-4.

¹⁵ Western Australia Submission, above n 7, 4.

¹⁶ Northern Territory Submission, Northern Territory Shelter, 2006, Attachment D.

¹⁷ Australian Capital Territory Submission, Australian Capital Territory Council of Social Services, 2006, Attachment A.

¹⁸ South Australia Submission, Homeless Persons' Legal Clinic (SA), 2006, Attachment A.

¹⁹ Statistics derived from questionnaires undertaken at the Melbourne Consumer Forum, Melbourne Town Hall, August 2006.

In the face of insufficient public housing stock and long waiting lists, people are forced to find alternative housing, no matter how precarious, and in general move between short-term and crisis accommodation options while they wait for public housing to become available.

In addition to the difficulties surrounding public housing availability, are those that relate to its appropriateness for different groups in Australian society. In particular, there are insufficient public housing options targeted to specific groups such as large sized families, single parents, Indigenous Australians and people with disabilities and complex needs. A report published by the Disability Support and Housing Alliance entitled *Living Not Existing* noted that “many people with disabilities remain in or are at risk of moving into inappropriate housing”.²⁰

3.3 Private Ownership and Rental

Australia’s current housing boom has had disastrous consequences for many disadvantaged and vulnerable groups in Australia. During the last decade,

- average house prices relative to income have almost doubled;
- average monthly payments on new loans have risen by about 50% (\$500);
- the proportion of low rent homes has fallen by at least 15%; and
- opportunities to rent public housing have fallen by at least 30%.²¹

Groups that face particular hardship in the private rental market include:

- households on a low income;
- young people;
- Indigenous people;
- people with disabilities;
- students;
- single parent families;
- people with mental illness and drug problems; and
- people exiting the criminal justice system.

In addition to the structural obstacles outlined above, individuals from these groups report that they have difficulty entering the private rental market due to pervasive discrimination from owners and rental agents who perceive them to be ‘unsavoury’ or high risk tenants. It is important to note that within the patchy anti-discrimination that exists at both State and Commonwealth level, it is currently not unlawful to discriminate against someone on the basis of their social status, which includes their status as a homeless person, an unemployed person or a social security recipient.

There are also a number of financial factors which mean that adequate private rental is either out of reach, or can lead to significant housing stress. For example, in the ACT, the vacancy rate for rental properties is as low as 1.8% and Canberra’s median weekly rents are the highest in Australia for three bedroom houses (\$310 per week) and equal highest with Sydney,

²⁰ C McNamara, *Living Not Existing*, Disability Support and Housing Alliance, Melbourne, July 2001.

²¹ National Affordable Housing Forum, *Achieving a National Affordable Housing Agreement – Background Paper*, July 2006

in New South Wales for two bedroom accommodation (\$300 per week). In Brisbane, Queensland, the median weekly rent for one bedroom accommodation has increased between 20 and 30% over two years, making private rental prohibitively expensive for many.

In SA, 76% of low income households in the private rental market experience housing stress, spending more than 50% of their income on rent.²² The Tenants Advice Service in WA has also reported that approximately 44% of low income households in that state spend between 35% and 50% of their income on rent.²³

Recent news reports from the ACT and Queensland point to a worrying trend amongst real estate agents in those markets to use an auction process on rental properties, by which prospective tenants will be required to bid against each other for the opportunity to lease a home.²⁴ We are firmly against the development of this type of system in Australia and consider that it would lead to an uneven playing field for prospective tenants and would allow real estate agents and landlords to discriminate on any basis. Most importantly, the proposed auction process would impact disproportionately on disadvantaged people and would lead to their further exclusion from the private rental market.

Evidently, for many, private rental is not an option. The result is that people are forced into short-term and unstable housing situations, such as staying with family and friends or relying on transitional accommodation such as boarding and rooming houses. Boarding and rooming house accommodation varies greatly in quality and security, and can also be expensive. Anecdotal evidence from the Melbourne Consumer Forum suggests that individuals can pay up to \$180 a week for basic accommodation in a boarding or rooming house.²⁵ Recent investigations into the conditions of boarding houses and rooming houses in Melbourne, Victoria highlight the appalling conditions in these houses and the lack of accountability and regulation imposed on those who manage the properties. In an article in a leading Victorian newspaper, one former rooming house tenant described how he lived in a house with 10 other people paying '\$160 a week for a fetid bedroom with a door and broken lock.'²⁶ The tenant stated that for much of the winter the house had no electricity. In another report two men disclosed that for six months they had paid rooming house owners \$50 each per week to rent the driveway and sleep in their car.

In Queensland, the *Residential Services (Accommodation) Act 2002* (Qld) governs boarding house style accommodation and enables service providers to issue an immediate notice to leave, without the need for genuine consultation with the resident or "reasonable notice...prior to the date of eviction". In April 2005, the Tenant's Union of Queensland commissioned an opinion from a national law firm, which found that the *Residential Services (Accommodation) Act 2002* (Qld) fell "short of the protection to housing rights and security of tenure as anticipated by Australia's obligations under the ICESCR".²⁷

²² South Australia Submission, above n 18.

²³ Western Australia submission, above n 7, 14.

²⁴ See for example: 'New Auction System for Rental Properties', *Sydney Morning Herald* (Sydney), 27 September 2006.

²⁵ Melbourne Consumer Forum, Melbourne Town Hall, August 2006.

²⁶ Dan Silkstone, 'Tenants Booted Out From Horrid Brunswick Slum', *The Age* (Melbourne), 19 October 2006.

²⁷ Queensland Submission, QPILCH Homeless Persons' Legal Clinic (Qld) (2006), Attachment A.

These unacceptable circumstances highlight the need for urgent law reform to ensure that minimum standards for rental properties are implemented and legal loopholes allowing landlords and property managers to circumvent regulation are tackled.

3.4 Immediate Obligations

In addition to the obligation to progressively realise the right to safe and secure housing, Australian state, territory and federal governments have non-derogable minimum core obligations in relation to the right to adequate housing. These include protection from forcible evictions, protection from evictions into homelessness, the provision of secure tenure, the provision of crisis accommodation services to people who are homeless and the protection of the right to non-discrimination. Many of these immediate obligations are not effectively or fully implemented in Australia.

(a) Evictions

Consumers and agencies around Australia relate stories of people who live in precarious circumstances and are vulnerable to forcible evictions or evictions into homelessness. At the Melbourne Consumer Forum, a homeless man described his experience of eviction:

‘I couldn’t afford rent and was evicted after only being 14 days late on rent, even after having communication with [the landlord] preparing them before the event.’²⁸

The ACT Council of Social Services is particularly concerned about residents of boarding houses and caravan parks, who do not have security of tenure, and are assisted only by the relatively weak area of occupancy law. For example, at the time of writing, 100 residents of a long-stay caravan park in the ACT have been threatened with eviction, because the caravan park has been purchased by a private developer. The residents come from a variety of backgrounds and are all low-income earners. Many of the homes in the park are not able to be relocated and, in any case, the cost of doing so would be prohibitive. With other caravan parks in the ACT at capacity, the residents of the park have very few, if any, affordable accommodation options. There is a high risk that at least some of the residents of this caravan park will be evicted into homelessness in order to make way for private development.²⁹

We are also aware of a similar situation in New South Wales. It appears likely that the Liverpool City Council will approve a development application that will result in the forced eviction of over 60 residents of the Casa Paloma Caravan Park. These residents are, without exception, low income earners who face ongoing social and economic disadvantage. If forced to leave, many will not have the means to relocate and establish a new tenancy and therefore face a real risk of homelessness. It has been suggested that the Liverpool City Council intends to provide only \$100 to \$2000 compensation for the forced eviction of these caravan park residents, if the development goes ahead.³⁰

²⁸ Melbourne Consumer Forum, above n 25.

²⁹ Australian Capital Territory Submission, above n 17.

³⁰ Cassandra Goldie, *Homelessness, Human Rights and the Law Resource Bulletin* (Edition 12) September 2006.

(b) SAAP and Crisis Accommodation

Arguably, one of Australia's core obligations is to provide sufficient housing services through SAAP to ensure that all homeless people can access crisis accommodation as of right.³¹

Across Australia, the demand for homelessness assistance services continues to significantly exceed supply. In the ACT, there are currently 48 homelessness assistance services funded through SAAP. It is estimated that in the period of 2004-2005, homelessness assistance services provided accommodation to 1,550 adults and young people aged between 12 and 25 and 800 children accompanying an adult. Even so, this still means that three out of four people who sought assistance from homeless assistance services in the ACT during that period were turned away every day.³²

In SA and Queensland, the situation is similarly dire. There are approximately 7 people for every SAAP bed in South Australia, and every day at least half the people who seek access to homelessness assistance services in that state are turned away.³³ Data collected in 2002 and provided by the Queensland Public Interest Law Clearing House indicates that up to 67.5% of requests for crisis and short term accommodation in that period were not met.³⁴

In Victoria, 63% of people surveyed at the Melbourne Consumer Forum considered that crisis and transitional accommodation in Victoria was either inadequate or very inadequate.³⁵ Forty-six per cent of those surveyed had been refused crisis or transitional accommodation at least once in the past, and 57% of those refused gave the reason for refusal as a lack of beds.³⁶

(c) Discrimination

Research shows that discrimination is a major causal factor of homelessness and can systematically exclude people from access to goods, services, the justice system, health care, housing and employment. In addition to contributing to homelessness, discrimination can also diminish a person's well-being, cause ill health and exacerbate or maintain homelessness.

Discrimination against people who are experiencing homelessness, or are at risk of homelessness is widespread and remarkably, currently lawful, in Australian society. The 1995 *Equal Opportunity Act* (Vic) (and equivalent legislation in other Australian States) does not provide any protection from or redress in relation to, discriminatory treatment on the ground of social status including homelessness.³⁷ In consultations conducted by the Homelessness Persons' Legal Clinic with 106 homeless people about their human rights in 2005, 68% of people consulted considered that current

³¹ CESCR, *General Comment 3: The Nature of States Parties' Obligations*, UN Doc HRI/GEN/1/Rev.5 (2001) 18.

³² Australian Capital Territory Submission, above n 17.

³³ South Australia Submission, above n 18.

³⁴ Queensland Submission, above n 27.

³⁵ Statistics from Melbourne Consumer Forum, above n 19.

³⁶ *Ibid.*

³⁷ Phillip Lynch and Bella Stagoll, 'Promoting Equality: Homelessness and Discrimination' (2002) 15 Deakin Law Review

frameworks protecting the right to be free discrimination were either inadequate or very inadequate.³⁸

Participants in the consultations stated that discrimination on the ground of homelessness most often impacted on their ability to obtain accommodation or goods and services. One homeless man said 'I frequently experience discrimination by real estate agents due to my homelessness and poverty'. Another man wrote that he often experiences discrimination from retailers because of his appearance and homelessness. A homeless woman with bipolar disorder reported that she frequently experiences discrimination in employment and access to services due to her mental illness.

The World Health Organization considers that 'discrimination violates one of the fundamental principles of human rights and often lies at the root of poor health status'.³⁹ This view is consistent with an emerging consensus that discrimination and stigmatisation are major causal factors and consequences of social exclusion and ill health among people experiencing disadvantage, including higher anxiety, depression, worsened quality of life, a sense of loss of control and difficulty coping.⁴⁰ As St Mary's House of Welcome, a drop-in centre in Fitzroy (Victoria) for people experiencing homelessness identifies:

Our service users include homeless people, people in financial crisis, people who are suffering hardship, people with alcohol, drug and gambling addictions, mentally ill people and others of low social status. They experience discrimination because of their social status, their appearance and their lack of access to amenities and services. The effect of this discrimination can be detrimental to health and well-being, result in further financial hardship, and impact negatively on ability to cope.⁴¹

Discrimination can exclude people from access to goods and services, health care, adequate housing, education and employment — all of which are powerful influences on and determinants of societal participation and social inclusion.⁴² Discrimination can also increase vulnerability to or magnify homelessness and poverty, leading to social exclusion and diminished wellbeing.⁴³ Indeed, according to Jesuit Social Services:

Discrimination, especially in the areas of private housing, room and caravan rental, and also in health, is both widespread and can result in significant psychological deterioration as well as material deprivation of the recipient. Indeed, consistent discrimination of

³⁸ PILCH Homeless Persons' Legal Clinic *Homelessness and Human Rights* (2005) 24

³⁹ World Health Organization, *Health and Freedom from Discrimination: WHO's Contribution to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance* (2001) 6.

⁴⁰ Lisa Waller, 'Living with Hepatitis C: From Self-Loathing to Advocacy' (2004) 180 *Medical Journal of Australia* 293; S Zickmund, E Y Ho, M Masuda et al, 'They Treated Me Like a Leper: Stigmatization and the Quality of Life of Patients with Hepatitis C' (2003) 18 *Journal of General Internal Medicine* 835.

⁴¹ Letter from St Mary's House of Welcome to the PILCH Homeless Persons' Legal Clinic, 20 August 2002.

⁴² Paula Braveman and Sofia Gruskin, 'Poverty, Equity, Human Rights and Health' (2003) 81(7) *Bulletin of the World Health Organization* 539, 539.

⁴³ WHO, *Health and Freedom from Discrimination: WHO's Contribution to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance* (2001) 6, 10.

this nature results in deepening of identification with the marginalised condition so as to make negotiation through their issues more difficult.⁴⁴

At the Homelessness Consumer Forum in Melbourne, 64.5% of surveyed people stated that they had been treated by support services, agencies and public authorities (including police and public transport officials) in a way that did not recognise their right to be treated with dignity or respect. Moreover, 77% of people surveyed stated that they had been treated in a cruel or degrading way while experiencing homelessness.

A homeless man in Melbourne stated that, 'sometimes you can be treated like a lifeless machine rather than a child who has grown into a man'. Another described how 'people stare at you like they don't want to know you...go somewhere else, don't hang around here.'

In addition to providing some protection and redress against discrimination, consistent and comprehensive State and Federal anti-discrimination legislation that prohibits discrimination on the basis of social status may have an important normative and educative effect. Recent research published by Hanover Welfare Services indicates that community perceptions of homelessness are still very much rooted in the idea that homelessness is a choice and represents some form of individual moral dysfunction.⁴⁵ By introducing legislation accompanied by a targeted education campaign that makes the general community more aware of the right of all people to be free from discrimination and degrading treatment, the government has an opportunity and arguably an obligation to help shift public perceptions and increase community awareness and respect for the rights of vulnerable and disadvantaged people.

3.5 Section Conclusion – Whose responsibility?

Responsibility for implementation of progressive, core and immediate obligations within Australia's constitutional structure is an ongoing issue in Australia, with both the Commonwealth and States tending to allege that their counterpart has primary responsibility for the provision of adequate housing in Australia. In this context it is important to note that, art 28 of the *ICESCR* expressly provides that, in federations such as Australia, the obligations of the Covenant are binding on the federation as a whole and must extend across all parts of that federation. This means that, in Australia, all branches of government and other public or governmental authorities, at whatever level – national or state – must act to respect, protect and fulfil *ICESCR* rights, including the progressively realisable right to adequate housing and the immediately realisable, non-derogable right to crisis accommodation and homelessness assistance services.⁴⁶

⁴⁴ Letter from Jesuit Social Services to PILCH Homeless Persons' Legal Clinic, 22 August 2002.

⁴⁵ Hanover Welfare Services, 'Quantitative Research Report', October 2006.

⁴⁶ Human Rights Committee, *General Comment 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc CCPR/C/21/Rev.1/Add13, [4] (2004).

The completed questionnaires at Attachment A provide details of further violations experienced by people who are homeless in relation to the right to adequate housing.

4. Homelessness and the Right to Health

According to the UN High Commissioner for Human Rights:

Ill health is both a cause and a consequence of poverty; sick people are more likely to become poor and the poor are more vulnerable to disease and disability. Good health is central to creating and sustaining the capabilities that poor people need to escape from poverty.⁴⁷

Recognising this, art 12 of the *ICESCR* provides that all people have the right to the highest attainable standard of physical and mental health.⁴⁸ The right to health imposes a range of important substantive obligations on Australian governments to establish conditions designed to ensure that people have the best possible chance of being healthy, including through the adoption of legislative measures.⁴⁹ According to *CESCR*, these conditions should mean that people are able to access the full variety of facilities, goods, services and conditions necessary to ensure an individual's health.⁵⁰ This includes access to appropriate health care and also access to safe water, adequate sanitation, an adequate supply of safe food, adequate nutrition, adequate housing, occupational health, a healthy environment and access to health-related information.⁵¹ Services must be provided in a culturally appropriate⁵² and non-discriminatory manner.⁵³ Health care services must be particularly targeted and accessible to the poor.⁵⁴ At a minimum, health care for the poor must be 'available, accessible, acceptable and of good quality'.⁵⁵ Australian governments are obliged to 'reduce the financial burden of health care and health protection on the poor, for example by reducing and eliminating user fees for the poor'.⁵⁶

There are strong associations between homelessness and poor health, particularly poor mental health.⁵⁷ It is well established that poor mental health is a cause of, a contributor to, and consequence of homelessness.⁵⁸ As the US Institute of Medicine states in a report

⁴⁷ UN OHCHR, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 22.

⁴⁸ The right to health is also enshrined in: *CROC* arts 6, 24; *CEDAW* arts 10(h), 11(f), 12(1), 14(b); and *CERD* art 5(e)(iv).

⁴⁹ *CESCR, CESCR General Comment 14: The Right to the Highest Attainable Standard of Health*, [9], UN Doc E/C.12/2000/4 (2000).

⁵⁰ *CESCR, CESCR General Comment 14: The Right to the Highest Attainable Standard of Health*, [4], [9], UN Doc E/C.12/2000/4 (2000).

⁵¹ *CESCR, CESCR General Comment 14: The Right to the Highest Attainable Standard of Health*, [11], UN Doc E/C.12/2000/4 (2000).

⁵² *CESCR, CESCR General Comment 14: The Right to the Highest Attainable Standard of Health*, [12(c)], [27], [37], UN Doc E/C.12/2000/4 (2000).

⁵³ *CESCR, CESCR General Comment 14: The Right to the Highest Attainable Standard of Health*, [43(a)], UN Doc E/C.12/2000/4 (2000).

⁵⁴ UN OHCHR, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 22–6 [Guideline 7: Right to Health].

⁵⁵ UN OHCHR, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 23.

⁵⁶ UN OHCHR, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 26.

⁵⁷ The terms 'mental illness' and 'poor mental health' are used in this submission to mean 'the existence of a clinically recognisable set of symptoms or behaviour associated in most cases with distress and with interference with personal functions': World Health Organization, *International Classification of Diseases and Related Health Problems* (10th revision, 2002).

⁵⁸ Adrienne Lucy, 'South Eastern Sydney Area Health Service Homelessness Health Strategic Plan 2004-09' (2004) 17(8) *Parity* 6.

entitled *Homelessness, Health and Human Needs*, there are three types of interactions between homelessness and poor mental health:

1. some mental health problems precede and causally contribute to homelessness;
2. some mental health problems are consequences of homelessness; and
3. homelessness exacerbates and complicates the treatment of many mental health problems.⁵⁹

At the recent Homelessness Consumer Forum in Melbourne, 51% of people surveyed said they became homeless as a result of mental health problems and a lack of access to health care, and 62% stated that their mental health had worsened as a result of their experience of homelessness. Furthermore, 78% of people indicated that they had ongoing physical or mental health issues.⁶⁰ These findings are echoed in other parts of the country. For example, a NSW based report found that:

- 75% of people experiencing homelessness in inner Sydney have a mental health issue, compared to 20% in the general population;
- 23% of men and 46% of women who are homeless have schizophrenia, compared to a general population prevalence between 5 and 10%; and
- 33% have depression compared to 6% of the Australia community.⁶¹

People experiencing homelessness also confront a range of barriers to adequate health care, including:

- financial barriers and hardship and associated lack of access to appropriate and affordable health care;
- lack of transportation to medical facilities;
- competing needs – basic subsistence needs in relation to food, accommodation and income take precedence over health care;
- lack of documentation;
- many homeless people do not have a Medicare Card and very few have health insurance;
- lack of contact details which presents difficulties in maintaining contact and, for example, communicating results;
- reluctance on the part of many homeless people to engage with services due to previous negative experiences;
- lack of insight into illness or assistance to access services – those most in need are those least likely to obtain health care;
- difficulty maintaining appointments, contact or treatment regimes;
- disconnection from supportive social networks;

⁵⁹ Institute of Medicine (US), *Homelessness, Health and Human Needs* (1998) 39.

⁶⁰ Statistics from Melbourne Consumer Forum, above n 19.

⁶¹ Hodder, T, Teeson, M and Buhrich, N, *Down and Out in Sydney – Prevalence of Mental Disorders in Sydney*, Sydney City Mission 1998, in *Social Justice – A Long Road to Recovery* (St Vincent de Paul NSW/ACT State Council 2001).

- difficulties associated with navigating and negotiating a complex service system;
- issues of discrimination, stigma and prejudice; and
- co-morbidity.⁶²

In addition to these factors, health services and particularly those in the area of mental health are often under-resourced and oversubscribed. Thus, even assuming a person experiencing homelessness is able to overcome the range of barriers set out above in order to access health care; it is possible that the care provided would be inadequate.

A homelessness worker at a recent homelessness forum held in Queensland described the standard conditions at Mental Health Units ('MHU') in Queensland hospitals, such as the Royal Brisbane Hospital:

I would go to support clients seeking admission to the MHU. They would sit us in a room the size of a table, with nothing else but a leaky water-cooler, and the police [would] bring in some aggressive hand-cuffed guy and seat him next to someone already not coping and we would all wait there for 5-6 hours before we could see someone.⁶³

Participants at the forum considered that MHU personnel were generally dismissive of a client's need for admission and they referred to three documented suicides in 2002 of clients who had either just been discharged or were not admitted to the MHU. Each of these suicides occurred within a kilometre of the Royal Brisbane Hospital.⁶⁴

Dr Michael Gliksman of the Australian Medical Association has recently described a similarly urgent situation in New South Wales:

In the past decade [New South Wales] has lost 29% of all in-patient beds, 41% of all 24-hour staffed residential services and 52% of all non-acute beds [for people with mental illness].

Where have those in need of psychiatric services gone? We don't have to look far for the answer. Those not living so visibly on our streets are, for a time, tucked out of sight and mind at her majesty's pleasure.⁶⁵

Clearly, the consequences of not receiving adequate physical and mental health care can be very serious. The following results of a targeted survey conducted at the Melbourne Consumer Forum demonstrate the extent to which a person can be adversely affected if he or she does not receive adequate physical and mental health care:

- 71% of surveyed people reported that inadequate access to health care had led to compounded physical health issues;

⁶² L Gelberg, L S Linn, R P Usatine and M H Smith, *Health, Homelessness and Poverty: A Study of Clinic Users* (1996) 2325-30; National Mental Health Working Group, *Homelessness and Mental Illness: Bridging the Gap – Discussion Paper* (2003) 5; Margaret Eberle et al, *Homelessness: Causes and Effects – A Review of the Literature* (2001) 16-17. See also Royal District Nursing Service Homeless Persons Program, *It Can Be Done: Health Care for People who are Homeless* (1992), cited in Department of Human Services (Victoria), *Primary and Acute Health Responses to People Who Are Homeless or at Risk of Homelessness: Information Paper* (2000) 3; Correspondence with Dr Julian Freidin, Consultant Psychiatrist, Alfred Hospital Homeless Outreach Psychiatric Service, 10 April 2005.

⁶³ Queensland Submission, above n 27, Attachment B.

⁶⁴ Ibid.

⁶⁵ Micheal Gliksman, 'Out of One Institution and into Another', *Sydney Morning Herald*, (Sydney), 3 March 2006.

- 71% felt that inadequate access to health care had contributed to their social isolation;
- 9% admitted that they had committed a criminal offence as a consequence of their inadequate access to health care;
- 62% reported that inadequate access to health care had prolonged their homelessness;
- 28% stated that as a result of inadequate access to health care, they had been inappropriately incarcerated; and
- 33% reported that their inadequate access to health care had contributed to them becoming a victim of a crime.⁶⁶

There are also strong associations between mental illness and lack of access to crisis accommodation services. Homeless people experiencing mental disorders, particularly co-morbid people experiencing both mental illness and drug or alcohol dependency, are highly susceptible to being unable to access, or being actively excluded from access to, SAAP services.⁶⁷ According to a recent report by the New South Wales Ombudsman, the following homeless client groups find it particularly difficult to access SAAP services:

- people with drug and alcohol disorders (61%);
- people with mental illness (53.7%);
- people with intellectual disabilities (33.3%); and
- people with acquired brain injury (19.5%).⁶⁸

Research and experience demonstrate that improving health outcomes for homeless people requires specifically targeted health care services, delivered together with programs to address underlying causes of homelessness, including in the areas of housing, income support, primary health care, training and employment, protection from discrimination, rehabilitation and reintegration.⁶⁹ The consequences of failing to provide adequate treatment, support services and supportive housing for people who are homeless and have mental health issues are irrefutably serious and include 'poor physical health, social dysfunction, inappropriate incarceration, higher crime rates, prolonged homelessness and early death'.⁷⁰ It is imperative that Australian governments, at Federal and State level adopt legislative and practical measures to ensure that those who are homeless or at risk of homelessness are able to access health care and the benefits of good health that much of the rest of the community enjoys.

⁶⁶ Statistics from Melbourne Consumer Forum, above n 19.

⁶⁷ See generally, NSW Ombudsman, *Assisting Homeless People: The Need to Improve their Access to Accommodation and Support Services* (2004). See also S Tsemberis and R F Eisenberg, 'Pathways to Housing: Supported Housing for Street-Dwelling Homeless Individuals with Psychiatric Disabilities' (2000) 51 *Psychiatry Services — American Psychiatric Association* 487.

⁶⁸ Monica Wolf, 'Assisting Homeless People: The Need to Improve their Access to Accommodation and Support Services' (2005) 18(1) *Parity* 25, 26.

⁶⁹ Paula Braveman and Sofia Gruskin, 'Poverty, Equity, Human Rights and Health' (2003) 81(7) *Bulletin of the World Health Organization* 539, 540; Correspondence with Dr Julian Freidin, Consultant Psychiatrist, Alfred Hospital Homeless Outreach Psychiatric Service, 10 April 2005.

⁷⁰ National Health Care for the Homeless Council (US), *Addiction, Mental Health and Homelessness: Policy Statement* (2004) 1.

The completed questionnaires at Attachment B provide details of further violations experienced by people who are homeless in relation to the right to the highest attainable standard of health.

5. Homelessness and the Right to be Free from Extreme Poverty in Australia

According to Amartya Sen, Nobel Prize Winner for Economics, 'inadequate income is a strong predisposing condition for an impoverished life'.⁷¹ An adequate income is necessary to ensure an adequate standard of living, and facilitate participation in the civil, political, economic, social and cultural aspects of community life. Recognising this, art 9 of the *ICESCR* provides that all people have the right to social security.

Although international human rights law does not prescribe social security payment levels, it does stipulate that benefits must not be reduced below a minimum threshold and must be available to 'cover all the risks involved in the loss of means of subsistence beyond a person's control'.⁷² It further provides that social security and income support must be sufficient to ensure a dignified human existence and to meet people's needs, particularly in relation to housing and health.⁷³ A person's needs vary based on factors including housing status, age, health, cultural background, family responsibilities, and other factors. CESCR has recognised that '[s]uch support should reflect the special needs for assistance and other expenses often associated with disability'.⁷⁴

In Australia, the absence of a guaranteed minimum income, together with the fact that social security payments are generally pegged and paid below the Henderson Poverty Line, is a significant contributor to people either living in or being at risk of poverty and homelessness. For example, in September 2004, inclusive of housing costs, the Poverty Line for a single unemployed adult person or young person living independently was \$317.61 per week. The base rate of Newstart Allowance for such a person was \$194.60 (or 61% of the Poverty Line), rising to \$242.30 if the person also received the highest payable rate of Rent Assistance (or 76% of the Poverty Line). Similarly, for a single parent with two children, the Poverty Line was \$433.46 per week while the base rate of income support available was \$232.10 (or 54% of the Poverty Line), rising to \$461.70 (or 107% of the Poverty Line) with Family Tax Benefit A and B and the highest payable rate of Rent Assistance.⁷⁵

Other ways in which current income support and social security arrangements fail to protect human rights include that:

- not all people who require social security are able to access it, including newly arrived migrants (many of whom become homeless), people unable to provide adequate proof of identity, and homeless people unable to satisfy mutual obligation requirements; and

⁷¹ Amartya Sen, *Development as Freedom* (1999) 87.

⁷² CESCR, *General Comment 6: The Economic Social and Cultural Rights of Older Persons*, 43, UN Doc. HRI/GEN/1/Rev.5 (2001).

⁷³ *Benefits Case* (1994) Constitutional Court of Hungary, Decision No 43/1995; *V v Einwohnergemeine X und Regierungsrat des Kantons Bern* (1995) Federal Court of Switzerland, BGE/ATF 121 I 367.

⁷⁴ CESCR, *General Comment 5: Persons with Disabilities*, 28, UN Doc HRI/GEN/1/Rev.5 (2001).

⁷⁵ See generally, Melbourne Institute of Applied Economic and Social Research, *Poverty Lines: Australia* (September Quarter 2004).

- the level of income support paid is inadequate to meet needs or guarantee a dignified human life.⁷⁶

Despite this already inadequate situation, earlier this year the Federal government introduced new social security legislation, known as the *Welfare to Work* legislation, which brought in a raft of punitive reforms for those that are unable to meet the 'participation obligations' under the Act. The new legislation also reduces social security payments for some of the poorest citizens. In particular, the changes have reduced payments and toughened eligibility requirements for single parents and for people with a disability. For example, under the new legislation single parents whose youngest child is eight or older are no longer eligible for a parenting payment. A person with a disability (which includes persons who have a mental illness) who is assessed as having the capacity to work 15-39 hours per week is no longer eligible for the Disability Support Pension, irrespective of whether that work actually exists. Instead both single parents and persons with a disability will receive the reduced Newstart Allowance, which is a significantly lower allowance and comes attached with more onerous obligations.

It is estimated that as a result of the changes more than 60,000 new applicants, who would have otherwise been eligible, will miss out on the Disability Support Pension and more than 170,000 sole parents and 290,000 children will be worse off.⁷⁷

Perhaps most draconian are the amendments to the social security compliance regime. A person who fails to meet a participation requirement (for example, failing to attend a training course) will have their payment suspended until they comply. Where a person has failed to meet a participation requirement 3 times, their payments will be cut off for a period of 8 weeks and the person will receive no income whatsoever during this time.

We consider that this breach penalty regime can result in a loss of income beyond a person's control and to such an extent that it violates the right to an adequate living standard. A survey conducted by The Salvation Army demonstrated that up to 84% of people who are breached are subsequently unable to afford food or medication, 63% are unable to pay bills, and up to 16.5% may be rendered homeless as a result of the breach penalty imposed.⁷⁸ Breaches often result in a vicious cycle of poverty and homelessness as an individual's energies are directed towards surviving rather than securing employment.

We are also gravely concerned about recent reports that the Federal Government is seeking to introduce legislation that would give Centrelink officials police-like powers to obtain warrants and raid homes to investigate allegations of social security fraud. This proposed legislation may affect millions of Australians on welfare and family payments and as Democrat Senator Andrew Murray stated: "vulnerable citizens will end up distressed and subject to invasive processes".⁷⁹

⁷⁶ More than 83% of people accessing homelessness assistance services in 2002 received a social security payment, indicating that such payments are inadequate to access or maintain housing: Australian Institute of Health and Welfare, *Demand for SAAP Assistance by Homeless People 2001-02* (2002).

⁷⁷ . David Plowman and Alison Preston "The New Industrial Relations: Portents for the Lowly Paid" in Special Issue of the *Journal of Australian Political Economy* (JAPE) No 56 accessed at <http://www.jape.org/>, p17

⁷⁸ The Salvation Army Australia, Southern Territory, *Stepping into the Breach: A Report on Centrelink Breaching and Emergency Relief* (2001).

⁷⁹ Mischa Schubert, 'Pension Police' to get search powers', *The Age*, (Melbourne), 12 October 2006.

The human and social consequences of inadequate income support for those who need it can be devastating. Eighty four per cent of homeless people surveyed at the Melbourne Consumer Forum considered that the level of social security they received was inadequate to meet their basic needs. One homeless man suggested that 'state and federal pollys (sic) should all dig deep and....raise the disability/aged pension to \$1,000 a fortnight so we can keep our heads above the waters of life.'⁸⁰

A community worker at Credo Café in Melbourne, a community centre that also provides free meals to marginalised and disadvantaged people in the central business district, related the following story of a client who regularly attends the centre:

I once asked someone who regularly comes to Credo Café whether they thought their Centrelink money was sufficient. They replied that it was [sufficient] and explained how they spent their money, which was not in any way extravagant and only covered basic living expenses and essentials. They concluded by saying they always ate out at Credo. They saw their income as OK, even though it did not provide them with enough money to buy food.⁸¹

Finally, for those who live in, or are at risk of poverty and homelessness, this issue can impact greatly on their general participation and inclusion in society. As one consumer put it, 'I don't have enough money to socialise, just enough to survive week to week'.⁸²

The completed questionnaires at Attachment C provide details of further violations experienced by people who are homeless in relation to the right to be free from extreme poverty, including the right to social security.

6. Homelessness and the Rights of Indigenous People in Australia

Indigenous people are significantly more likely than non-Indigenous people to experience homelessness in Australia. According to the ABS, approximately 2% of the total population are Indigenous while about 9% of the homeless population are Indigenous. This does not include approximately 7,000 Indigenous people who live in improvised dwellings that are accepted to fall below the 'minimum community standard' for housing but nevertheless are considered by the ABS to be 'culturally appropriate'.⁸³

Indigenous people are significantly overrepresented in the 'primary homelessness' category; that is, people without access to any form of conventional accommodation, such as rough sleepers and squatters. Indigenous people are also 8 times more likely to require assistance from a homelessness service than non-indigenous people and comprise about 17% of SAAP clients compared with about 2% of the general population.⁸⁴

The NT has the highest rate of homelessness in Australia, 5 to 7 times higher than any other Australian state or territory. Over 40% of homeless people in the NT fall within the primary homelessness category and for the most part, sleep rough. This rate is more than double that

⁸⁰ Statistics and statements from Melbourne Consumer Forum, above n 19 and above n 25.

⁸¹ Victoria Submission, Urban Seed, 2006, Attachment C.

⁸² Ibid.

⁸³ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 5, 21-2.

⁸⁴ Australian Institute of Health and Welfare, *Demand for SAAP Accommodation by Homeless People 2003-04* (2006).

of all other states and territories.⁸⁵ Indigenous people are also overrepresented in the homeless population in Queensland. On Census night in 2001, Indigenous homelessness was recorded at a rate of 16.4% of the population, compared to 6.6% for the non-Indigenous population.⁸⁶

There are a number of major contributors to Indigenous homelessness, including:

- Structural issues, such as lack of affordable and secure housing;
- A lower median weekly income compared to non-Indigenous persons in Australia;
- An Indigenous unemployment rate of up to 20%, more than twice the rate for the total population;
- A significantly lower standard of health compared to non-Indigenous persons in Australia;
- Drug and alcohol dependencies; and
- A median age of death for Indigenous persons which is at least 20 years lower than the figure for Australia's non-Indigenous population.

6.1 Indigenous People and Housing

Significant impediments exist for Indigenous Australians in relation to accessing adequate and appropriate public housing. These issues are well evidenced by an examination of the situation in the NT.

Despite the fact that 28% of all people occupying public housing in the NT are Indigenous Australians, funding for Indigenous housing has been declining in real terms for at least the last 15 years.⁸⁷ The public housing that is available is often culturally inappropriate for Indigenous tenants and does not take account of their different housing needs. For example, Indigenous tenants in the NT can be unfamiliar with the urban setting in which the majority of public housing is situated. Moreover, Indigenous tenants often move into public housing on a short term basis (for around three months) and in that time face issues of overcrowding, often due to family obligations and a shortage of viable accommodation options for visitors. This situation often leads to damage, complaints and, consequently, non-renewal of leases. As a result, Indigenous tenants can find themselves homeless and facing significant repair and maintenance debts (sometimes up to \$10,000).⁸⁸

Very few support systems have been established to support Indigenous people while they are in the public housing system. Non-government organisations such as Northern Territory Shelter describe what they see as the revolving door of public housing for Indigenous people.⁸⁹ This is particularly the case for Indigenous people with high and complex needs including people facing language barriers, people with disabilities or chronic disease or young people.

⁸⁵ Northern Territory Submission, above n 16, Attachment D

⁸⁶ Queensland Submission, above n 27, Attachment D.

⁸⁷ Northern Territory Submission, above n 16, Attachment D.

⁸⁸ Ibid.

⁸⁹ Ibid.

In respect of Indigenous specific housing stock, the situation is not much better. In 2003-2004, the NT had the largest number of Indigenous Community Houses ('ICH') in the country; however, surveys of Indigenous community housing needs indicated that this stock is grossly inadequate.

The NT also has the largest percentage of Indigenous people living in 'non conventional accommodation'.⁹⁰ Almost 7% of Indigenous households are living in improvised dwellings, that is, structures without a bathroom or toilet. The Australian Institute of Health and Welfare's Indigenous Housing Indicator Report, states that in the period 2003-2004, 7% of Indigenous communities in the NT were not connected to an organised supply of electricity and 94 dwellings were not connected to an organised water supply.⁹¹ In addition, a large number of ICHs in the NT are not connected to an organised sewerage system. The 2001 Community Housing and Infrastructure Needs Survey of Indigenous communities found that in the Northern Territory, 25% of Indigenous housing stock required major repairs or replacement; 25% of the Indigenous population lived in communities affected by water restrictions; and 48% of Indigenous communities were affected by sewerage overflows or leakages.⁹²

The state of this type of housing has adverse consequences for the health of Indigenous Australians. Health and social workers in the NT report that disease and infection is rife in ICH's due to overcrowding and poor sanitation. Diarrhoeal and respiratory diseases are the major causes of morbidity amongst Indigenous children and also play a major role in the malnutrition experienced in the first 3 years of life.

In his Preliminary Observations released in August 2006, the Special Rapporteur on the Right to Adequate Housing described the lack of housing and civic services for Indigenous people in Australia as a "humanitarian tragedy". We ask you to further investigate this issue as a matter of urgency.

6.2 Indigenous People and Discrimination

Given that Indigenous people are more likely than non-Indigenous Australians to experience homelessness in Australia, it is unsurprising that Indigenous people are particularly vulnerable to discrimination, police harassment and more likely to be victims of crime.

Urban Seed, a non-government organisation in Melbourne, Victoria, has reported that it regularly assists Indigenous people who are experiencing homelessness, who have been harassed by police in the city (particularly in places where they regularly gather) and who are 'moved on' by the police without cause.⁹³

A survey conducted by the Homeless Persons' Legal Clinic in Brisbane, Queensland on police move-on powers found that Indigenous persons' comprised 42% of people sleeping rough and that 90% of those sleeping rough had been moved-on by police in the last six months. Seventy-nine per cent of those sleeping rough were of the opinion that they were doing

⁹⁰ Ibid.

⁹¹ Northern Territory Submission, above n 16, Attachment B.

⁹² Ibid.

⁹³ Victorian Submission, above n 78, Attachment D.

nothing wrong when approached by the police; rather, their activities included standing, sitting, waiting, walking and sleeping.⁹⁴

Disproportionate and selective police contact with homeless Indigenous persons can lead to the over-criminalisation of behaviours of this group. Homeless people are often charged with minor offences such as failure to follow a police direction, offensive language offences and other public space offences. Indigenous survey respondents in Queensland made the following comments about police harassment in public spaces:

‘As soon as police see that I am black, they think that I am a threat to them.’

‘When they have nothing else to do they come up to us and say if we are there next time they will arrest us.’

‘If you are dark with a bag you get picked out of the crowd.’⁹⁵

The completed questionnaires at Attachment D provide details of further violations experienced by Indigenous people who are homeless.

7. Homelessness and Violence Against Women in Australia

There are strong associations between homelessness and violence against women in Australia. Women escaping domestic and family violence account for about 33% of the people who seek assistance from homelessness assistance services in Australia each year. Over 65% of children who seek assistance from homelessness services each year accompany a female parent or guardian who has experienced domestic violence. Also, in addition to contributing very directly to homelessness, violence against women is also a major risk factor for homelessness due to the deleterious impacts of the violence on women’s physical, mental, emotional, social and financial welfare and wellbeing.⁹⁶

Despite the high demand crisis and emergency accommodation for women escaping domestic or family violence is inadequately funded and demand very often exceeds supply of available accommodation. At the Melbourne Consumer Forum, 30% of surveyed consumers cited domestic or family violence as one of the causes of their homelessness.⁹⁷ The Domestic Violence Crisis Service in Adelaide, SA, reports that in the period 2004-2005, 2840 women who contacted the service identified as being homeless or at risk of homelessness due to domestic violence.⁹⁸

There are also very few accommodation options outside the high security refuge or shelter model. Women escaping violence, and particularly those from lower socio-economic groups, generally depend on family payments or other commonwealth benefits to support themselves and their children. Difficulties arise when women cannot access or must move out of crisis accommodation. These women are usually heavily reliant on public housing and rent grants

⁹⁴ Queensland Submission, above n 27, Attachment D

⁹⁵ Ibid.

⁹⁶ Australian Institute of Health and Welfare, *Female SAAP Clients and Children Escaping Domestic and Family Violence 2003-04* (2005).

⁹⁷ Statistics from Melbourne Consumer Forum, above n 19.

⁹⁸ South Australia Submission, above n 18, Attachment E.

and evidence suggests that women can wait up to two years to access public housing.⁹⁹ Women who attempt to enter private rental are often unable to afford market value private rental and face discrimination because they have no previous individual rental history or because they are female with children and are perceived to be a higher risk tenant.

Even if they are successful at the outset, it can be very difficult for women to maintain long term independent housing. In SA, it is estimated more than 40% of women are likely to re-enter SAAP crisis accommodation after their initial admission. In addition, reports from shelters in SA suggest that due to the lack of affordable private rental and the shortage of public rental properties, women stay longer within the shelter system. Through necessity, some services apply strict time limits which can leave women and children literally homeless because a lease cannot be extended. This situation also makes women more likely to choose tenuous alternatives, including caravans, share houses or returning to former partners.

The Domestic Violence Crisis Service in Adelaide, SA, related the following story of one of its clients:

The client first contacted the service as a 38 year old pregnant woman escaping a violent relationship. She had two older children both in foster care. The client presented as having a mild disability but able to function well. She was referred to, and accepted for housing, by a service that placed her in a share house with another woman and one child. Her child was subsequently born. The service reported that the client was reluctant to engage with her assigned worker, did not demonstrate an understanding of the need to begin looking for independent accommodation and instead relied on an extension of her short term lease with the service. After one extension, the service decided the client was not responding and informed her that her lease would not be renewed. The client found herself and her child homeless, with their belongings in zip lock bags. The child was 11 weeks at that point. The client was given one night's emergency accommodation and the service secured caravan accommodation which was again very short term and with no real option for future security.¹⁰⁰

Indigenous women are particularly vulnerable to homelessness as a result of domestic and family violence. Research conducted by Larissa Behrendt in 2002 and J Young in 2004, demonstrates that Indigenous women are physically, sexually, socially and economically abused in significantly higher proportions than the rest of the Australian female population.¹⁰¹ An agency worker in Alice Springs, NT, has described the situation of an Indigenous homeless girl:

She had been [living] on the streets. The young girl was compromised by a taxi driver when getting a lift one evening – having decided to get a lift to a town camp, where she felt she would be safer than on the streets. She was picked up [by the taxi] and taken to an isolated area and told that if she wanted to get to her camp, then she

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Northern Territory Submission, above n 16, Attachment E.

would have to have sex with him. Thankfully she jumped out of the car and ran away.¹⁰²

The lack of long-term safe housing for Indigenous women escaping violence leads to a tendency for them to return to the home of the perpetrator. It is also common for Indigenous women to experience pressure from family to return to the perpetrator. Therefore it is crucial that these women be able to access safe and supported housing, both short and long term, quickly and easily.

Sadly, anecdotal evidence from numerous States and Territories suggests that within the non-Indigenous population, women are just as likely to return to violent and abusive relationships due to fears of homelessness and a lack of long-term safe housing options, exposing themselves and their children to further harm.¹⁰³

The completed questionnaires at Attachment E provide details of further violations experienced by women who are homeless.

8. Conclusion

It is clear that people who are homeless in Australia experience, and are vulnerable to a number of human rights violations including the right to adequate housing, the right to the highest attainable standard of health, the right to be free from extreme poverty, the right to be free from discrimination and the right to be treated with dignity and respect. It is also clear that Australia is not discharging either its progressive or core obligations in relation to each of these rights. By its own measure, Australia is a wealthy, developed and prosperous nation. However, the development and measure of the nation must also be judged by how it protects the rights of its most vulnerable. We submit that the nation is failing in this regard.

In the absence of government leadership in the area of housing and homelessness, the not-for-profit and community sector has been forced to fill the gap, to the extent possible, with the limited funds available to it. Notwithstanding the excellent work undertaken by these organisations to provide services in the area of homelessness, we remain firmly of the view that it is a primary responsibility of government to address this issue and to ensure the realisation of all rights discussed in this Report.

Australia is currently the only western nation not to have adopted or enacted a comprehensive Bill of Rights or a Human Rights Charter. While Victoria and the Australian Capital Territory have recently passed legislation protecting some civil and political rights, there remains a disturbing lack of commitment at a national level to the importance of economic, social and cultural rights and an understanding of the interdependent and interrelated nature of the human rights framework. Any economic and social reform in the areas of housing, health and social participation must be supported by an enduring commitment of resources by the government, but it must also be backed by effective human rights legislation that acts to protect these rights and recognise the interconnectedness of human rights for all people, particularly those that are disadvantaged and marginalised.

¹⁰² Ibid.

¹⁰³ Ibid, and Australian Capital Territory Submission, above n 17, Attachment E.

We submit that the Australian government has a legal and moral responsibility to protect and fulfil the rights of all of its people and particularly those who are vulnerable or disadvantaged, such as persons experiencing homelessness. In doing so, the government will contribute to the development of a society where fundamental rights – such as the right to safe and adequate housing, the right to be free from extreme poverty, the right to the highest attainable standard of health and the right to be free from discrimination – are treated as non-derogable and in a practical way underpin the experience of all individuals.

We consider that currently, the government is failing in its responsibilities in relation to people experiencing homelessness in Australia and we urge investigation of this situation by the Special Rapporteur on the Right to Health, the Independent Expert on Extreme Poverty, the Special Rapporteur on the Rights of Indigenous People and the Special Rapporteur on Violence Against Women.

Please contact us on +61 3 9225 6684 with any questions.

Yours sincerely

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Jonathan Pilbrow, NT Shelter, Northern Territory

Rob Spinks, Tenants Advice Service, Western Australia

Michelle Burgermeister, Tenants Advice Service, Western Australia

Elena Rosenman, Acting CEO, Australian Federation of Homelessness Organisations

ATTACHMENT A

HOMELESSNESS AND THE RIGHT TO ADEQUATE HOUSING

1. QUEENSLAND – Response prepared by Monica Taylor at QPILCH Homeless Persons' Legal Clinic

Crisis Accommodation

- a) **Please provide data about the unmet demand for crisis accommodation and homelessness assistance services in your state or territory, including the number of crisis accommodation beds per homeless person.**

A major report conducted in Brisbane in June 2004 estimated that 30-50 additional beds are needed in Brisbane as an initial response to homelessness. This is not considered an adequate replacement for long-term, secure and affordable housing linked with appropriate support services, but is a necessary first step to address the key issue of safety for homeless people.¹⁰⁴

The report also noted that SAAP figures, collected by the National Data Collection Agency over the periods of 22-28 August and 9-14 May 2002, demonstrated that 68.5% requests were for crisis/short-term accommodation and at least 690 requests included children. 67.5% of requests were not met because of lack of accommodation.

Thirty three homeless people were consulted during the report, and several common themes emerged, including:

- safety was considered paramount;
- facilities need to cater for men, women, couples and families;
- people taking drugs need extra consideration;
- participants preferred smaller facilities (12-30 beds).

A study of family homelessness in 2003 showed that access to SAAP accommodation for couples with children and males with children appears to be a significant problem, but that couples without children were reported as having the highest proportion of unmet needs within the SAAP system.¹⁰⁵

- b) **Please provide details of the major barriers to crisis accommodation and homelessness assistance services for homeless people in your state or territory.**

¹⁰⁴ *Finding Beds for Homeless People*, Brisbane Project Report, New Farm Neighbourhood Centre for Brisbane City Council, June 2004.

A forum conducted on 21 June 2006 by the Queensland Public Interest Law Clearing House ('QPILCH') Homeless Persons' Legal Clinic (the 'HPLC Forum'), and attended by organisations providing direct services to persons experiencing homelessness, provided substantial anecdotal evidence that:

- Crisis accommodation services provided by their agencies were often counter-productive to the long-term well being of their clients. They housed 30-80 people without facilities for private space and with inadequate support resources.

"It is easy for the mentally ill to be exploited by other clients, for frustrations to boil over, and for violent responses (learned on the street) to become an embedded solution."

These further remove clients from the prospect of a successful transition to public housing.

- State and Federal governments have demonstrated an unwillingness to resource early intervention strategies,
- Staff at crisis accommodation facilities are underpaid, eg general staff received their first pay rise in 5 years, which did not even cover the CPI, and that their pay rates were equivalent to accepted children's wages. This generated many issues related to effective service provision, including adequate staff retention.
- Those with physical disabilities, families, couples, drug dependency or severe mental health issues, exhibiting violence or hallucinations cannot access crisis accommodation.

A coordinator of a government-funded needle exchange service has indicated there is a lack of facilities to accommodate people who are drug affected or who have ongoing alcohol or drug problems.

Public and Social Housing

c) Please provide disaggregated data about the unmet demand for adequate housing in your state or territory.

As at 30 June 2006, there were 35,038 applicants waiting for public housing, not including those existing clients of the Queensland Department of Housing who requested a transfer to another dwelling.¹⁰⁶ Allocations of housing in the same period totalled 4,623, and the average waiting time for an allocation was 2.43 years. Anecdotal evidence from the service providers at the HPLC

¹⁰⁵ Walsh et al, *More than Just a Roof*, Queensland University of Technology Centre of Philanthropy and Non-Profit Studies, 2003.

¹⁰⁶ Data from Queensland Department of Housing provided to QPILCH Homeless Persons' Legal Clinic by Q-Shelter, a community-based peak organisation which promotes improved access to housing for all Queenslanders. See <http://www.qshelter.asn.au> for more information about Q-Shelter.

forum is that this wait can be as long as 10 years, depending on the region and the particular needs of the client.

There has been a 50% reduction in construction of public housing in the last 5 years in Queensland.

d) Please provide details of the major barriers to access to adequate housing in your state or territory.

The median weekly rent for a 1 bedroom flat or unit in Brisbane inner city is \$240, and in Brisbane as a whole, \$200. This represents a 20% increase on median rental over 2 years. The base rate of Newstart Allowance, plus the highest payable Rent Assistance for a single unemployed adult is \$242.30 per week. The median weekly rent in Logan (a low socio-economic outer Brisbane suburb) for 1 bedroom is \$150, and represents a 30% increase over 2 years.¹⁰⁷ Fifty one per cent of lone parent households with dependent children in Queensland spend more than a quarter of their income on housing.¹⁰⁸

The comments from the HPLC Forum centred around the lack of understanding at a government level of the need for a heavily supported and integrated transition from crisis accommodation to public housing, and the lack of funds for this support. In order to access public housing, a potential tenant must supply their own furniture and bond monies for various utilities. This will be in addition to other financial pressures, which can include fines accumulated whilst sleeping rough, the cost of regaining access to children and therapy for any addictions, all of which are beyond the resources of most homeless people. Add to these factors the costs related to a health or disability issue, and it is apparent why service providers estimate the process of transition requires 2-4 years of support. HPLC Forum participants considered that homeless persons embody the trauma of social policies involving housing options, employment and welfare payments.

The needle exchange personnel commented that clients with ongoing alcohol and drug problems, cannot readily access public housing, which is further exacerbated by co-morbidity.

e) Please provide details about the security of tenure and protection from both forcible evictions and evictions into homelessness in your state or territory.

The *Residential Services (Accommodation) Act 2002* (Qld) governs boarding house style accommodation and enables service providers to issue an immediate notice to leave, without the need for genuine consultation with the resident or "reasonable notice...prior to the date of eviction". There is also no provision for residents to initiate emergency proceedings. The Tenant's Union of Queensland commissioned an opinion from a national law firm in April 2005 which found

¹⁰⁷ Data from Residential Tenancies Authority website. www.rta.qld.gov.au

¹⁰⁸ Queensland Office of Economic and Statistical Research, Census Bulletin No.13.

that the Act fell “*short of the protection to housing rights and security of tenure as anticipated by...Australia’s obligations under the ICESCR.*”

The Tenancy Advocacy and Advice Service ('TAAS') in Queensland notes that this section is often used by boarding house operators as a ‘catch all’ to get rid of people at whim, and is usually used to evict people who have attempted to exercise their rights under the legislation.¹⁰⁹

TAAS provided the following examples:

Case study 1

A resident asked for his bond to be lodged at the Residential Tenancies Authority as required by law. In retaliation, his boarding house owner, a policeman, arranged for a police raid of his room through a search warrant alleging that he was keeping cannabis in there. The resident was taken to the Watch house and later released due to lack of any evidence. The resident sought to return to the premises and was handed an immediate Notice to Leave for serious nuisance. The resident was unable to recover his goods at that time, nor could he recover his rent paid in advance. The goods were returned after some advocacy for the resident but the rent in advance had to be pursued through the Conciliation and Small Claims Tribunal process which is lengthy. In the mean time he was left in financial crisis.

Case study 2

A boarding house resident was hospitalised due to his mental illness. He left all his goods at the boarding house. When he was released from hospital, he found he could not recover his goods as they had allegedly been disposed of by the service provider who alleged that they were worth less than \$100. This legislation allows a service provider to dispose of abandoned goods equal to or less than that value. The resident believed that his goods were worth far more than this and the matter was taken by a tenant advocate to the Small Claims Tribunal. Unfortunately, due to the resident having a mental illness, the service provider was able to prejudice the Referee in the Tribunal against him. The resident was unable get witnesses to appear for him from the boarding house as they also feared retaliation from the service provider. The resident lost the case and felt he had been treated unfairly; firstly by the service provider and secondly, by the judicial system.

Case study 3

A female resident was evicted from a boarding house because she was seen talking to a former resident who had been previously evicted from the same residence. The female resident was illiterate and, in order to evict her, the service provider made her “sign” a Notice stating that she would be leaving. The resident did this without understanding what it was. She was summarily evicted and her goods seized.

¹⁰⁹ Email correspondence between HPLC and the Tenancy Advocacy and Advice Service, July 2006.

HOMELESSNESS AND THE RIGHT TO ADEQUATE HOUSING

2. AUSTRALIAN CAPITAL TERRITORY – Response prepared by Llewellyn Reynders at ACT Council of Social Services

Overview of Homelessness

a) Please provide disaggregated data about the number and demographic profile of people experiencing homelessness in your state or territory

There are two primary sources of data on homelessness in Australia. The first the National Census which is collected every five years and the second is the SAAP National Data Collection Agency ('NDCA') which collects annual data on the people who use homeless assistance services. Both provide ACT specific data.

In the ACT there were 1,229 people who were homeless on Census night in 2001. Of the 1,229 people who were homeless in the ACT approximately:

- 65% of people were staying with friends or family,
- 24% were staying in a homeless assistance service,
- 6% were sleeping rough; and
- 5% were staying in boarding houses.

The ACT Government's *Canberra Social Plan* estimated up to 5,350 people in the ACT experience some form of homelessness each year. Rough sleepers, or people who experience primary homelessness are some of the people most likely to be undercounted in the Census. In the *Canberra Social Plan*, the ACT also estimated between 120 and 320 people sleep rough each night, which is significantly higher than the Census count.

According to the most recent Census in 2001:

- 55% of people who are homeless in the ACT are male and 45% are women;
- 57% of people who are homeless are young people under 25 and children accompanying homeless adults. This is significantly higher than the national average (46%); and
- Aboriginal and Torres Strait Islander people are almost 4 times more likely than non Indigenous Canberrans to be homeless. While Aboriginal and Torres Strait Islanders represented 1.2% of the population in the ACT, they are almost 4.5% of the people who are homeless.

The SAAP NDCA offers a detailed profile of the people using homeless assistance services in the ACT.

- Approximately 52% of the people who are supported by homeless assistance services in the ACT are men and 48% are women;
- Almost half of the people using services are Canberrans under 25;

- The biggest group of people using homeless assistance services in the ACT are young women – one in every four people using a homeless assistance services is a young woman under 25; and
- Half the children accompanying their parent(s) to services are under 4 years old.

Aboriginal and Torres Strait Islander people are overrepresented in homeless assistance services as they are in the rest of the population. Aboriginal and Torres Strait Islanders represent approximately 12.5% of people accessing homeless assistance services in the ACT.

The most common reasons for seeking assistance from a homeless assistance service are:

- Eviction or end of previous accommodation (16%);
- Relationship or family breakdown (12.5%);
- Financial difficulty (10%); AND
- Domestic violence (10%).

The rate of eviction as the primary cause of homelessness in the ACT (16%) is notably higher than the national rate (9.9%). The reasons for homelessness vary significantly according to people's age and gender. The primary cause of homelessness for women over 25 both alone and accompanied by children is domestic violence. The primary cause of homelessness for couples with and without children is eviction and financial difficulty.

Crisis Accommodation

b) Please provide data about the unmet demand for crisis accommodation and homelessness assistance services in your state or territory, including the number of crisis accommodation beds per homeless person.

In the ACT there are currently 48 homeless assistance services funded through the *Supported Accommodation Assistance Program* (SAAP). Homeless assistance services do not necessarily provide accommodation – some ACT services provide food, transport, counselling, drop in services and outreach support.

In 2004-05, homeless assistance services in the ACT accommodated 1,550 adults and young people aged between 12 and 25 and 800 children accompanying an adult. Some people used services more than once in that year, which means services provided people with a total of 3 300 individual support periods.

Three out of every 4 people who seek assistance from homeless assistance service in the ACT are turned away every day. This is significantly higher than the national average which is two in every four.

c) Please provide details of the major barriers to crisis accommodation and homelessness assistance services for homeless people in your state or territory.

- Homeless assistance services are not evenly spread across the ACT; AND

- The average waiting time for the most urgent allocation of public housing (EAC1) is 189 days, or over 6 months which has created a bottle neck in homeless assistance services.

Public and Social Housing

d) Please provide disaggregated data about the unmet demand for adequate housing in your state or territory.

Gender disaggregated data is not generally supplied for housing figures. One of the undertakings of the 2004 *ACT Women's Plan* was to encourage the general provision of disaggregated data; we are waiting for further outcomes from this.

It is difficult to find measurements of people in the private market in housing stress, although (as I'll discuss below) the expensive nature of private rental accommodation in Canberra suggests that the problem may be significant for many people on low incomes. In the 2002 report by NATSEM and the ACT Government, "Addressing Disadvantage in the ACT", it was estimated that 24, 446 (or 8.6%) of Canberrans were living in poverty.

The most recent figures for the public housing waiting lists in the ACT (June 2006), taken from the Department of Disability, Housing and Community Services website, were as follows:

HOUSING REGISTER	
Waiting List	
Application Category **	Number of Applications
Early Allocation Category 1	534
Early Allocation Category 2	344
Standard Allocation Category 3	1555
TOTAL	2433
Waiting Times	
Application Category **	Average Waiting Time (days)
Early Allocation Category 1	212
Early Allocation Category 2	767
Standard Allocation Category 3	1047

TRANSFER REGISTER	
Waiting List	
Application Category **	Number of Applications
Management Initiated Transfer	50
Early Transfer Category 1	71
Management Assisted Transfer	8
Early Transfer Category 2	158
Standard Transfer Category 3	828
TOTAL	1115
Waiting Times	
Application Category **	Average Waiting Time (days)
Management Initiated Transfer	423
Early Allocation Category 1	383
Management Assisted Transfer	791
Early Transfer Category 2	867
Standard Transfer Category 3	1066

Please note: Early Allocation Category 1 referred to people in homelessness, extreme housing crisis or imminent risk of homelessness, or Housing ACT tenants who need to be re-housed urgently. Early Allocation Category 2 referred to applicants for whom the private market is not suitable or accessible as a long-term option – for example, serious affordability problems, particular physical or medical needs, discrimination, or the need for housing in a particular location where no private accommodation is available. This category also refers to Housing ACT tenants in needing a transfer because their current housing is seriously overcrowded or unsuitable for medical reasons. These categories have since been redefined, and the new waiting list figures are not yet available.

- e) **Please provide details of the major barriers to access to adequate housing in your state or territory.**

The Real Estate Institute of Australia's figures for the March 2006 quarter demonstrated that Canberra's median weekly rents were the highest in Australia for 3 bedroom houses (\$310p.w.) and the equal highest (with Sydney) for 2 bedroom accommodation (\$300p.w.). Rents were highest in the inner suburbs, where some people on low incomes (eg university and CIT students) may particularly wish to live in order to be close to educational facilities, amenities etc. The vacancy rate for rental properties was low at 1.8%.

Accessing housing that is appropriate presents additional difficulties. Groups that face particular hardship in the private market include households on low income, young people, Indigenous people, people with disabilities, students, single parent families, people with mental illness and /or drug problems, and people exiting the criminal justice system. Some claims of overt discrimination are made, but given the tight, expensive nature of private rental, many of these people may simply experience adequate rental accommodation as being out of reach.

While there has been a recent, welcome undertaking in the June 2006 budget to increase the ACT's public housing stock by \$10m per year, at present the figures make clear that prompt access to public housing for those in need remains a problem, with some people defined as functionally homeless waiting over a year for housing. Under the new allocations system, undertakings have been made to house people in most urgent need within shorter periods of time. However, at the same time, the new allocations system excludes applicants who work or study in Canberra but live outside – this presents problems because, anecdotally, Canberra's expensive rents drive some Canberra households out of the city into surrounding NSW rural areas like Queanbeyan and Yass. Additionally, the new allocations system further restricts the income levels of public housing applicants to \$490p.w. for singles and \$613p.w. for couples. It remains to be seen how affordability problems for people in the private market who are now ineligible for public housing will be measured or addressed.

f) Please provide details about the security of tenure and protection from both forcible evictions and evictions into homelessness in your state or territory.

At present, Canberra's public housing system guarantees security of tenure for all tenants, a policy supported by the 2004 *ACT Women's Plan*. (It is disturbing to note that the recent June 2006 budget again raised the possibility of reconsidering this policy, despite a positive Government study in 2004 and numerous community sector and tenant submissions over the years in favour of it.)

Private rental leases tend to be short in Australia compared to many other countries (for example, the 5 or 10 year leases common in some parts of Europe are unusual here). Various forms of legal protection exist for tenants – for example, recent amendments to the Residential Tenancies Act now enable the Residential Tenancies Tribunal to refuse to make a termination and possession order if a tenant can demonstrate that they are being evicted in retaliation for getting advice about their rights. However, anecdotally, problems remain with both tenants and landlords being unaware of tenancy rights. Complaints continue about landlords unlawfully raising rent midway through a lease because their taxes have increased or the market has become more competitive.

Occupancy law (which covers boarding houses, caravan parks and student accommodation) remains weak. Occupants are not automatically protected by leases; occupancy law is guided by 9 principles rather than strict rules; occupants being evicted are only entitled to 'reasonable notice' and to be told the reason for their eviction; and many remain unaware of their rights at all.

g) Please provide one or more stories about recent violation/s of the human right to adequate housing.

Particularly disturbing has been the recent threat of mass evictions for the residents of the Narrabundah Long-Stay Park. There are over 100 households in the Park, many of whom own their homes, although there are also tenants and other residents there. Some residents have lived there for decades. The Park, originally owned by the ACT Government, and handed over to a charitable organisation in 2000, was sold this year to a private developer, who issued all residents with eviction notices. Due to the comparative weakness of occupancy law, which governs caravan parks (in contrast to the protections guaranteed under tenancy law), and the fact that residents do not own the ground on which they live (even if they own the buildings themselves), the legal position of residents remains uncertain. The residents come from a variety of backgrounds, but are mostly on low incomes. Many of their homes are not physically moveable, and in any case, the cost of moving them runs into many thousands of dollars and residents have been informed that Canberra's other caravan parks have no room for them. Furthermore, for many many residents, the Park is their home and their community, the loss of which would be emotionally as well as financially devastating. Negotiations are occurring at Government level, as well as a strong community campaign to save the park. (More broadly, the loss of affordable accommodation provided by residential caravan parks is a concern Australia-wide, as more and more parks are sold or turned into tourist accommodation.)

Any other comments on whether and how the right to adequate housing is either violated or fulfilled for homeless people in your state or territory?

Adequacy of housing in the ACT can be difficult to adequately measure without:

- more publicly available disaggregated data;
- clearer definitions of housing affordability (this remains a topic of debate and different definitions are given by different government, private and community agencies);
- further centralised affordable housing information service(s); and
- a register of disability-accessible accommodation in the private market.

I would also add that while it is very positive indeed to see the ACT Government embracing a human rights based approach to governance, there must be ongoing work to ensure the recognition of social and economic rights.

HOMELESSNESS AND THE RIGHT TO ADEQUATE HOUSING

3. SOUTH AUSTRALIA—Response prepared by Bill Manallack at Homeless Persons' Legal Clinic (SA)

Overview of Homelessness

a) Please provide disaggregated data about the number and demographic profile of people experiencing homelessness in your state or territory.

On Census night in 2001, 7,586 people were recorded as being homeless in SA:

- 910 people (12%) in primary homelessness;
- 1,138 people (15%) staying in services funded through the Supported Accommodation Assistance Program;
- 4,095 people (54%) staying temporarily with other households or for short periods in hostels or boarding houses; and
- 1,443 people (19%) staying long-term in boarding houses.

Of the persons experiencing primary homelessness on Census night:

- 23.9% were less than 18 years old;
- 8.1% were 19-25 years old;
- 52.3% were 26-54 years old;
- 15.7% were more than 55 years old;
- 30% were single;
- 14% were couples without children;
- 36% were families (includes both single parent and couple families);
- 2% were classified as a 'group'; and
- 18% were classified as 'visitor/other'.

Crisis Accommodation

b) Please provide data about the unmet demand for crisis accommodation and homelessness assistance services in your state or territory, including the number of crisis accommodation beds per homeless person.

According to data, there were 1,138 people in SAAP Accommodation on Census night, 2001, in SA. This means there were about 7 homeless people for every SAAP bed. Of those who accessed SAAP services during 2002-03:

- 37.3% were male and 62.7% were female;

- 15.3% were Indigenous clients, although they are only 1.5% of the overall population of SA;
- 7.0% were born in countries apart from Canada, Ireland, New Zealand, South Africa, UK, USA or Australia, (compared to 11.1% of the overall population of SA);
- 20.7% were under 20 years of age, 29.5% were 20-30, 42.5% were 30-50, and 7.4% over 50 years old; and
- There were 5,350 accompanying children (0-17 years, with 89% 0-12 years old).

The most common reasons stated for accessing SAAP services were:

- Domestic and family violence (29.5%);
- Relationship / family breakdown (13.4%);
- Eviction / previous accommodation ended (9.7%); and
- Usual accommodation unavailable (8.7%).

The above statistics tell us about those who were in the SAAP system, but there have since been reports that at least half the people approaching SAAP for services are turned away. It is estimated that in 2002-03 period, a further 4,095 people, (54% of the SA homeless population) were staying temporarily with another household or were living for short periods in hostels or boarding houses.

c) Please provide details of the major barriers to crisis accommodation and homelessness assistance services for homeless people in your state or territory.

There are not enough places! Also, while a centralised Emergency Accommodation Service SA phone line has been set up, with access to all SAAP service vacancies, single men still do not get a service.

Public and Social Housing

d) Please provide disaggregated data about the unmet demand for adequate housing in your state or territory.

There are 25,000 households waiting for public housing; 60% of those are single, and 31% of applicants are under the age of 25. In the meantime, 76% of households on low incomes in the private rental market are in housing stress; that is 28,000 households, and 8,000 of those are paying more than 50% of income on rent.

e) Please provide details of the major barriers to access to adequate housing in your state or territory.

Forty per cent of renters have been renting for 10 years or more. The rise in house and land prices over the last five years means more people are locked out of home ownership, and haven't got the incomes to afford mortgage payments. Now rents have gone up 35% in the last two years,

and people are being forced to move further out, or into less adequate accommodation, or are going into greater housing stress.

One of the barriers has been the reduction in the number of public housing stock, from 63,000 in 1992 to 46,000 in 2005. Community housing has grown very little in the last few years.

South Australia has relatively high (compared to National figures) unemployment, so there are many with inadequate incomes. The Federal income supports are not enough to provide adequate housing, even with Commonwealth Rent Assistance.

f) Please provide details about the security of tenure and protection from both forcible evictions and evictions into homelessness in your state or territory.

Forcible evictions take place when, after exhausting all other avenues, a landlord gets the Residential Tenancies Tribunal order for the Bailiff to remove tenants. Their goods are placed on the street, unless other arrangements are made. The State Government has tenancy support services available when peoples' tenancies are at risk; the aim of the services is to prevent homelessness, and this can often be done through negotiations with the landlord. Alternatively, the service tries to find alternative accommodation for people who are going to be evicted. Private rentals are covered by the Residential Tenancies Act, but this does NOT apply to Boarding Houses or Caravan Parks. Other people without secure tenure are those in Supported Residential Facilities (like boarding houses, but with a bit of care provided).

g) Please provide one or more stories about recent violation/s of the human right to adequate housing.

Every week we get phone calls or people coming to our office asking where they can go. In reality, one young woman with a toddler and a baby had been in contact with EASSA for 9 days in a row, and they still had nowhere for to sleep, even for a night. There are stories of women sleeping in cars, often with children, and the police tell them to move on. Others end up staying with men they barely know, and are subject to sexual and physical abuse.

Any other comments on whether and how the right to adequate housing is either violated or fulfilled for homeless people in your state or territory?

This questionnaire focuses on the problems. South Australia has a State Housing Plan and funds allocated through the Social Inclusion Initiatives which are helping to prevent and address homelessness and to provide affordable housing. However, the biggest factor is that the private market is not providing, nor adding to, the numbers of low cost rental properties.

HOMELESSNESS AND THE RIGHT TO ADEQUATE HOUSING

4. VICTORIA – Response Prepared by Sue Hogan at Urban Seed

Crisis Accommodation

- a) **Please provide data about the unmet demand for crisis accommodation and homelessness assistance services in your state or territory, including the number of crisis accommodation beds per homeless person.**

We are asked on a regular basis for help finding crisis accommodation. It is our experience that it is rare to find a bed on the day that it is required. There is a dire need for crisis accommodation in Melbourne.

- b) **Please provide details of the major barriers to crisis accommodation and homelessness assistance services for homeless people in your state or territory.**

Due to funding restraints, there is a lack of available beds. Beds that are available are allocated early in the morning. Some accommodation services have strict rules that cause difficulty for some people. For example, one man needed to be able to leave the accommodation service after curfew, to attend casual work. Hence the accommodation that was available was unsuitable.

Public and Social Housing

- c) **Please provide details of the major barriers to access to adequate housing in your state or territory.**

There is a lack of new public housing stock. In the City of Melbourne, the gentrification over the past ten years, the closure of cheap hotels and boarding houses to meet the needs of an affluent housing market, exacerbates the problem. We have known people to wait years for public housing. Those with a high need for housing (eg. recurring homelessness) wait two years.

Some people may benefit from a different approach to long-term public housing support. They need help to access the private rental market again. The federal government provides Rent Assistance, but there is a lack of affordable private rental and the cost of entering into private rental is prohibitive (for example paying a bond and rent in advance). Furthermore, the operation of tenancy databases to blacklist tenants excludes many from the private rental market.

The State Government Office of Housing policy is to move people out of the city. But in reality, for various reasons, homeless people tend to congregate in the central business district of a capital city, so there is still a need for increased crisis and long-term public housing in, or close to, the city centre.

In our experience it is increasingly difficult for families to find adequate accommodation through the public housing system.

People engaged in problematic illicit drug-use often have trouble gaining, or maintaining, housing. Much could be done to research and improve ways of working with injecting drug-users to address

their housing. At present, community stereotypes lead the politicians to call for a 'tough on crime' response to illicit drug use. Ironically, prison is often one of the only places where people have access to regular meals and bed. However, prison is not, and should never be considered safe and secure housing. It is an inappropriate outcome and negates the housing needs of one of the most vulnerable groups in our society. In our experience, in preparation for exiting prison, people are rarely assisted in finding suitable places to live. Crisis accommodation seems to be regarded as an appropriate exit strategy. This does nothing to assist people make a new start after prison.

Individuals/families that are unemployed, physically or mentally unwell or otherwise reliant on social security income need to spend a major part of their income on rent. This leaves little income for job-seeking, health and medical expenses, addressing legal issues, participating in healthy activities, and building positive relationships with partners, family or community. All these things have multiple impacts on the life of the person/family. They add stress, reduce self-esteem and motivation, leave people disconnected from others and ultimately impact on the person or family's ability to retain housing. Therefore, the housing needs of the community need to be addressed in a holistic way to include addressing poverty, employment, health, social security support, legal, community, family and relationship needs.

The housing services sector requires people to have a welfare worker when applying for housing. This forces people to engage with welfare services and denies individuals the opportunity to speak and act for themselves and can therefore result in disempowering people.

d) Please provide one or more stories about recent violation/s of the human right to adequate housing.

Over the past two years we have assisted a couple through various crises. While their application for housing was being processed they stayed in squats or took out illegal leases. They virtually 'needed' to stay in crisis as more secure accommodation would have jeopardized the high priority of their application. Due to their recurring homelessness, it is unlikely that they would have been able to obtain safe and secure long-term housing on their own.

A family requiring crisis accommodation attempted to get assistance from various services. It took three months to find accommodation that was suitable for a family. During this time they were staying in a motel room, which was not appropriate for their preschool child. Neither was this environment helpful for them in sorting through the issues that had caused their homelessness.

HOMELESSNESS AND THE RIGHT TO ADEQUATE HOUSING

4. NORTHERN TERRITORY – Response prepared by Jonathan Pilbrow at NT Shelter

Homelessness

a) Please provide data about the rate of Indigenous homelessness relative to the overall rate of homelessness in your state or territory.

The NT has the highest rate of homelessness in Australia. There are over 5000 homeless people in the NT (288 per 10,000 of population). This rate is 5-7 times the rate in the other States and Territories.

Table 3.3: Rate of homelessness per 10,000 of the population by state and territory 1996 and 2001

	NSW	Vic	SA	Tas	ACT	Qld	WA	NT
2001	42.2	43.6	51.6	52.4	39.6	69.8	64.0	288.3
1996	49.4	41.0	48.1	43.9	40.3	77.3	71.5	523.1

Source: ABS, *Counting the Homeless* (2003), Table 8.2, p. 58

The NT also has the largest percentage of Indigenous people living in 'no conventional accommodation' of any State or Territory. Almost 7% of Indigenous households (2,681 in the NT) are living in improvised dwellings (i.e. a structure without a bathroom or toilet). The percentage of people sleeping rough in the NT (2169 or 40% of homeless people) is more than double, and in some cases triple that of the rate in all of the other States and Territories.¹¹⁰

b) Please comment on the major contributors to Indigenous homelessness in your state or territory.

From the period ending 30/6/03, the number of public housing dwellings available for rent in the NT went from 6130 to 5555 by 31/5/05 – a decrease of 575 dwellings (9%). Yet at the same time there were 2156 applications for public housing during 2003-04, a 12% increase from the previous year.¹¹¹

It is widely accepted that there is a need for an additional \$2 billion nationally for Indigenous housing – and approx \$850 million for the NT. However, current expenditure in the NT is approximately \$40 million¹¹² – and this is largely Commonwealth funding. There has been a pattern of gross under funding of Indigenous housing across Australia.

Families of up to 16 and 20 live in overcrowded houses because the Government can't keep pace with the demand for new ones, which in turn puts strains on existing houses." Budgets allocated

¹¹⁰ Commonwealth, *National Evaluation of the Supported Accommodation Assistance Program (SAAP IV): Final Report*, 2004.

¹¹¹ Northern Territory Housing, Estimates Hearings, 2005-2006.

to maintenance and repairs are insufficient to meet the requirement of current housing stock, let alone meeting the emerging need. Overall funding for Indigenous housing has been declining in real terms for at least the last 15 years.¹¹³

In terms of public housing, 28% of all people occupying public housing dwellings in the NT are Indigenous (approx 1500 households)¹¹⁴ - yet there are very few formal support systems available for people who most need it. Many of the tenants are Indigenous people who may have not lived in an urban setting previously, for whom English is not their first language. Non government organisations, both Indigenous and non-Indigenous, who provide support are stretched to capacity. While a life skills program has begun in Darwin, and is about to begin in Alice Springs, very little money has been put into life skills for public housing tenants.

It is apparent to most people that Indigenous people are set up to fail in public housing in the NT. There is a revolving door of people moving into public housing on short term (3 month) leases, facing issues of visitors and overcrowding - often due to family obligation and a shortage of viable accommodation options for visitors; damage and complaints, and a non-renewal of lease. They then find themselves homeless, facing significant repairs and maintenance debts (some as high as \$10,000), which could have been avoided if houses were more appropriately constructed in the first place, in relation to health hardware and durability.

Many more support mechanisms are clearly required so people are not set up to fail. Especially for people with high and complex needs, including language barriers, who are put into housing without sufficient support systems – such as people with disabilities, people with a chronic disease (eg kidney failure) and young people. Some Housing Departments in other states have designated youth workers, with the SA Housing Trust having a medium term housing program for young people who face barriers to accessing and maintaining private rental accommodation – but this does not occur in the NT. Significantly there is no Youth Housing Policy in the NT.

Responses to homelessness in the NT must take into account and address both the 'structural' causes of homelessness (e.g. the lack of affordable and secure housing etc) as well as the individual causes, if inroads are to be made into this huge issue. Only then will Government and the community be in a position to provide adequate intervention responses, including prevention, early intervention, crisis intervention and long-term support.¹¹⁵ Currently there is an enormous dearth of these types of responses in the NT.

In the NT there are virtually no exit points for people when they are in emergency, short term or transitional accommodation (if they are lucky enough to have found any accommodation). Lengthy waiting times are often endured for priority housing, especially for victims of Domestic Violence – primarily women and children.

¹¹² Northern Territory, *National Issues in Indigenous Housing 2004/05 and Beyond: Position Paper*, September 2004

¹¹³ Ibid.

¹¹⁴ Northern Territory Housing Fact Sheet 2.

¹¹⁵ Commonwealth, above n 107.

There are also significant difficulties barriers for Indigenous families in accessing both public and private rental housing, with applicants often unable to meet the strict criteria in relation to previous tenancy history and rental references.

ATTACHMENT B

HOMELESSNESS AND THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

1. QUEENSLAND – Response provided by Response prepared by Monica Taylor at QPILCH Homeless Persons' Legal Clinic

Access to Health Care Services

a) Please provide information about the unmet demand for access to adequate health care services for homeless people in your state or territory.

Participants at the HPLC Forum were concerned that in the 2006 health-oriented Queensland government budget, there was no specific provision for increased study or services for those with a history of sexual abuse, which they estimated was an underlying trauma in many mental health matters, summary criminal offences, and incidence of co-morbidity, all of which are over represented in the homeless population.

Access to crisis mental health assessment and treatment in Queensland is limited. One participant described the standard conditions at Mental Health Units ('MHU') around the State:

"I would go to support clients seeking admission to the MHU. They would sit us in a room the size of a table, with nothing else but a leaky water-cooler, and the police will bring in some aggressive hand-cuffed guy, and seat him next to someone already not coping, and we would all wait there 5-6 hours before we could see someone."

MHU personnel were perceived to be regularly dismissive of the clients' need for admission. Participants referred to 3 documented suicides in 2002 of clients either just discharged, or not admitted to the MHU, which suicides occurred within a kilometre of the Royal Brisbane Hospital.

Health Outcomes

b) Please provide details of the major contributors to poor health outcomes for homeless people in your state or territory.

HPLC Forum participants expressed the need for proactive, individual case management models of care. As one participant noted, the current system of treatment still relies on the medical model:

"The medical model sees mental illness as pathology- you are labelled and not seen as more than your illness, let alone that your experience and management of the illness can become one of your strengths".

Options for treatment could include:

- Sanctuaries, that is, places where clients can just calm down;

- Better connections to existing support networks, including the health system valuing the insights of these carers;
- Counselling options, and creative diversional therapy; and
- Acupuncture, relaxation techniques and other complementary health practices.

c) Please provide one or more stories about recent violation/s of the human right to health for homeless people in your state or territory.

A Homeless Health Response ('HHR') team, providing integrated outreach health services to homeless persons recently commenced operation in Brisbane. Their services include access to free psychiatric, medical and allied health professionals for homeless persons. This service already cross refers regularly to our HPLC in its various locations.

Personnel from a Queensland needle exchange program state that clients cannot afford opioid therapy for their drug dependency (at \$5 a day), and they require Government assistance or subsidised dosing in pharmacies.

Heavy-handed public space policing in Queensland also contributes to worsening health outcomes for homeless people. A survey into the operation of police move-on powers conducted by the HPLC in conjunction with the T.C. Beirne School of Law, University of Queensland, in early 2006¹¹⁶, illustrates the point.

One respondent complained of police officers refusing him passage through the Fortitude Valley mall on his way to his health care provider. He needs regular visitation to monitor his schizophrenia and medication. The police regularly prevent from taking the short route through the mall, and he is forced to circle the Valley block on transport, which he cannot afford, or misses his appointments.

Another respondent, a Vietnam veteran, stated that he was directed by the police to move-on by police from a train station. He explained to police that he needed to catch his breath and that he was the recipient of a heart/lung transplant. The police searched him and found a container of hospital prescribed anti-rejection drugs. He was arrested and taken to the police station, despite providing a hospital identification card, which listed his prescription, and his Vietnam Veterans card. On the morning of his appearance, he was finally informed that the police had dropped the charge, because his story "checked out".

¹¹⁶ Survey results as yet unpublished. Further details available at hplc@qpilch.org.au

HOMELESSNESS AND THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

2. AUSTRALIAN CAPITAL TERRITORY – Response prepared by Llewellyn Reynder at ACT Council of Social Services

Access to Health Care Services

a) Please provide information about the unmet demand for access to adequate health care services for homeless people in your state or territory.

Access to good health and health services remains of continuing concern for homeless people and other marginalised groups in the ACT. Areas of concern include:

- Access to nutritious food: Because homeless people do not have adequate food storage, have difficulty accessing social security benefits, and have limited capacity to access public transport, which especially runs infrequently in the ACT outside commuter periods, and limited availability of information and skills in nutrition and food preparation, homeless people and other marginalised groups frequently rely on the provision of free food distribution through charities and other providers. However, free food provision is not always nutritionally balanced, and irregular distribution can mean there are periods where homeless people must rely on other sources. The lack of good nutrition increases the risk of health deterioration among homeless people.
- Access to mental health services: A significant proportion of homeless people experience mental health difficulties, but often have the least ability to access mental health services in order to treat and manage these problems. Anecdotal evidence suggests a rising proportion of homeless client have mental health needs. While the ACT Government has made commitments to improve the quality of and access to mental health services, total current funding is inadequate to meet the need, and acute and forensic mental health services are disproportionately funded at the expense of community-based services which homeless people are most likely to access.
- Access to primary health care: The ACT has the nation's lowest number of general practitioners per head of population outside the Northern Territory, and lowest bulk-billing rate of any state or territory. This makes access to primary health care increasingly difficult for homeless people or other marginalised groups to access appropriate primary health care services.
- Access to drug and alcohol services: A significant proportion of homeless people experience problem drug and/or alcohol use, and this can contribute to difficulties in finding secure accommodation. While some alcohol and drug programmes are available, they are often operating at capacity and unable to provide timely or sufficient service delivery to address the needs of clients.
- Access to oral health services: As dental health services continue to be excluded from Federal Government funding through Medicare, homeless people continue to rely on a

small program of public dental services provided by the ACT Government, which has limited coverage and access. Dental services are often limited to tooth extraction in the most urgent cases, and even this service may have a long waiting period.

b) Please provide details of the major barriers to adequate health care services for homeless people in your state or territory.

Barriers to accessing adequate health care in the ACT include:

- Co-payments for health services: A number of health services in the ACT require consumers to pay a “co-payment” as the services are not fully funded. The range of services requiring a co-payment has recently been expanded in the ACT Government’s most recent budget, potentially reducing access to health services for homeless people and other disadvantaged groups.
- Transport: Canberra is one of Australia’s most sparsely populated cities, and specific health services are often located in only one or two locations. This means that homeless people may be required to travel some distance to access health services, and as previously mentioned, forced to rely on a public transport system of variable frequency.
- Lack of income: As mentioned elsewhere, homeless people have difficulty accessing income support, and those who do find that the payment is insufficient to cover additional health care cost, particularly as most require some form of individual contribution.
- Lack of culturally appropriate services: Many health services provide a generic service that does not have the capacity to meet the cultural needs for culturally and linguistically diverse people and Indigenous communities.

HOMELESSNESS AND THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

3. NORTHERN TERRITORY – Response prepared by Jonathan Pilbrow at NT Shelter

Health Outcomes

a) Please provide disaggregated data about the health of homeless people in your state or territory.

Housing and essential services (or the lack of) are major factors affecting the health of Indigenous Australians. In 2006, many Indigenous communities still lack access to basic standards of living, which are exacerbated by overcrowding and a lack of available housing to meet the ever growing need.

Overcrowding of houses increases the spread of infections, and puts additional strain on household facilities such as kitchens, bathrooms and sewerage systems. Diarrhoeal and respiratory diseases are the major causes of morbidity amongst Indigenous children and also play a major role in the malnutrition experienced in the first 3 years of life. Poor hygiene increases the transmissions of such diseases. Providing sound functional health hardware is vital for reducing the pool of infections and improving the poor state of health among Indigenous people in Australia. Specifically the incidence of diarrhoeal disease, skin infection, pneumonia eye infection and other transmissible diseases can be reduced through the provision of sound functional health hardware.¹¹⁷

As at 2003-04, the NT had the largest number of Indigenous Community Houses in the country, which were not connected to an organised sewerage system and 7.1% of Indigenous communities in the NT were not connected to an organised supply of electricity. In addition 94 dwellings were not connected to an organised water supply.¹¹⁸

The 2001 Community Housing and Infrastructure Needs Survey ('CHINS') of Indigenous communities found that in the NT: 25% of Indigenous housing stock needed major repair or replacement; 27% of the Indigenous population lived in communities affected by water restrictions; and 48% of Indigenous communities were affected by sewerage overflows or leakages.¹¹⁹

Comments from a Northern Territory Housing Worker in relation Housing and the Impact on Health

There is very limited accommodation within the town camps in Alice Springs and it is evident that more and more young people, as well as older people are migrating to town to live, utilising their bush

¹¹⁷ National Indigenous Housing Guide, 2nd Edition (Department of Family, community Service and Indigenous Affairs)

¹¹⁸ Australian Institute of Health and Welfare, *Indigenous Housing Indicators*.

¹¹⁹ Northern Territory Local Government Housing & Sport, <http://www.dcdsca.nt.gov.au/>.

communities as more of a "getaway place". Many Aboriginal people end up staying in the river and surrounds of the town, and this type of accommodation brings with this a range of associated dangers and environmental health issues.

This lifestyle often leads to access to alcohol, which many normally wouldn't have on a community and children may be left to fend for themselves, often being left by parents who are drunk or asleep. Many of these children are being referred to Family and Community Services (FACS, Child Protection) to deal with.

The effects of alcohol and violence are well known, and the Emergency Department at Alice Springs Hospital has overwhelming statistics on presentations, related to alcohol and trauma. There are a large and increasing number of Indigenous people with chronic disease. Increasingly these chronically ill clients have been forced to move to town as well for continued treatment, and their families are spending more and more time with them in the urban setting. Again these people and family groups are large in number and most are without housing, so this increases the itinerant number rate and associated problems, of homelessness, violence and chronic disease.

HOMELESSNESS AND THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

4. VICTORIA – Response prepared by Sue Hogan at Urban Seed

Access to Health Care Services

a) Please provide information about the unmet demand for access to adequate health care services for homeless people in your state or territory.

While there is a primary health service for injecting drug users in Melbourne CBD, many other homeless people's health needs are unmet.

b) Please provide details of the major barriers to adequate health care services for homeless people in your state or territory.

- Cost of treatment;
- Waiting lists (including emergency departments, mental health services and drug and alcohol treatment); and
- Medicare cards – many homeless people prefer not to carry any identification.

Health Outcomes

c) Please provide details of the major contributors to poor health outcomes for homeless people in your state or territory.

- Poor diet – junk food is cheaper than healthy food such as salads sandwiches, especially in the Central Business District.
- People rely on welfare services for meals but these are not available for every meal throughout the week (and are especially scarce on weekends).
- The living conditions in boarding houses are such that often tenants have little or no means to store food and cook their own meals.
- Poverty – the cost of many medications and treatment are beyond the means of those on low incomes. In addition, waiting lists in the public health system are very long and leave people living with pain or incapacitated in some way for long periods while they wait for treatment.
- Employment – the current situation in Australia is that people have less and less ability to negotiate for fair employment. This affects things like sick pay and minimum wages, and it impacts greatly on people who are homeless.
- Low education standards. While the literacy rate in Australia is presumably quite high, we know many people (i.e. a disproportionate number) who are illiterate. These people have

usually have poor housing, income, health and broken relationships with family or disconnection with the broader community.

- People living on the streets (ie sleeping rough) are vulnerable to assault, especially by police or security guards, or from other 'streeties'. It is a similar situation for people living in boarding houses (ie at risk of assault, stabbing, theft etc).

ATTACHMENT C

HOMELESSNESS AND THE RIGHT TO BE FREE FROM EXTREME POVERTY

1. AUSTRALIAN CAPITAL TERRITORY – Response prepared by Llewellyn Reynder at ACT Council of Social Services

a) Please provide information about any extreme poverty experienced by homeless people in your state or territory.

Homeless people make up a significant proportion of people experiencing extreme poverty in the ACT, particularly those experiencing other problems, including mental health difficulties or problem drug use. Increasing tightening of income support criteria, increased responsibilities placed on income support recipients, and the practice of breaching disproportionately affects people who have high and complex needs, and are least able to negotiate the intricacies of the income support system.

b) Please provide details about the income support available to homeless people in your state or territory.

As a Federal Government responsibility, income support available in the ACT is the same as elsewhere. One particular issue for the ACT is that despite the high cost of housing, particularly in the private rental market, rent assistance does not take into account local rental costs, and thus ACT rent assistance recipients are likely to be more likely to be placed in housing stress and be more vulnerable to homelessness. In addition, because the ACT has a very low unemployment rate, people who try to move away from Canberra in order to find more affordable accommodation are penalised by the income support system by having payments suspended.

HOMELESSNESS AND THE RIGHT TO BE FREE FROM EXTREME POVERTY

2. VICTORIA – Response Prepared by Sue Hogan at Urban Seed

- a) Please comment on the adequacy of income support, particularly whether it is sufficient for the enjoyment of an adequate standard of living and other fundamental civil, political, economic, social and cultural rights.**

The Australian social-security income is below the poverty line and once people spend their social security income on rent, and bills, there is very little money left to buy food and other essentials.

- b) Please provide details about the major barriers to adequate income and freedom from poverty for homeless people in your state or territory.**

- People require an address to receive Centrelink income. Homeless people often don't have an address;
- People's income is often cut off due to them breaching the Centrelink requirements, leaving them without any money for a up to a fortnight. The new Centrelink laws will make the situation worse and people will potentially be left without income for months;
- Australian Workplace Agreements require individuals to negotiate their own working conditions. For people who are homeless, with complex health and welfare needs, this will be extremely difficult, and they are vulnerable to exploitation;
- Low standard of education among people who are homeless means they don't have the literacy and numeracy skills needed by employers; and
- Victoria's zero tolerance begging laws.

- c) Please provide one or more stories about recent violation/s of the human right to freedom from extreme poverty for homeless people in your state or territory.**

I once asked someone who regularly comes to Credo Café for a free meal whether they thought their Centrelink income was sufficient. They replied that it was, and explained how they spent their money, which was not in any way extravagant and only covered basic living expenses and essentials. They concluded by saying that they always 'ate out' at places like Credo. They saw their income as OK, even though it did not provide them with enough money to buy food!!

ATTACHMENT D

HOMELESSNESS AND THE RIGHTS OF INDIGENOUS PEOPLE

1. QUEENSLAND – Response prepared by the Response prepared by Monica Taylor at QPILCH Homeless Persons' Legal Clinic

a) Please provide data about the rate of Indigenous homelessness relative to the overall rate of homelessness in your state or territory.

According to Census analysts, there is a risk of underestimating homelessness among Indigenous communities, as those at risk may move in with members of their extended family, and so not record themselves as living at “no usual address” on census night.¹²⁰ Nevertheless, there were 1,918 recorded Indigenous homeless on census night, a rate of 164 per 10000 of the population, compared to a rate of 70/10000 for the population as a whole, and 66/10000 for the non-Indigenous population.

Twenty six per cent of Indigenous homeless in Queensland were in Brisbane, and 23% were in the Far-North of Queensland. 41% homeless Indigenous in Brisbane were in the inner-city, including 57 sleeping rough. There were a further 796 Indigenous people who were marginal residents of caravan parks, which would bring the total homeless Indigenous population In Queensland to 2,714.

b) Please comment on the major contributors to Indigenous homelessness in your state or territory.

The following statistics are from the Indigenous and Torres Strait Islander Bulletin:

- The median weekly individual income of Indigenous persons in Queensland in 2001 (\$256) was much less than for non-Indigenous persons (\$360);
- The unemployment rate for Indigenous Queenslanders was 20% in 2001, more than twice the rate for the total population; and
- The median age of death for Indigenous persons in Queensland in 2001 was 53.2 years, more than 20 years less than the figure for the non-Indigenous population. This indicates significant systemic health issues, and Indigenous Queenslanders were over-represented in a number of cause of death categories including 8.5% deaths from intentional self-harm, 8.2% deaths from diabetes mellitus, and 5.5% of deaths from diseases of the liver.¹²¹

c) Please comment on the vulnerability of Indigenous homeless people to other human rights violations, such as discrimination or police harassment, in your state or territory.

¹²⁰ Chamberlain, Chris & MacKenzie, David, *Counting the Homeless 2001*, Australian Bureau of Statistics, Catalogue n 2050.0, Canberra.

¹²¹ Queensland Office of Economic and Statistical research, above n 120.

The HPLC survey on police move-on powers found that Indigenous persons comprised 42% of respondents sleeping rough, and that 90% of those sleeping rough had been moved-on in the last 6 months. 79% of those sleeping rough were of the opinion that they were doing nothing wrong when approached by the police; rather, their activities included standing, sitting, waiting, walking and sleeping.

Disproportionate and selective police contact against homeless Indigenous persons can often lead to minor offences such as failure to follow a police direction, and offensive language offences.¹²² The wide discretions granted to police in Queensland's public order laws, combined with a zero-tolerance policing of Indigenous people,¹²³ lead to the criminalisation of Indigenous homeless persons in Queensland.

There is a tendency for discriminatory policing against Indigenous people, to the point where a group of Indigenous people gathering in or inhabiting public space, has been constructed as a 'law and order issue' with the presence of Indigenous people being characterised as a problem.¹²⁴

Indigenous survey respondents made various comments about police harassment in public space, including:

"As soon as police see that I am black, they think I am a threat to them."

"When they have nothing else to do they come up to us and say if we are there next time they will arrest us".

"If you are dark with a bag you get picked out of the crowd."

The rate of imprisonment for Indigenous Queenslanders is 1585.4/100000 adult Indigenous population, which is 14 times the rate of imprisonment for non-Indigenous. Indigenous prisoners make up 25% of Queensland prisoners, despite forming only 3.1% of the population.¹²⁵

¹²² Tamara Walsh, "From Park Bench to Court Bench" [http://www.law.uq.edu.au/staff/tempprofiles/publications/Walsh T ParkBenchToCourtBench_Combined.pdf](http://www.law.uq.edu.au/staff/tempprofiles/publications/Walsh%20ParkBenchToCourtBench_Combined.pdf), 36.

¹²³ See: Chris Cuneen, 'Zero Tolerance Policing: Implications for Indigenous People' (1999), paper prepared for the *Law and Justice Section, ATSIC*, in conjunction with the *Institute of Criminology Sydney University Law School*, 5.

¹²⁴ Richard Hill and Glenn Dawes, 'The Thin White Line' :Juvenile Crime, Racialised Narrative and Vigilantism-A North Queensland study' (2000) 11 *Current Issues in Criminal Justice* 3, 308.

¹²⁵ Queensland Office of Economic and Statistical Research: <http://www.oesr.qld.gov.au/>.

HOMELESSNESS AND THE RIGHTS OF INDIGENOUS PEOPLE

2. Australian Capital Territory – Response prepared by Llewellyn Reynder at ACT Council of Social Services

a) Please provide data about the rate of Indigenous homelessness relative to the overall rate of homelessness in your state or territory.

As elsewhere, Indigenous people in the ACT are more likely to be homeless, are more likely to request assistance from homelessness services and are more vulnerable to eviction than the rest of the population.

b) Please comment on the major contributors to Indigenous homelessness in your state or territory.

Some factors influencing the rate of Indigenous homelessness are similar to those affecting homeless people more generally; however, they tend to have a higher incidence among Indigenous populations. These include:

- Overcrowding: This aspect disproportionately affects Indigenous families, who frequently house large numbers of immediate and extended family members in accommodation designed for much smaller numbers.
- Mental Health and Substance Use Difficulties: The lower health status generally and the greater difficulty in accessing culturally appropriate health services contributes to the greater prevalence of these issues among Indigenous people.
- Family Violence: Extended ignorance and capacity to address problems of violence in Indigenous communities has contributed to these continuing as a source of homelessness.
- Low income and Joblessness: High rates of unemployment, low skill levels and difficulties accessing income support continue to prevent Indigenous people from having adequate resources to secure affordable accommodation.

c) Please comment on the vulnerability of Indigenous homeless people to other human rights violations, such as discrimination or police harassment, in your state or territory.

Indigenous people continue to have poorer outcomes on virtually all socio-economic indicators. The ACT's Indigenous imprisonment rate compared with non-Indigenous incarceration is amongst the worst in the nation, and Indigenous people continue to distrust law enforcement officers and fear racial discrimination.

HOMELESSNESS AND THE RIGHTS OF INDIGENOUS PEOPLE

3. NORTHERN TERRITORY - Response prepared by Jonathan Pilbrow at NT Shelter

a) Please provide data about the rate of Indigenous homelessness relative to the overall rate of homelessness in your state or territory.

The NT has the highest rate of homelessness in Australia. There are over 5000 homeless people in the NT (288 per 10,000 of population). This rate is 5-7 times the rate in the other States and Territories.

Table 3.3: Rate of homelessness per 10,000 of the population by state and territory 1996 and 2001

	NSW	Vic	SA	Tas	ACT	Qld	WA	NT
2001	42.2	43.6	51.6	52.4	39.6	69.8	64.0	288.3
1996	49.4	41.0	48.1	43.9	40.3	77.3	71.5	523.1

Source: ABS, *Counting the Homeless* (2003), Table 8.2, p. 58

The NT also has the largest percentage of Indigenous people living in 'no conventional accommodation' of any State or Territory. Almost 7% of Indigenous households (2,681 in the NT) are living in improvised dwellings (i.e. a structure without a bathroom or toilet). The percentage of people sleeping rough in the NT (2169 or 40% of homeless people) is more than double, and in some cases triple that of the rate in all of the other States and Territories.¹²⁶

b) Please comment on the major contributors to Indigenous homelessness in your state or territory.

From the period ending 30/6/03, the number of public housing dwellings available for rent in the NT went from 6130 to 5555 by 31/5/05 – a decrease of 575 dwellings (9%). Yet at the same time there were 2156 applications for public housing during 2003-04, a 12% increase from the previous year.¹²⁷

It is widely accepted that there is a need for an additional \$2 billion nationally for Indigenous housing – and approx \$850 million for the NT. However, current expenditure in the NT is approximately \$40 million, and this is largely Commonwealth funding.¹²⁸ There has been a pattern of gross under funding of Indigenous housing across Australia

¹²⁶ National Evaluation of the Supported Accommodation Assistance Program (SAAP IV) – Final Report (2004) Commonwealth of Australia

¹²⁷ Territory Housing, Estimates Hearings – 2005/06

¹²⁸ National Issues in Indigenous Housing 2004/05 and Beyond; Position Paper developed by the NT Government, Sept 2004

Families of up to 16 and 20 live in overcrowded houses because the Government can't keep pace with the demand for new ones, which in turn puts strains on existing houses." Budgets allocated to maintenance and repairs are insufficient to meet the requirement of current housing stock, let alone meeting the emerging need. Overall funding for Indigenous housing has been declining in real terms for at least the last 15 years.¹²⁹

In terms of public housing, 28% of all people occupying public housing dwellings in the NT are Indigenous (approx 1500 households) yet there are very few formal support systems available for people who most need it. Many of the tenants are Indigenous people who may have not lived in an urban setting previously, for whom English is not their first language. Non government organisations, both Indigenous and non-Indigenous, who provide support are stretched to capacity. While a life skills program has begun in Darwin, and is about to begin in Alice Springs, very little money has been put into life skills for public housing tenants.

It is apparent to most people that Indigenous people are set up to fail in public housing in the NT. There is a revolving door of people moving into public housing on short term (3 month) leases, facing issues of visitors and overcrowding - often due to family obligation and a shortage of viable accommodation options for visitors; damage and complaints, and a non-renewal of lease. They then find themselves homeless, facing significant repairs and maintenance debts (some as high as \$10,000), which could have been avoided if houses were more appropriately constructed in the first place, in relation to health hardware and durability.

Many more support mechanisms are clearly required so people are not set up to fail. Especially for people with high and complex needs, including language barriers, who are put into housing without sufficient support systems – such as people with disabilities, people with a chronic disease (e.g. kidney failure) and young people. Some Housing Departments in other states have designated youth workers, with the SA Housing Trust having a medium term housing program for young people who face barriers to accessing and maintaining private rental accommodation – but this does not occur in the NT. Significantly there is no Youth Housing Policy in the NT.

Responses to homelessness in the NT must take into account and address both the 'structural' causes of homelessness (e.g. the lack of affordable and secure housing etc) as well as the individual causes, if inroads are to be made into this huge issue. Only then will Government and the community be in a position to provide adequate intervention responses, including prevention, early intervention, crisis intervention and long-term support. Currently there is an enormous dearth of these types of responses in the NT.

In the NT there are virtually no exit points for people when they are in emergency, short term or transitional accommodation (if they are lucky enough to have found any accommodation). Lengthy waiting times are often endured for priority housing, especially for victims of domestic violence, primarily women and children.

¹²⁹ National Issues in Indigenous Housing 2004/05 and Beyond; Position Paper developed by the NT Government, Sept 2004

There are also significant difficulties barriers for Indigenous families in accessing both public and private rental housing, with applicants often unable to meet the strict criteria in relation to previous tenancy history and rental references.

HOMELESSNESS AND THE RIGHTS OF INDIGENOUS PEOPLE

4. Victoria – Response prepared by Sue Hogan at Urban Seed

a) Please comment on the major contributors to Indigenous homelessness in your state or territory.

- Culturally inappropriate housing. Public housing doesn't take into account the nature of an extended family's lifestyle; and
- In our experience, people sometimes find themselves in the city without the funds to return home after traveling intrastate to attend a funeral.

b) Please comment on the vulnerability of Indigenous homeless people to other human rights violations, such as discrimination or police harassment, in your state or territory.

- Indigenous people are constantly harassed by police in the city, particularly in places where they regularly gather;
- People are 'moved on' by police, without cause; and
- Local by-laws about public drinking unfairly impact on homeless Indigenous people.

Any other comments on whether and how the rights of Indigenous homeless people are either violated or fulfilled in your state or territory?

There are many, many issues facing Indigenous homeless people in our community. While we have contact with many people living on the street, we do not profess to any expertise in this area. However, Australia's responses have historically been unjust and oppressive in the extreme. Homelessness cannot be seen as a separate issue to such things as sovereignty and reconciliation. On a local level, within the City of Melbourne, much effort needs to go into including the people who are affected when creating or planning responses. One of the greatest issues on the streets of Melbourne is the contact Indigenous people have with the police and the prison system. The over representation of Indigenous people in prison, and the very high likelihood of returning to prison, is reflected in the amount of contact those people have with police on the street – it seems to be far greater than other groups experience, is rarely a positive experience and simply contributes to the cycles of poverty, incarceration, poor health and high mortality among the Indigenous community.

ATTACHMENT E

HOMELESSNESS AND VIOLENCE AGAINST WOMEN

1. South Australia – Response prepared by Adelaide Domestic Violence Service

a) Please provide data and commentary about the associations between homelessness and violence against women in your state or territory.

The women who contact our service Domestic Violence Crisis Service requesting assistance with accommodation are leaving stable accommodation or at risk of having to leave that accommodation due to the violence. As the tables below indicate that are consistently high given the overall population of Adelaide and surrounding areas.

These numbers reflect women from lower and medium socio-economic groups more frequently than professional women with independent resources. Our service is aware that many of these women have no alternatives available, that is no family or friends with whom they can access emergency accommodation. The number of children accompanying these women is higher. In 2005 it involved over 1,000 children.

Women escaping violence who fall within the lower socio economic groups are often dependent on family payments or other commonwealth benefits and are not able to provide large private rental bonds or market value private rental – they are heavily reliant on public housing bonds and rent grants. In cases of multiple needs and high dependency women may qualify for public housing which can have waiting time of 2 years or more.

Those women who do pursue private rental are often not successful based on the fact that they have no individual rental history or that they are a female with children who may be perceived to be a higher risk tenant. This becomes even more obvious for Indigenous or CALD women.

b) Please comment on the availability and adequacy of crisis accommodation for women escaping domestic or family violence in your state or territory.

These are the statistics for women who contacted Adelaide Domestic Violence Crisis Service needing assistance and who identified as being either homeless or at risk of homelessness due to domestic violence for the years as marked.

	2003/2004	2004/2005
July	213	262
August	202	266
September	195	209
October	221	201
November	184	234
December	248	258
January	227	268

February	225	240
March	242	256
April	220	245
May	241	219
June	215	182

Women and accompanying children placed in motels

	Number of women	Accompanying children	Total nights spent in Motel
July 2004	66	80	156
August 2004	61	82	161
September 2004	45	41	108
October 2004	57	83	125
November 2004	69	89	130
December 2004	75	102	158
January 2005	81	115	205
February 2005	92	147	234
March 2005	67	97	155
April 2005	67	95	136
May 2005	62	85	129
June 2005	58	77	114
Total	800	1093	1811

When there are no shelter vacancies available women and children are placed in motels. This is not the ideal environment as many motels are the lower standard budget rate organisations with basic facilities.

Children are isolated from their normal surroundings, their schools, pets, toys and friends. They are also often isolated from extended family and friends who may play a prominent role in their lives.

c) Please comment on the availability and adequacy of long-term adequate housing for women escaping domestic or family violence in your state or territory.

The indications are that women and children who have been forced out of independent housing due to domestic violence are more than 40% more likely to re enter the Supported Accommodation Assistance Program SAAP again after the initial admission. This would indicate that it is hard as a sole parent with low income to access and maintain independent housing.

Women and children are more vulnerable because of the cost of private rental and because they are often persuaded to relinquish public housing based on safety factors, which makes them more likely to choose more tenuous alternatives, including caravans, share housing or returning to former partners.

The shelters are rarely available to new admissions, and the reports from shelters suggests that the lack of affordable private rental, and the shortage of public rental properties means that women stay for longer within the shelter system. Some services apply strict time limits and women and children are sometimes literally homeless because a lease has not been extended. This particular group of women is now homeless, the threat of violence has diminished and they are then forced to stay with whomever they can until the lengthy time waiting for family homeless services to provide other temporary short or medium term accommodation.

d) Please comment on the vulnerability of homeless women to other human rights violations in your state or territory.

This service does not collect hard data, but anecdotal evidence from the women themselves indicates that women are more likely to return to violent and abusive relationships out of a need to find accommodation. This exposes children to further harm from witnessing and experiencing domestic violence. Further women also report they are more likely to be approached to participate in illegal activity to maintain their families in accommodation they are unable to afford under normal circumstances.

Women also from our contact appear to become enmeshed in new relationships quickly, possibly attributable in some measure to their vulnerable accommodation status. This increases the likelihood of choosing partners on impulse without due consideration for the welfare of themselves and their children. This heightens the risk of child abuse.

Women alone with children are also exposed to discrimination and abuse from potential landlords and employers. They are often classed as undesirable or unreliable, this further demeans and demoralises them and further increases the likelihood of their entrance into another relationship to escape the single parent status.

f) Please provide one or more stories about homelessness and violence against women in your state or territory.

One client with whom we recently had contact had first contacted this service as a 38 year old pregnant and escaping a violent relationship. She had two older children both in foster care. The client presented as having a mild disability but able to function well. She was referred to, and accepted for housing by a service that placed her in a share house with another woman and one child. Her child was subsequently born.

The service reported that this client was reluctant to engage with her assigned worker, did not demonstrate an understanding of the need to begin looking for independent accommodation and instead relied on an extension to her short term lease with the service. After one extension the service decided the client was not responding to their service and informed the client her lease would not be renewed.

The client found her self and her child homeless with her belongings in zip bags. The child was 11 weeks at this point, and her understanding of her situation seemed doubtful. The client was given one night's emergency accommodation while our service secured caravan accommodation which was again very short term and with no real option for future security.

This is not an unusual situation where a women may for the first period of SAAP accommodation be considered escaping violence, but when that fails or is terminated, she is no longer at risk from the aggressor and is now classed as homeless. The homeless service waiting list is anything up to 4 months depending on circumstances and composition of the family.

This client may not qualify for a disability allowance, given that her presentation would suggest that if there is one it is minimal, and she has a poor parenting history with two children in care. Her likelihood of establishing herself and maintaining herself and her child is not optimistic.

Any other comments on homelessness and violence against women in your state or territory?

The above story is not uncommon. Many clients are themselves survivors from family and domestic violence as children. They have learned dysfunctional coping strategies and have often very low self esteem. While services attempt to meet the needs of this client they are restricted by low funding and the need to be seen to be achieving outcomes.

The effects of violence and abuse are not easy to measure, but that homelessness or risk of homelessness is one is irrefutable. It is the long term effects to children, extended family and the cost to landlords and other accommodation services which are harder to quantify and address.

We only address the needs of the women and children, we have no measure of the cause of homelessness amongst men alone, and some of which most certainly must be attributable to family and domestic violence.

HOMELESSNESS AND VIOLENCE AGAINST WOMEN

2. NORTHERN TERRITORY – Response prepared by agencies and workers in Alice Springs/Central Australia

The following information represents information from agencies and workers in Alice Springs/Central Australia, who work with women who have experienced family violence and sexual assault. Note, some of the some information is anecdotal, rather than in the form of actual statistics, but reflects the range of issues that workers are dealing with.

a) Please provide data and commentary about the associations between homelessness and violence against women in your state or territory.

Statistics from the ABS Women's Safety Survey conducted in 1996 show that rape and sexual assault are usually perpetrated by a person known to the victim and occurs most often in either the victims or the perpetrators home. This can mean that a woman who has been raped is forced to leave her accommodation either because her partner who raped her is living there or because she has to live with the trauma/reminders of the assault in her home.

A number of women who have been raped in their own home, seek letters of support to transfer to a different house - because they cannot live in the house after they have been raped there.

Emergency housing is often required for women following a sexual assault by a partner because the partner continues to live in their joint home.

b) Please comment on the availability and adequacy of crisis accommodation for women escaping domestic or family violence in your state or territory.

The crisis accommodation services for women escaping domestic or family violence provide an adequate service to women in the short term – though demand exceeds the supply of available accommodation, with services experiencing inadequate funding levels. It is the experience of agencies that many Indigenous women accessing services indicate that they are in transit to escape violence – and stay with family, crisis accommodation services or in communities other than their own.

Emergency accommodation is often full and it is very difficult to find accommodation for women in the middle of the night following a rape. Often women have to phone friends or relatives to find some one to stay with – or even have to stay in motels. Friends and relatives will often be willing to help out for one night but not long term, and often friends are too scared of a violent perpetrator and don't want to get involved. Even in cases where the woman is able to access shelter accommodation, this can mean difficulties for some women, who can feel traumatised as they are also exposed to the trauma of other women or the behavioural problems of children affected by family violence. Families often lack immediate access to money when they move into crisis accommodation, and there is often insufficient funding available for simple meals to feed hungry women or children. Many women fail to report incidents of family violence and sexual assault because of fear of repercussions (i.e. that things will get worse) if they speak out or tell Police.

c) Please comment on the availability and adequacy of long-term adequate housing for women escaping domestic or family violence in your state or territory.

The need for long-term housing that adequately protects women from violence greatly exceeds the amount of the current available safe houses. Some women access legal and other services to obtain support for priority housing. Of these women, most will have to wait several months if not over a year to obtain safe long-term accommodation.

The lack of long-term safe housing tends to increase the tendency of victims to return to the home of the perpetrator, because they cannot find other accommodation. It is common for Indigenous women to experience pressure from family to return to the perpetrator, and so it is all the more important for these women to access safe long term housing quickly and easily.

According to one worker from Central Australia, from stories women tell about their strong cultural ties and commitment to try and stay in their homelands and community, there needs to be some thoughts and consideration given to look at alternative accommodation options i.e. alternative housing that will keep them safe, within their homeland and if they can't stay there then in an alternative option, at either an out-station, another community or town.

d) Please comment on the vulnerability of homeless women to other human rights violations in your state or territory.

Homeless women are more subject to abuse than any other group. Aboriginal women and girls in particular are seen as targets for money, sex, physical abuse, emotional abuse. The extent and severity of domestic and family violence among Aboriginal women in non-urban areas of Australia constitutes a social, health and legal crisis. Aboriginal women are physically, sexually, socially and economically abused in significantly higher proportions than the rest of the Australian population (Behrendt, 2002; Young, 2004).¹³⁰

e) Please provide one or more stories about homelessness and violence against women in your state or territory.

Story from a worker in Alice Springs:

I have been told directly about a young homeless girl in this town, who had been [living] on the streets. This young girl was compromised by a taxi driver when getting a lift one evening – having decided to get a lift to a town camp, where she felt she would be safer than on the streets. She was picked up [by the taxi] and taken to an isolated area and told that if she wanted to get to her camp, then she would have to have sex with him. Thankfully she jumped out of the car and ran away.” This is not an isolated case as I have found out, since speaking out about it.) However it needs to be acknowledged that this is not an issue that can occur

¹³⁰ Behrendt, L. (2002) Aboriginal women and the criminal justice system, *Judicial Officers' Bulletin*, 14(6), 41-44. Young, J. (2004) Translating evaluation into action: a Northern Territory (NT) wide management initiative across the hospital and community sectors, paper presented at the Australasian Evaluation Society 2004 International Conference, Adelaide, South Australia, 13-15 October.

only for homeless women, but women who have an established home, could be equally vulnerable to this type of assault.

Any other comments on homelessness and violence against women in your state or territory?

Central Australian remote communities have inadequate access to sexual assault, family violence and child protection services. Services located in Alice Springs are struggling to provide much needed outreach services to remote communities. The Central Australian Family Violence and Sexual Assault Network (CAFVSAN) have recently called upon the Northern Territory and Federal Governments to realistically fund already existing family violence and sexual assault organisations.¹³¹ The Network is seeking Government funding that reflects the current levels of violence against women and children in Central Australia.

¹³¹ CAFVSAN supports additional funding for existing programs that effectively meet the needs of women and children and emphasise the importance of building long-term relationships with remote communities. Women and children across Central Australia need access to both crisis response and on-going support to ensure their safety.