

Notes from meeting with Pete Hathorn and Ross Harker
7 December 1992
Legal Resources Centre

After considering each other's papers as presented at the 30 November 1992 meeting, the following comments were shared.

It would be best to push for the complete abolition of the Trespass Act and Section 1 of the Illegal Squatting Act - and then propose an alternative civil remedy into the Criminal Procedure Act or add a new statute with a less offensive name.

Concern was expressed that putting forth a civil remedy as opposed to a criminal one could lead to abuse by the police. Such a civil remedy would need to be tightly worded and include a clause saying that the lawful occupier must lodge a complaint with the police. That might, in the end, provide more protection for the non-property owner.

If legislation was for a civil offence, it would mean that a person who trespasses must receive a warning to leave the property or premises. Failure to do that would then constitute an offence.

Criminal legislation would mean that being on another's property or premise constitutes an offence for which one could be arrested.

What power to enforce does a citizen in terms of a citizen's arrest under current Trespass Act? Broad powers, including the right to use "reasonable force". It falls under Schedule 1 offence - could include use of firearm.

After discussion of various options, the original priority resurfaced:

First Priority - to abolish Trespass Act in its entirety and Section 1 of the Illegal Squatting Act and replace with a tightly worded civil remedy.

Fall-back position - draft a criminal remedy to replace the above mentioned acts.

Pete and Ross are willing to meet again, with drafts, early in the week of 11th January (Pete's last week in Grahamstown). Suzanne will try and get a time on Bishop Russell's calendar when he can meet with them.