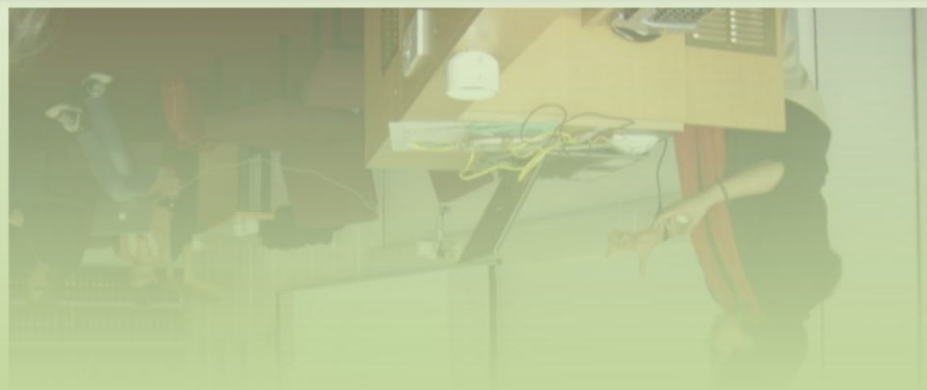


# Skills Workshop Report on Legal Observing/Monitoring Human Rights Implications in Forced Eviction operations

**The University of Essex Human Rights Clinic**  
**Thursday 31 March, 2011**  
**at the University of Essex, Essex, UK**



# Introduction

The University of Essex Human Rights Clinic (the HR Clinic) conducted a training session on Legal Observing/Monitoring/Reporting human rights impacts and Violations in instances of forced evictions on 31 March, 2011.

The session provided training to those interested in learning how legal observers/monitors shall assist and act in instances of forced evictions in general and in the Dale Farm eviction in particular, if it is carried out as planned by Basildon Borough Council (BBC).

The Gypsy and Traveller community of Dale Farm had previously bought the land in a green belt area and was not granted planning permission to stay. Enforcement notices were issued and the community could not overturn the judicial decision which authorised the Council to take direct action to enforce planning legislation and evict them. On Monday 14 March 2011 Basildon Borough Council voted 28 to 10 to forcibly evict 86 families from Dale Farm. The 28-day eviction notices may be served at any time now.

The Essex Human Rights Clinic, part of the Human Rights Centre and the School of Law of the University of Essex, provides practical experience to human rights students as well as assistance to organisations and communities promoting and protecting human rights. The HR Clinic emphasises practice as a way to address complex human rights issues and the needs and interests of real people. Since the spring of 2009, teams of students from the Clinic have been working on the Dale Farm case, aiming to develop alternative solutions to the planned forced eviction in consultation with the community, their Solicitors, and related organisations.

The idea to provide training to and engage Clinical students in legal observing activities during the forced eviction of Dale Farm stem from the discussion of the Basic principles and guidelines on development-based evictions and displacement, elaborated by the UN Special Rapporteur on Adequate Housing.<sup>1</sup> Such Guidelines address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas. It states at para. 46 that “neutral observers, including regional and international observers, should be allowed access upon request, to ensure transparency and compliance with international human rights principles during the carrying out of any eviction”. The premise in which legal observing/monitoring is based upon is that “evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of those affected”, enshrined in para. 47 of the Guidelines.



<sup>1</sup> See Annex I of the report of the Special Rapporteur, Human Rights Council, A/HRC/4/18, 5 February 2007 - <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement>

# Program

- **10:30-11:00: Objectives of the Training and Background on the Dale Farm Eviction**

*Speakers:*

- Grattan Puxon, Secretary, Dale Farm Housing Association
- Leticia Osorio, Director, University of Essex Human Rights Clinic

- **11:00-12:00: Action Research and Participant Observation**

The fact-value problem, neutrality of observation and biasing your subject pool.

*Speaker:*

- Professor Todd Landman, Professor of Government and Director, Institute of Democracy and Conflict Resolution, University of Essex

- **12:00-13:00: Observing, Monitoring and Reporting Human Rights Violations in the Context of Forced Evictions**

*Speakers:*

- Leticia Osorio, Director, University of Essex Human Rights Clinic
- Malavika Vartak, Amnesty International

- **13:00-13:45: Lunch**

- **14:00-15:00: Observing Human Rights During a Police Operation**

Role, responsibilities, conduct and likely approach of the police at evictions; Police powers relevant to public order situations; How to keep safe and out of trouble; Badges of rank: "who's who" in the command structure; What to do if you have a complaint; Use of force by the police.

*Speaker:*

- Anthony Southern, LL.M. Student in International Human Rights Law, University of Essex; Retired Police Officer

- **15:00-15:30: IT, Communication Channels and Who to Report to**

*Speaker:*

- Laura Hudson, Director of Operations, Frontline SMS

- **15:30: Closing Session**

## Speaker Bios

**Todd Landman** has been at the University of Essex since 1993, where he is Professor of Government and Director of the Institute for Democracy and Conflict Resolution. Todd is President of the Human Rights Section of the American Political Science Association and has published extensively on politics and human rights. He has carried out numerous projects and reports for governments as well as inter-governmental and non-governmental organizations, including the United Nations Development Programme (UNDP), the International Institute for Democracy and Electoral Assistance (IDEA), the UK Department for International Development (DFID), Minority Rights Group International, Amnesty International, and the World Organisation Against Torture.

**Leticia Osorio** is the Director of the Human Rights Clinic at the University of Essex. Leticia earned a Law degree and a Master's degree in Urban and Regional Planning from the Federal University of Rio Grande Do Sul, Brazil. Her research focuses on international human rights law, in particular economic, social and cultural rights, constitutional law, Gypsies' and Travellers' rights, land and property law and housing rights.

**Grattan Puxon** is the Secretary of the Dale Farm Housing Association.  
<http://www.advocacynet.org/page/dalefarm>

**Laura Hudson** is Director of Operations at FrontlineSMS, which provides free and open-source software to community organisations to enable them to send and receive SMS in support of their social change work. She directs software development, user engagement and support, and business development. Prior to this she worked for the British Red Cross on humanitarian policy and learning and as Secretary of the NGO-Military Contact Group. Laura is the Chair of the Executive Committee of the Warwickshire Domestic Violence Support Service, and a member of the Advisory Group for Civility, an organisation working for civil liberties in the UK. She is a committed activist for the rights of the UK's Gypsy and Traveller population, particularly under UK human rights law.

**Anthony Southern** is a LLM students and a retired police officer.

**Malavika Vartak** is the former coordinator of the Global Programme on Forced Evictions of the Centre on Housing Rights and Evictions (COHRE) and is currently the campaigner for economic social and cultural rights of Amnesty International.

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## Summaries

### **Action Research and Participant Observation**

*Professor Todd Landman, University of Essex*

The speaker briefed participants in the methodologies behind action research and participant observation. He highlighted difficulties such as independence and credibility. He also talked about problems involved in negotiations, and the roles taken on by parties in this kind of scenario. He gave helpful comments regarding liaising with media, for example being prudent with information, mentioning membership of a larger group, and not giving names since these may be misrepresented.

### **Observing, Monitoring and Reporting Human Rights Violations in the Context of Forced Evictions**

*Leticia Osorio, Director, University of Essex  
Human Rights Clinic*

*Malavika Vartak, Amnesty International*

The speakers talked about forced evictions generally, the ways in which they are conducted, how to identify groups vulnerable to human rights violations before and during eviction, and how to report cases of forced evictions and other human rights violations.



A forced eviction is defined under international human rights law as the removal of people against their will from the homes or land they occupy without legal protections and other safeguards. Evictions may be carried out only as a last resort, and only after appropriate procedural and legal safeguards are in place. The General Comment No. 4 to the Covenant on ESC Rights establishes that such procedures and safeguards include genuine consultation with the affected parties, prior adequate and reasonable notice, adequate alternative housing and compensation for all losses, safeguards on how evictions are carried out, and access to legal remedies and procedures.

Evictions must not be carried out in a manner that violates human rights and special care is needed to ensure protection of vulnerable groups. However, evictions are often carried out in violation of human rights principles: with little or no notice, and sometimes with harassment and intimidation, for example in violation of race relations legislation. They can be conducted in a violent manner using bulldozers and fire. In some cases, residents are even ordered to demolish their own homes. Thus, for observing, monitoring and reporting human rights violations, it is important to identify those at risk of human rights

violations. Some broad categories include women, children, persons with disabilities, the elderly, and those belonging to minority groups. It is also crucial for the authorities to provide, details of the process of eviction, the actors or agencies involved, and responsibilities of other duty bearers (e.g. bailiffs criteria for tender), in order to successfully document and report violations.

### **Observing Human Rights During a Police Operation**

*Anthony Southern, LL.M. Student in International Human Rights Law, University of Essex*

The speaker comprehensively explained important points to keep in mind when observing human rights respect during a police operation.

First, he explained a command structure among police that shows different ranks with different authorities. For example, a Constable or Sergeant has basic but limited information. A Sergeant is normally able to stop something being done. However, only Inspectors or those of higher rank can reverse a decision or make a complaint.

Second, he explained the roles and responsibilities of police at evictions and how they act to prevent disorder proactively, prevent crime, make arrests if necessary, and restore order if needed. Bailiffs have delegated powers from the Council to do any manhandling necessary but police will be prepared to step in at their discretion to quell or prevent disorder or to effect arrest.

Third, he talked about police powers during public order situations. The police have powers to arrest on numerous grounds, such as public order offences, destruction of property, offences against the person, drunkenness, and breach of the peace. Also, police have powers to stop and search if there are reasonable grounds to suspect possession of stolen or prohibited articles or weapons, or controlled drugs. The search should be conducted after police tell their names and police station, together with the grounds for the search.

Fourth, to keep safe and stay out of trouble, according to the speaker, it is important to be impartial and honest. Legal observers are expected to be legitimate impartial observers who does not get directly involved. You need to back away from trouble following the orders of an inspector or above.

Fifth, he explained in what circumstances police use force. Police are authorised to use force in accordance with the principle of proportionality. Use of force is essential, in some circumstances, to ensure compliance with reasonable requirements, although most officers do not relish the use of force as it attracts complaints and can get them suspended from duty. Use of force might take the form of verbal threat, bodily force, baton, CS Spray, taser, or firearm, the last three of which are not used normally.



Finally, he told us what to do in case a person wants to fill in a complaint. If a non-police officer commits a crime, you need to inform a police officer on site immediately. In a case where you feel a police officer has carried out unacceptable conduct, you should complain immediately to a more senior officer, if possible. It is also important to inform defense solicitors what you witnessed, if relevant.

## **IT, Communication Channels and Who to Report To**

*Laura Hudson, Director of Operations, FrontlineSMS*

After briefly updating the current situation of Dale Farm and the eviction, the speaker talked about the role of legal observers in reporting what has been observed, emphasising that legal observers have a role in collecting data, not in participating in direct actions.

The aim of monitoring the eviction is to collect and report comprehensive facts, impartially and credibly and without editorial or inference, not to identify violations but to report occurrences with as complete a record as possible. To report the information, you may use:

- SMS: to send critical information to the offsite base as you go, which might help to get an injunction
- Fuller notes: you can write up later for use as evidence
- An MP3 recorder or a flip camera: such equipment can be broken, and if arrested, the material on it can be used to gather evidence against activities
- Mobile phone: make it a cheap handset which you don't mind losing or having broken, with a new SIM card.

To collect complete data, focus on the "5 Ws" which are:

- **Who?** Who was involved? - Officer GX17, mid-20s female, long brown hair, 5'10",
- **What?** Briefly describe what happened – eg. Officer pulled a woman from a caravan
- **Where?** Paradise Way, home belonging to X, in the doorway
- **When?** SMS will provide a timestamp, but try and note this too.
- **Why?** What happened in the run-up to the event? Consider drawing a diagram.

The speaker also explained what is worth taking note of and what is not. During quiet moments, it is worth making notes of what is generally happening, and the time at which you make these notes. It is also worth writing down the identification numbers (on shoulder) of police officers present, the registration numbers of their vehicles, the names of the Council's representatives, and the positions of the police and the bailiffs.

