

# Legal challenge to Johannesburg's war on the urban poor

By *moderator*

Created 2009/11/03 - 11:25am

3 November, 2009 - 11:25 ? moderator

## LEGAL CHALLENGE TO JOHANNESBURG'S WAR ON THE URBAN POOR

CENTRAL METHODIST CHURCH, LAWYERS FOR HUMAN RIGHTS AND OTHERS LAUNCH COURT APPLICATION TO ?

PREVENT ARRESTS OF JOHANNESBURG POOR AND HOMELESS FOR ?LOITERING?; CHALLENGE THE CONSTITUTIONALITY OF THE CITY'S ?LOITERING? BY-LAW; AND COMPEL GOVERNMENT TO ENGAGE MEANINGFULLY WITH THE POOR SEEKING REFUGE IN AND AROUND THE CHURCH

In the late hours of 3 July 2009, some 350 destitute and homeless people were arrested for ?loitering? in central Johannesburg. As they had nowhere else to go, they had been sleeping in the vicinity of the Central Methodist Mission (?the Church?). As part of ?Operation Chachamela?, which effectively targets the destitute and homeless in Johannesburg, hundreds of homeless persons ? including disabled persons, women, children and many refugees and asylum-seekers ? were unlawfully arrested and detained for the entire weekend.

Many of those arrested reported that they were also beaten, shocked by tazers and pepper-sprayed. Some say that they were further mistreated once they were taken to Johannesburg Central Police Station, only to be released several days later with no charges filed. Many of the belongings of those sleeping outside the Church ? including their few items of clothing and blankets, identity documents, passports, work papers, and asylum-seeker permits ? were destroyed during the raid and subsequent arrests.

Today, 30 October 2009, the Church, Lawyers for Human Rights and two of the ?loiterers? issued an application in the South Gauteng High Court, Johannesburg seeking relief against the City of Johannesburg, the Chief of the Johannesburg Metropolitan Police Department (JMPD), the Gauteng Provincial Commissioner of the South African Police Services (SAPS) and a number of Ministers. The applicants are represented by the Legal Resources Centre (LRC) with the assistance of the AIDS Law Project (ALP). The application papers will be served on the respondents at the beginning of next week.

The applicants have asked the High Court for an order that includes

the following:

- (1) Declaring that the raid on 3 July 2009 and subsequent arrests were conducted unlawfully;
- (2) Prohibiting the SAPS and JMPD ? jointly responsible for the unlawful arrests ? from harassing those living in and around the Church and conducting further unlawful police operations at the Church;
- (3) Declaring a City of Johannesburg by-law that criminalises ?loitering? on public roads unconstitutional and invalid; and
- (4) Compelling government to engage meaningfully with those seeking shelter at the Church and other key stakeholders in order to address the concerns of all.

The applicants are concerned that if no steps are taken to address the grievances suffered by those living in and around the Church, or to challenge the ?loitering? by-law which is used to harass, detain and/or arrest them, the SAPS and JMPD will continue to implement ?Operation Chachamela? (which means ?walking on burning coals?) ? the crackdown on the destitute and homeless ? in a way that has a severe impact on the lives of many of Johannesburg?s poorest and most vulnerable residents.

Those living at and around the Church and other residents of central Johannesburg live in a constant state of anxiety and continue to be harassed by members of the SAPS and private security companies. Attempts to obtain undertakings from the SAPS and JMPD not to continue the harassment campaign have been unsuccessful.

In the result, the applicants have been left with no option but to approach the High Court for appropriate relief. It is their hope that this application will prompt the City of Johannesburg and others within government to develop more appropriate policies to deal with those living on the streets, especially as the 2010 Soccer World Cup approaches.

Issued jointly by:

LAWYERS FOR HUMAN RIGHTS

LEGAL RESOURCES CENTRE

AIDS LAW PROJECT

For further information, please contact:

LEGAL RESOURCES CENTRE

Jason Brickhill

0731914787

[jasonb@lrc.org.za](mailto:jasonb@lrc.org.za)

LAWYERS FOR HUMAN RIGHTS

Jacob van Garderen

0828203960

[jacob@lhr.org.za](mailto:jacob@lhr.org.za)

AIDS LAW PROJECT

Mark Heywood

0836348806

[heywoodm@alp.org.za](mailto:heywoodm@alp.org.za)

---

**Source URL (retrieved on 2017/05/27 - 10:12am):** <http://tac.org.za/community/node/2769>