

Strategic litigation: protecting children's right to a habitable environment

New York City: Williamsburg around the Bridge Association vs Giuliani

New York City's sandblasting on bridges running through poor neighbourhoods have caused lead dust to rain down on communities of colour, raised soil lead levels well above safe levels, and doubled the already elevated blood lead levels in children.

The widespread lead contamination has driven communities to seek testing and treatment of their children and measures to prevent future contamination under the New York State Environmental Quality Review Act. In Williamsburg, the Community Alliance for the Environment was formed, bringing together Hispanic and Hasidic communities – groups that have often been in conflict over scarce housing and other resources.

New York City/ Giuliani lost the case and are required to develop an Environmental Impact Statement before creating an environmental hazard in New York state.

In 1991, among children in families with incomes below \$6,000 living in larger cities (over one million), 80.4 per cent of white and 96.5 per cent of African-American children were projected to be affected with elevated blood levels.

[Source: Race, Poverty and the Environment, Matthew J. Chachere: <http://www.urbanhabitat.org/node/949>

Read the judgment: <http://www.crin.org/Law/instrument.asp?InstID=1354>

South Africa: Children's housing rights

A community of squatters evicted from an informal settlement in Wallacedene had set up minimal shelters of plastic and other materials at a sports centre adjacent to Wallacedene community centre. The shelters lacked basic sanitation or electricity. The group brought an action under sections 26 (the right of access to adequate housing) and 28 (children's right

to basic shelter) of the South African Constitution.

The High Court found that the respondents had taken "reasonable measures within available resources to achieve the progressive realisation of the right to have access to adequate housing" – as required by section 26(2) of the Constitution. However, because the right of children to shelter in section 28 was not subject to available resources, the High Court held that the applicants were entitled to be provided with basic shelter. In an appeal to the Constitutional Court, the Court found no violation of section 28 but found instead a violation of the right to adequate housing in section 26. The Court held that section 26 obliges the State to devise and implement a coherent, co-ordinated housing programme and that, in failing to provide for those in most desperate need, the government had failed to take reasonable measures to progressively realise the right to housing. The Court ordered that the government "devise, fund, implement and supervise measures to provide relief to those in desperate need". The South African Human Rights Commission agreed to monitor and if necessary report on the government's implementation of this order.

The decision had a major impact on housing policy in South Africa. Most municipalities allocated funds in their budgets to address the needs of those in desperate need.

[Source: ESCR-Net]

Read the judgment: <http://www.crin.org/Law/instrument.asp?InstID=1353>

Peru: Lead poisoning

La Oroya, which lies 175 kilometres north of Lima, is considered the fifth most polluted city in the world. Ninety-nine per cent of the 12,000 children who live there have elevated levels of lead in their blood. Ninety-seven per cent of the infant population suffers physical or mental impairments such as deformities or blindness as a result of air pollution; others have died.

The population has been a victim of pollution since mining in the area began in 1922.

However, since 1997, when US firm Doe Run began its operations, pollution levels

have risen, with daily emissions of a ton of sulphur dioxide, lead and arsenic. Although the operation was due to end in 2006, Doe Run persuaded the Peruvian government to delay the deadline a number of times, leading the local inhabitants to sue the Peruvian State.

The case was won in the Peruvian Constitutional Court, which ruled that the State had reneged on its responsibilities, thus affecting the human right to health.

However, the Peruvian State did not comply with the judgment. Sixty-five residents of La Oroya pursued the case at the Inter-American Commission on Human Rights, which also ruled in their favour.

Read the judgment: <http://www.cidh.org/medidas/2007.sp.htm>

Nigeria: Niger Delta youth movement vs oil companies

The Niger Delta youth movement has taken six oil companies and the federal government to a Federal High Court in Abuja.

Onengiye Elekima, the President of the Movement, is suing five major oil companies and the federal government for allegedly flaring gas and pumping noxious chemical substances into the atmosphere in the Niger Delta region over a 50-year period.

The Niger Delta youth movement is demanding financial damages, arguing that their rights to life and dignity, and to acquire and own immovable property within the region are being breached. The substances are said to cause asthma, chronic bronchitis, leukaemia and cancer. They have led to acid rain and soot, resulting in massive damage to the roofs of their buildings and to plants.

The companies being sued are Shell Petroleum Development Company, Total FinaElf Ltd, ExxonMobil Unltd, Chevron Texaco Ltd, Nigeria Agip Oil Company Ltd, Nigeria National Petroleum Corporation and the Nigerian federal government.

Read more: <http://www.crin.org/resources/infoDetail.asp?ID=16913&flag=news>