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PROPOSED AMENDMENTS TO THE CHARTER PUT VICTORIAN TENANTS AT RISK

The Scrutiny of Acts and Regulations has today proposed amendments to Victoria’s Charter of Human Rights, which would leave many Victorian public tenants without any meaningful protection against homelessness, according to the Tenants Union of Victoria (TUV).

The Committee’s proposal, if accepted, would mean that while public and community housing providers would still be required to consider human rights in making housing decisions, tenants would have no recourse to a court or tribunal in the event that they failed to do so.

TUV Senior Advocate Maya Narayan said the proposed amendments could have devastating consequences for the most marginalised and disadvantaged members of the community.

“Victorian tenants would have no means of ensuring that social housing landlords considered their rights to home and family when deciding whether to evict them into homelessness. Children, in particular, would be at a much higher risk of homeless than they are under the Charter in its current form”

In its submission to the Charter Review, the TUV had urged the Committee to take steps to ensure that ordinary Victorians had access to effective remedies for breaches of the Charter, a matter of particular importance, given a recent decision of the Victorian Court of Appeal.

In *Director of Housing v Sudi* [2011] VSCA 266, a matter in which the TUV acted for a single father seeking to require the Director of Housing to consider the human rights of he and his son, the Court of Appeal determined that the Victorian Civil and Administrative Tribunal had no jurisdiction to consider such matters when hearing an application for possession of rented premises.

The Court held that none of the legislation conferring jurisdiction on VCAT in relation to residential tenancies displayed a strong enough intention of Parliament to empower the Tribunal to give effect to *Charter* rights.

The *Sudi* decision highlighted the need for Parliament to take action to ensure that Victorian tenants have access to a low-cost forum, such as VCAT, for enforcement of their human rights.

“The Committee’s proposal not only fails to act on the Court of Appeal’s decision in *Sudi*, it goes one step further in putting access to justice completely out of reach for those most in need”, said Ms Narayan.