

# Courts protect the homeless

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IT WOULD appear that our courts take side although this is not the case.

The reprieve to the homeless of informal settlements or newly created “shacks” from the local government intended evictions allude to this.

In March 2006 justice Jajbhay gave a judgment in favour of the tenants against the Johannesburg municipality which, as part of its inner city regeneration programme, brought an action against landlords of several buildings and to have their tenants evicted because of the state of disrepair, health and fire hazards.

Jajbhay dealt with socio-economic rights and the culture of *ubuntu*; the judgment being another milestone in the courts giving expression to the Constitution.

The Grootboom case (2000) is one of the most significant judgments for the poor regarding the protection of socio-economic rights.

Sunstein (2001) states that “the first time in the history of the world, a constitutional court has initiated a process that might well

succeed in the endeavour of ensuring that protection without placing courts in an unacceptable managerial role. This point has large implications for how we think about citizenship, democracy, and minimal social and economic needs”

Tenants have to turn to the courts for “protection” because of the widening gap between the rich and the poor and the failure of the government to provide adequate suitable accommodation. However, the courts look at the facts and the law and the judgments are increasingly contextualised to the socio-economic needs of society.

The homeless in the streets of United Kingdom, Japan and Canada, for example, are acutely aware of the South African courts’ progressive judgments as they are about our crime.

Sayed Iqbal Mohamed  
Chairperson, Organisation of Civic Rights; Member of the KwaZulu Natal Rental Housing Tribunal  
[www.ocr.org.za](http://www.ocr.org.za)