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Representing "The Real Deal"*

LUCIE WHITE**

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I. INTRODUCTION

In the early 1980's, poor people's advocates began to notice a new phenomenon in their work. Young men and women out of work, single mothers with young children, the sick, the elderly, the chemically dependent—people who had always lived economically marginal lives—were suddenly finding themselves without housing. A family would lose its apartment, exhaust the charity of relatives and friends, and then, with nowhere else to turn, find shelter in a car, an abandoned building, or a campground.[1] The problem began to attract

* "The Real Deal" is an expression often used by John Malpede, the founding director of the Los Angeles Poverty Department, a nationally acclaimed theater company of sometimes-homeless persons in Los Angeles, to contrast popularized images of "homelessness" with the images created by sometimes-homeless artists to describe their own experience.

** Lucie White is an Acting Professor of Law at the University of California at Los Angeles School of Law. Among the colleagues who commented on earlier drafts of this Essay, the author especially wants to thank Wes Daniels, Joel Handler, Carrie Menkel-Meadow, Bill Simon, and Steve Yeazell. The Ford Foundation-UCLA Law School Interdisciplinary Seminar on Homelessness gave the author a rare chance to think deeply and honestly about her own work on "homelessness," and to learn from the thinking of others. Jerry Lopez challenged the author to acknowledge and to resist the boundaries of her own perspectives.

1. For three advocates' accounts of how they became aware of this phenomenon, see

media attention when people who were learning to cope without housing began to gather in parks, subways, and other public places. Homelessness has historically been associated with extreme poverty.[2] In the 1980's, the problem resurfaced in our modern world.

"Homelessness" emerged as a social problem[3] during a period of turbulent public debate about society's moral obligations to the poor. Conservative scholars were raising new questions about well-established welfare programs.[4] A conservative administration sought to defund or dismantle a range of federal social services for the poor.[5] In this period of normative contest, the plight of the homeless seemed to offer an island of moral certainty, for it seemed self-evident that the homeless deserved sympathy, and at least some relief. It was in this setting that poor people and their advocates, the media, academic researchers, and policy analysts began to think of "the homeless" as a new sub-group of the poor, and to focus attention on their distinct pathologies and special needs. By the mid-1980's, a social movement of sorts had formed to help "the homeless" and thereby raise public awareness about the low-income housing crisis.

This Essay had its origins in the University of California at Los Angeles ("UCLA") Law School Interdisciplinary Seminar on Home-

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Interview with three advocate members of the University of California at Los Angeles ("UCLA") Law School Interdisiplinary Seminar on Homelessness, in Los Angeles (Apr. 6, 1990) [hereinafter Interview]. For a more systematic analysis of paths toward homelessness among families with children, see D. WOOD, T. HAYASHI, S. SCHLOSSMAN & R. VALDEZ, CALIFORNIA CHILDREN, CALIFORNIA FAMILIES: OVER THE BRINK: HOMELESS FAMILIES IN LOS ANGELES (1989) [hereinafter D. WOOD] (study prepared for the California State Assembly Office of Research).

2. Works that trace the history of "homelessness" in American culture include B. GIAMO, ON THE BOWERY: CONFRONTING HOMELESSNESS IN AMERICAN SOCIETY (1989); and C. HOCH & R. SLAYTON: NEW HOMELESS AND OLD: COMMUNITY AND THE SKID ROW HOTEL (1989). *See also* A. Stanley, The Underside of Contract Freedom: Obliging the Beggar to Labor (paper presented at Labor Law in America: Historical Perspectives, John Hopkins University, Mar. 22, 1990) (unpublished manuscript on file with the author).

3. For an astute analysis of the cultural and political process by which new social problems are acknowledged and defined, see M. EDELMAN, CONSTRUCTING THE POLITICAL SPECTACLE (1988).

4. Preeminent among these voices was Charles Murray, whose book, LOSING GROUND: AMERICAN SOCIAL POLICY, 1950-1980 (1984), provoked a series of liberal responses. *See, e.g.*, R. HAVEMAN, STARTING EVEN: AN EQUAL OPPORTUNITY PROGRAM TO COMBAT THE NATION'S NEW POVERTY (1988); C. LOCKHART, GAINING GROUND: TAILORING SOCIAL PROGRAMS TO AMERICAN VALUES (1989).

5. *See, e.g.*, AMERICAN FED'N OF STATE, COUNTY, & MUN. EMPLOYEES, THE STATES, THE PEOPLE, AND THE REAGAN YEARS: AN ANALYSIS OF SOCIAL SPENDING CUTS (1984); F. BLOCK, R. CLOWARD, B. EHRENREICH & F. PIVEN, THE MEAN SEASON: THE ATTACK ON THE WELFARE STATE (1987); M. BURT & K. PITTMAN, TESTING THE SOCIAL SAFETY NET: THE IMPACT OF CHANGES IN SUPPORT PROGRAMS DURING THE REAGAN ADMINISTRATION (1985); F. PIVEN & R. CLOWARD, THE NEW CLASS WAR: REAGAN'S ATTACK ON THE WELFARE STATE AND ITS CONSEQUENCES (1982).

lessness, in which I took part in the spring of 1990.[6] The Seminar participants were advocates and scholars who were working on the problem of homelessness from different professional and academic perspectives.[7] The seminar gave us time to step back from the demands of our work and think about the broad consequences of "homelessness." With a small grant from the Ford Foundation, we met weekly for ten weeks, consulted with outside experts, and wrote discussion papers.[8] In our discussions, we asked why "homelessness" had become a critical social problem in the 1980's, and why we had focused so much attention on it. We questioned our own conceptions of "the homeless," and the ways that those conceptions had guided our research and advocacy. It was not easy for us to ask these questions. Poor people's needs were urgent in the 1980's, and their political leverage was weak. As advocates for the poor, did we have any real options, during that period, about the work that we did? And did the particular *conceptions* of poverty that our work endorsed make any measurable difference to the shape of public policy or the life chances of the poor?

We had focused on "homelessness" in the 1980's for the simple reason that a lot of poor people came forward during that decade in desperate need of shelter. As the problem worsened, political elites began to address the homelessness problem. As advocates for the poor, we had to work on homelessness to appear credible to our clients; as poverty researchers, we had to accept the new category to respond to the theoretical and empirical questions that were being addressed to us.[9]

Poor people's advocates may have had little choice, in the 1980's,

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6. This Essay reflects only my own experience in the Seminar; it does not necessarily express the views of other Seminar members.

7. About half of the 19 participants were affiliated with UCLA as either professors, research scholars, or students, in the fields of law, medicine, urban planning, anthropology, history, and sociology. The other half worked as advocates for the homeless throughout the community. Two of these advocates practiced law. One such advocate, who was trained as a lawyer, advised a state legislator on housing policy; another managed shelter funding for a voluntary agency. Four of these advocates ran shelters or community programs for homeless or very poor families.

8. We began the seminar by discussing our daily work routines. With this common ground laid, we hoped to explore recurring problems in common terms, bringing our diverse training and experience to bear upon them. Eventually, we hoped that our discussion might lead to new research agendas, action strategies, and policy proposals for addressing extreme poverty. In the shorter term, we hoped that our discussions would adjust for our "professional myopia" as each of us tried to address "homelessness" from within a different professional or academic framework.

9. *See* M. EDELMAN, *supra* note 3; Foucault, *Truth and Power*, in POWER/KNOWLEDGE: SELECTED INTERVIEWS AND OTHER WRITINGS 1972-1977, at 131 (C. Gordon ed. & trans. 1980).

except to address a growing phenomenon of shelter uncertainty. Yet, we may have had some room to decide *what* images and stories to use to frame the problem. Within the admittedly small range of plausible conceptions of shelter uncertainty, some images, more than others, will promote solidarity across the economic and ethnic divisions in our society. Some images, more than others, will challenge racist fears. The space for invention is narrow. Yet, in this age of media wizardry, we know that even subtle differences in "packaging" can make big differences in shaping social attitudes and mobilizing political energies. Because we had—and still have—some small space to maneuver as we frame this problem, and because our rhetoric does make a difference, there are good reasons for us to reflect about the images that we subtly endorse as we work across the boundaries of class and culture to improve our shared social life.

This Essay explores "homelessness" as it emerged as a social problem in the 1980's. It also examines the rhetoric that poor people's advocates endorsed as they addressed the problem. I begin the Essay, in Section II, by considering the economic and political context in which a new "reality" of homelessness emerged. I then consider, in Section III, how the problem was conceptualized by groups who considered ourselves allied with the poor. Why, during the 1980's, did we began to think of "the homeless" as a discrete social group? What consequences followed from such a conception of the problem? Next, I focus on two familiar images of the "homeless," both used in the 1980's to draw public attention to the low-income housing crisis. Both images work as intended to arouse sympathy for the poor. I suggest that these images may also be working[10] in less benign ways. Reading against a cultural background in which racism is an often subtle, but still pervasive force,[11] I ask whether these images of "the homeless" might not play upon "unconscious" racism[12] to mobilize sympathy for the poor. I then recall three moments from the UCLA

10. The idea that rhetorical devices actively *work* to shape consciousness and thereby command power has been most fully developed by Roland Barthes. *See, e.g.*, R. BARTHES, S/Z (R. Miller trans. 1974). For an example of how this notion can inform the interpretation of political rhetoric, see Fortin, *Notes on a Terrorist Text: A Critical Use of Roland Barthes' Textual Analysis in the Interpretation of Political Meaning*, in INTERNATIONAL/INTERTEXTUAL RELATIONS: POSTMODERN READINGS OF WORLD POLITICS 189-206 (J. Derian & M. Shapiro eds. 1989) (rhetorical analysis of speeches by Jeane Kirkpatrick on the theme of "terrorism").

11. *See* Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1369-81 (1988); Lawrence, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987).

12. Crenshaw, *supra* note 11, at 1369-81; Lawrence, *supra* note 11. For an excellent collection of essays analyzing how rhetoric—the stylistic structures of language—elaborates and reflects racist norms, see "RACE," WRITING, AND DIFFERENCE (H. Gates ed. 1986).

Seminar on Homelessness. Do the themes at work in popular images of "the homeless" also color our human responses to those most urgently in need? I conclude the Essay in Section IV by asking how we might conceptualize poverty without repressing the complexity or the power of those who bear its human costs. This question does not invite an answer. Rather, it envisions an advocacy practice that continually reflects on its own rhetoric and seeks to collaborate with those it is assigned to represent.

II. PROBING THE REALITIES

A. *Who Are the Homeless?*

A flood of academic literature has sought to answer this question over the last few years. For the most part, the question has been posed quite narrowly, to pin down those features that distinguish "the homeless" from other groups. In such research, one's operative definition of "homelessness" is of obvious consequence, particularly if one seeks to count, as well as describe, the problem. Should "the homeless" include people who are "housed," but only in unsafe or overcrowded apartments, emergency shelters, or abandoned buildings? Should the category include people who were housed yesterday, or expect to find shelter tomorrow? Perhaps even more dramatically than in other spheres of social scientific research, there is no reality of "homelessness" apart from the definitional choices that each researcher makes.[13]

After settling on their objects of study, researchers have most

13. For further discussion of the "definitional problem," see Rossi & Wright, *The Urban Homeless: A Portrait of Urban Dislocation*, 501 ANNALS 132, 133-34 (1989). Rossi explains that:

> A definition of homelessness is, *ipso facto*, a statement as to what should constitute the floor of housing adequacy below which no member of society should be permitted to fall. It is equally obvious that the number and existential conditions of the homeless depend in no small part on how the phenomenon is defined.

Id. at 134. Rossi devised a definition for his own work that distinguished between two categories: (1) the "literally homeless," who "would be homeless by any conceivable definition of the term"; and (2) "precariously, or marginally, housed persons, with tenuous or very temporary claims to a conventional dwelling of more or less marginal adequacy." *Id.* Rossi notes that these categories do not "solve the definitional problem." *Id.* Rather, they merely identify two groups "of likely policy interest." *Id.*; *see also* E. BAXTER & K. HOPPER, PRIVATE LIVES/PUBLIC SPACES: HOMELESS ADULTS ON THE STREETS OF NEW YORK CITY 8-11, 18-29 (1981) (discussing different estimates of homeless persons in metropolitan cities and different criteria used in the counts); F. REDBURN & T. BUSS, *Who Are the Homeless?: Definitions, Numbers, and Demographics*, in RESPONDING TO AMERICA'S HOMELESS: PUBLIC POLICY ALTERNATIVES 13-32 (1986) (discussing the definitional problems in the debate over the number of homeless persons).

often turned to service providers, such as the custodians of soup kitchens, food banks, and overnight shelters, for data.[14] A few researchers have also gone onto the streets to seek those people who shy away from public services for the poor.[15] Some studies have produced comprehensive head-counts and demographic profiles.[16]

14. Perhaps the most notorious example of this method was an enumeration of the homeless conducted by the United States Department of Housing and Urban Development ("HUD") in 1984. HUD's primary method was to ask 500 "knowledgeable observers" and 184 service providers in 60 cities to estimate the number of homeless in their areas. U.S. DEP'T OF HOUS. & URBAN DEV., A REPORT TO THE SECRETARY ON THE HOMELESS AND EMERGENCY SHELTERS 4-5 (1984). The study concluded that the most accurate estimate of the nation's homeless population in January 1984, was 250,000 to 300,000 persons. *Id.* at 18. The study's methodology was challenged in litigation, in Congress, and in academic literature. *See* Community for Creative Non-Violence v. Pierce, 814 F.2d 663 (D.C. Cir. 1987) (suit by homeless persons, service providers, and legislators seeking rescission of HUD report on a variety of constitutional and statutory grounds); *HUD Report on Homelessness, Joint Hearing Before the Subcomm. on Housing & Community Development of the House Comm. on Banking, Finance, & Urban Affairs and the Subcomm. on Manpower & Housing of the House Comm. on Government Operations*, 98th Cong., 2d Sess. (1984); Hopper, *Whose Lives Are These, Anyway?*, 17 URB. & SOC. CHANGE REV. 12 (1984) (critiquing methodology of HUD Report). Academic studies of the homeless that have drawn their sample from service settings include Bassuk, Rubin & Lauriat, *Characteristics of Sheltered Homeless Families*, 76 AM. J. PUB. HEALTH 1097 (1986); and Fischer, Shapiro, Breakey, Anthony & Kramer, *Mental Health and Social Characteristics of the Homeless: A Survey of Mission Users*, 76 AM. J. PUB. HEALTH 519 (1986).

15. One study that sampled homeless persons on the streets was P. ROSSI, G. FISHER & G. WILLIS, THE CONDITION OF THE HOMELESS OF CHICAGO (1986) [hereinafter P. ROSSI]. For discussion of methodological issues in such studies, see Burnam & Koegel, *Methodology for Obtaining a Representative Sample of Homeless Persons: The Los Angeles Skid Row Study*, 12 EVALUATION REV. 117 (1988); and Rossi, Wright, Fisher & Willis, *The Urban Homeless: Estimating Composition and Size*, 235 SCIENCE 1336 (1987). *See generally* Johnson, *Measurement and Methodology: Problems and Issues in Research on Homelessness*, 25 SOC. WORK RES. & ABSTRACTS 12 (1989) (reviewing problems in sampling and in measurement of mental disorder in homeless adults); Susser, Conover & Struening, *Problems of Epidemiologic Method in Assessing the Type and Extent of Mental Illness Among Homeless Adults*, 40 HOSP. & COMMUNITY PSYCHIATRY 261 (1989) (discussing problems of sampling and measurement in research on homeless adults with mental disorders).

16. The recent literature surveying the homeless populations of this country is vast. For overviews of recent literature, see, e.g., M. BURT & B. COHEN, REVIEW OF RESEARCH ON HOMELESS PERSONS (1988) (report on research findings prepared by the Urban Institute and submitted to the Food and Nutrition Service, U.S. Dept. of Agriculture, and the Interagency Council on the Homeless); U.S. DEP'T HOUS. & URBAN DEV. OFFICE OF POLICY DEV. & RESEARCH, DIV. OF POLICY STUDIES, PUBLICATIONS RELATING TO HOMELESSNESS: A WORKING BIBLIOGRAPHY (1989); and D. Weaver, Homeless Families and Children: A Bibliography (1990) (unpublished manuscript prepared for UCLA Seminar on Homelessness) (on file with the author). *See also* 1 HOMELESSNESS IN THE UNITED STATES: STATE SURVEYS (J. Momeni ed. 1990) (documenting the local origins and demographic diversity of urban homeless populations); 2 HOMELESSNESS IN THE UNITED STATES: DATA AND ISSUES (J. Momeni ed. 1990) (concluding that homeless persons appear demographically and behaviorally like the mainstream population except in activities like obtaining food and shelter); P. ROSSI, DOWN AND OUT IN AMERICA: THE ORIGINS OF HOMELESSNESS (1989) (providing a broad-scoped analysis of how today's homeless are different from inhabitants of the pre-1960's skid row). Generally, the survey research has focused on basic demographic

Others have focused on particular issues, like health status, in some detail.[17] A few studies have compared "the homeless" with others—either a random population or other poor people—who are deemed to be "stably housed."[18]

Taken together, these studies point to several basic facts about "the homeless." However defined, "the homeless" tend to be extremely poor.[19] They suffer the ills that correlate with poverty—physical and mental disabilities, chemical dependency, violence, unstable employment—with greater frequency than either the "general population," or the "stably housed" poor.[20] And they consistently score low on those dimensions of "affiliation" or "social support" that researchers have been able to quantify.[21] These results

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information, clinical characteristics, and individual histories. *See* Milburn & Watts, *Methodological Issues in Research on the Homeless and the Homeless Mentally Ill*, 14 INT'L J. MENTAL HEALTH 42 (1986).

17. Good examples of specialized demographic studies include Gelberg & Linn, *Social and Physical Health of Homeless Adults Previously Treated for Mental Health Problems*, 39 HOSP. & COMMUNITY PSYCHIATRY 510 (1988); and Gelberg, Linn & Leake, *Mental Health, Alcohol and Drug Use, and Criminal History Among Homeless Adults*, 145 AM. J. PSYCHIATRY 191 (1988). Studies focusing on health problems are summarized in J. WRIGHT & E. WEBER, HOMELESSNESS AND HEALTH (1987). Because of profound methodological problems, research on the incidence of specific problems among homeless populations often reach conflicting results. For examples of attempts to reconcile diverse research findings in the specialized field of mental health, see, e.g., Fischer & Breakey, *Homelessness and Mental Health: An Overview*, 14 INT'L J. MENTAL HEALTH 6 (1986); and Robertson, *Mental Disorder Among Homeless Persons in the United States: An Overview of Recent Empirical Literature*, 14 ADMIN. MENTAL HEALTH 14 (1986). *See also* P. ROSSI, *supra* note 16, at 145-56 (summarizing homelessness studies focusing on mental health).

18. *See* J. KNICKMAN, B. WEITZMAN, M. SHINN & E. MARCUS, 2 A STUDY OF HOMELESS FAMILIES IN NEW YORK CITY: CHARACTERISTICS AND COMPARISONS WITH OTHER PUBLIC ASSISTANCE FAMILIES (1989) (study prepared for Human Resources Administration of the City of New York, comparing the characteristics and experiences of a sample of 704 families that requested emergency housing at the City's Emergency Assistance Units (EAU's) and 524 families that are representative of the general public assistance family population in the City); D. WOOD, *supra* note 1 (study prepared for the California State Assembly Office of Research comparing AFDC families who had lived in the same residence for at least six months with families who had sought refuge in an emergency shelter); Bassuk & Rosenberg, *Why Does Family Homelessness Occur? A Case-Control Study*, 78 AM. J. PUB. HEALTH 783 (1988) (comparing homeless mothers and children living in family shelters with families living in low-income housing in low-income census tracts in Boston); *see also* Koegel, Burnam & Farr, *The Prevalence of Specific Psychiatric Disorders Among Homeless Individuals in the Inner City of Los Angeles*, 45 ARCHIVES GEN. PSYCHIATRY 1085 (1988) (comparing mental health of homeless and non-homeless individuals).

19. Peter Rossi reports that 10 different studies of the income of homeless individuals show that their average monthly income is $164.61. *See* P. ROSSI, *supra* note 15, at 105.

20. *See* sources cited *supra* notes 15 & 17. In particular, see P. ROSSI, *supra* note 15, at 143-79.

21. Leading sociological studies of "disaffiliation" include Rooney, *Friendship and Disaffiliation Among the Skid Row Population*, 31 J. GERONTOLOGY 82 (1976); and Segal, Baumohl & Johnson, *Falling Through the Cracks: Mental Disorder and Social Margin in a*

support two mutually reinforcing conclusions. First, those among the poor who are vulnerable because of pre-existing medical, psychiatric, social, or vocational problems are the most likely to be pushed out of the bottom of the housing market during times of crisis. Second, life on the street exacerbates pre-existing tendencies toward medical, psychiatric, and vocational problems. Stated simply, if you are very poor and also sick or troubled, you are at risk of losing the roof over your head when the housing market gets tight. And once you are out in the cold, it is hard to get a job, stay healthy or sober, and keep in touch with your friends.

No comprehensive longitudinal studies have yet sorted out the "chicken and egg" relationship between individual vulnerabilities and spates of homelessness.[22] A few such studies are in progress, however.[23] When the results are in, service providers hope to predict when episodes of homelessness are likely to occur, so that they can intervene before a client is out on the street. In the rare case when psychic or social stress, alone, leads a person to abandon a home,[24]

Young Vagrant Population, 24 SOC. PROBS. 387 (1977). For a discussion of disaffiliation among homeless populations, see P. ROSSI, *supra* note 15, at 165-77. For a critique of the concept of disaffiliation as applied to skid row residents, see P. GROTH, FORBIDDEN HOUSING: THE EVOLUTION AND EXCLUSION OF HOTELS, BOARDING HOUSES, ROOMING HOUSES, AND LODGING HOUSES IN AMERICAN CITIES, 1880-1930, at 352-54, 399-400 (1983); and C. HOCH & R. SLAYTON, NEW HOMELESS AND OLD: COMMUNITY AND THE SKID ROW HOTEL 124-54 (1989).

22. *See* R. Tessler & D. Dennis, A Synthesis of NIMH-Funded Research Concerning Persons Who Are Homeless and Mentally Ill 48 (1989) (unpublished report prepared for the National Institute of Mental Health) (on file with the author). The authors argue for more longitudinal research, on the grounds that:

> It is misleading to infer [from cross-sectional studies] that homeless persons can be assigned to categories which are mutually exclusive and analytically distinct . . . and which provide valid descriptions of homelessness over even brief intervals. . . . The fact is that many persons move in and out of homelessness, and between sectors of the public system of care, and that a host of situational as well as individual factors determine the distribution of homeless persons at any single point in time.

Id. The few studies that have taken detailed histories of homeless individuals have found that different individuals have varying patterns of going in and out of shelter. *See* Arce, Tadlock, Vergare & Shapiro, *A Psychiatric Profile of Street People Admitted to an Emergency Shelter*, 34 HOSP. & COMMUNITY PSYCHIATRY 812 (1983); P. Koegel, Subsistence Patterns Among Homeless Adults in the Inner-City of Los Angeles (1987) (unpublished paper on file with the author).

23. The National Institute for Mental Health has recently funded a five-year longitudinal study of mentally ill persons in Los Angeles, with the goal of better understanding, in qualitative and quantitative terms, the circumstances in which individuals move in and out of homelessness. Personal communication with Paul Koegel, one of the principal investigators for this study (Jan. 25, 1990).

24. Though it is not the typical scenario, some individuals with middle-class backgrounds are rendered homeless by psychological factors. *See* K. HIRSCH, SONGS FROM THE ALLEY (1989) (describing the experience of "Amanda," whose abusive childhood made it difficult for

therapeutic support may prevent a spate of homelessness. More often, however, psychic or social stress goes hand in hand with economic crisis. In such cases, it will take housing, as well as psychosocial support, to prevent homelessness. Modelling the dynamics of shelter crisis may *predict* episodes of homelessness across large populations. But service providers cannot use such models to *prevent* at-risk clients from becoming homeless, unless someone provides the money it takes to pay the rent. Thus, when the results are in, the longitudinal studies are likely to underscore the same bottom-line to which the current research already points: Ready access to supportive housing must be a central feature of any homelessness prevention program that has a chance to work.

In the UCLA Seminar on Homelessness, we surveyed some of these research results. Our discussions then turned to the varied images of "the homeless" that we had formed in our day to day work. These images—of tents, trailers, and shopping carts, of people searching out safe hidden places in the public domain—were grim. But many of the images were also remarkable. Though confirming failure of the market and in individual lives, the images also suggested innovation in shelter-building and community design, innovation achieved with virtually no technical or material aid. Why, we wondered, should the poorest people, by all measures among the nation's most vulnerable, be required to innovate their own homes? Why isn't the market working to bring housing within their reach? How might the institutions of housing finance, production, allocation, and management enable even the most vulnerable families to make decent homes for themselves? The large body of academic research on the homeless, by focusing so relentlessly on the "symptoms" of homeless *individuals*, has had little to say about these core questions.

B. *Why Are They Suddenly on the Streets?*

The literature on homelessness serves up an array of stock answers to this question. Conservative accounts often begin with a reminder that "they've always been with us"[25] and then explain how

her to establish a stable home in her adult life). Even Amanda required subsidized transitional housing, however, to get back into permanent housing after extended periods of life on the street.

25. *See* Alter, Stille, Doherty, Greenberg, Agrest, Smith & Raine, *Homeless in America*, NEWSWEEK, Jan. 2, 1984, at 20, *quoted in* Alter, Stille, Doherty, Greenberg, Grest, Smith & Raine, *Homelessness in America*, HOUSING THE HOMELESS 1 (J. Erickson & C. Wilhelm eds. 1986); *see also* Ellickson, *The Homelessness Muddle*, 99 PUB. INTEREST 45, 53 (1990) (Although conceding that "the nation's homeless population undoubtedly did grow during the 1980s," he argues that "[t]he rise nevertheless has been smaller than most people who frequent downtowns might think.").

welfare state policies encourage dependency among the poor.[26] Liberal accounts have tied the rise in homelessness in the last decade to four broad social trends: the demolition of low-rent housing, especially single room occupancy units in urban areas;[27] the defunding of federal housing and income subsidy programs;[28] the deinstitutionalization of the mentally ill,[29] followed in the 1980's by a disruption of

26. Ellickson, *supra* note 25, at 53-57; *see also* C. MURRAY, *supra* note 4.

27. Frequently cited statistics place the number of single room occupancy ("SRO") units removed from the market in central cities at over 1,116,000 units, nearly half of the total stock, in the period between 1970 and 1982. Hopper & Hamberg, *The Making of America's Homeless: From Skid Row to New Poor, 1945-1984*, in CRITICAL PERSPECTIVES ON HOUSING 12, 23 (R. Bratt, C. Hartman & A. Meyerson eds. 1986). These units provided a major source of housing and community for low income unmarried individuals in urban areas. An equivalent number of low rent units has not been built in the same areas to replace this lost resource. Because many of the residents of inner city SRO housing are elderly, disabled, or otherwise vulnerable, they have not found it easy to relocate to areas where cheap housing is available. *See* C. HOCH & R. SLAYTON, *supra* note 2, at 172-99; Hopper & Hamberg, *supra*, at 22-23; Kasinitz, *Gentrification and Homelessness: The Single Room Occupant and the Inner City Revival*, 17 URB. & SOC. CHANGE REV. 9 (1984); Werner & Bryson, *Guide to the Preservation and Maintenance of Single Room Occupancy (SRO) Housing* (pts. I & II), 15 CLEARINGHOUSE REV. 999 (1982); Werner & Bryson, *Guide to the Preservation and Maintenance of Single Room Occupancy (SRO) Housing*, pts. III & IV, 16 CLEARINGHOUSE REV. 1 (1982). By the mid-1980's, legislative measures at the local and national level had begun to reverse the depletion of this important housing resource. *See* Stewart B. McKinney Homeless Assistance Act, Pub. L. No. 100-77, § 441, 101 Stat. 482 (codified at 42 U.S.C. § 11401 (1988)) (mandating rental assistance for SRO dwellings under the Section 8 Moderate Rehabilitation program, 42 U.S.C. § 1437(f)); NEW YORK, NEW YORK LOCAL LAW NO. 9 (1987) (local ordinance prohibiting the demolition, alteration, or conversion of SRO properties and obligating SRO owners to restore all vacant units to habitable condition and lease them at controlled rents for an indefinite period). Courts, however, have found some of these measures unconstitutional. *See* Seawall Associates v. City of New York, 74 N.Y.2d 92, 542 N.E.2d 1059, 544 N.Y.S.2d 542 (1989) (invalidating New York Local Law No. 9 as an unconstitutional taking of property).

28. In the 1980's, federal welfare and housing expenditures were curtailed. Furthermore, federal housing programs were redirected from the very poor to groups better able to support mortgages and operating costs from their own income. The programs most heavily impacted by these shifts were the brick and mortar programs that produced new housing stock for the very poor. *See* Hopper & Hamberg, *supra* note 27, at 30 (In 1979, there were 200,000 publicly subsidized housing starts and renovations nationwide. This was cut to 55,000 in 1983, and in fiscal year 1984, funds were allocated for only 30,000 new units.). The specific relationship between budget shifts and literal homelessness is difficult to specify, and has been a subject of heated political and scholarly contest. *See* Hartman, *Housing Policies Under the Reagan Administration*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 362, 376 (Hartman argues that the Reagan Administration's cuts in subsidized housing production programs had a disastrous impact on the poor.). *But cf.* Ellickson, *supra* note 25, at 54 (Ellickson argues that the Reagan Administration's shift from new construction to rent subsidy programs assisted more families at substantially lower per capita cost.).

29. Although estimates vary, a fairly consistent finding in surveys of the homeless population is that between 20% and 30% suffer major mental illness. *See, e.g.*, Breakey, *Recent Empirical Research on the Homeless Mentally Ill*, in NAT'L INST. ON ALCOHOL ABUSE & ALCOHOLISM, U.S. DEP'T OF HEALTH & HUMAN SERVS., RESEARCH METHODOLOGIES CONCERNING HOMELESS PERSONS WITH SERIOUS MENTAL ILLNESS AND/OR SUBSTANCE

federal subsidies for the mentally disabled;[30] and the deindustrialization of the economy.[31] While these four factors provide a good starting point for understanding the crisis, to comprehend why these trends had such visible consequences in the 1980's, we must locate them in a wider historical frame.

Following World War II, the economy, including the housing sector, experienced an unprecedented expansion throughout Western Europe and the United States.[32] The post-War Congress continued to support the New Deal public housing program.[33] At the same time,

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ABUSE DISORDERS (1987) (proceedings of a two-day conference sponsored by the Alcohol Drug Abuse and Mental Health Administration, July 13-14, 1987); Mowbray, *Homelessness in America: Myths and Realities*, 55 AM. J. ORTHOPSYCHIATRY 4 (1985). Contrary to popular belief, however, few of today's homeless are the same individuals who were released from mental hospitals during the deinstitutionalization of the 1950's and 1960's. Rather, since 1955, the closing of large state hospitals amounted to a loss of over 425,000 units of poorly designed, but nonetheless subsidized, housing for the poor mentally ill nationwide. Furthermore, the community mental health services that were expected to provide psychiatric treatment to severely ill patients outside of mental hospitals were never fully funded. Lamb, *Deinstitutionalization and the Homeless Mentally Ill*, 35 HOSP. & COMMUNITY PSYCHIATRY 899, 902 (1984). For a time, SRO units and rooming houses funded largely by federal disability stipends absorbed some of the cost imposed by this housing loss. When both SRO units and disability stipends were depleted in the early 1980's, the long-term consequences of deinstitutionalization suddenly became visible on the streets.

30. The disruption of federal disability benefits to the mentally ill in the early 1980's is documented in the case of Mental Health Ass'n of Minn. v. Schweiker, 554 F. Supp. 157 (D. Minn. 1982), *aff'd in part and modified in part sub nom.* Mental Health Ass'n of Minn. v. Heckler, 720 F.2d 965 (8th Cir. 1983) (enjoining government from terminating benefits of severely mentally ill disability recipients on basis of presumption that their impairments were not severe).

31. *See* P. ROSSI, *supra* note 16, at 187 (earnings of workers under 35 declined between 1968 and 1984 to about 80% of the 1968 level, computed in constant dollars (citing Eastertin, *The New Age Structure of Poverty in America*, 2 POPULATION & DEV. REV. 195 (1987))); Marcuse, *Neutralizing Homelessness*, 18 SOCIALIST REV. 69, 75-77 (1988) (44% of all new jobs created between 1980 and 1988 pay poverty level wages).

32. For accounts of developments in the United States, see S. MAISEL, HOUSEBUILDING IN TRANSITION 11 (1953); Checkoway, *Large Builders, Federal Housing Programmes, and Postwar Suburbanization*, 4 INT'L J. URB. & REGIONAL RES. 21, 29 (1980) (In the United States, the rate of new residential construction in 1950-1959 was approximately twice that in 1940-1949.); and Mitchell, *The Historical Context for Housing Policy*, in FEDERAL HOUSING POLICY AND PROGRAMS: PAST AND PRESENT 3, 9-11 (J. Mitchell ed. 1985). For a comparative account of developments in the United States and Europe, see M. BALL, M. HARLOE & M. MARTENS, HOUSING AND SOCIAL CHANGE IN EUROPE AND THE USA 49 (1988) (The authors describe expansion of housing sectors in Western European economies after World War II.). According to Ball and other commentators, the current problems within the housing economies of several of the industrial democracies show striking similarities. Although this Essay cannot offer a comprehensive comparative analysis, it does occasionally make reference to parallels between the United States and Europe in order to alert the reader to the scope of the historical forces that are likely to be at work.

33. Public housing on a wide scale was first mandated by the United States Housing Act of 1937, ch. 896, Pub. L. No. 75-412, 50 Stat. 888 (codified as amended at 42 U.S.C. § 1437 (1988)). As section 1 of the statute made clear, Congress authorized the public housing

Congress authorized new programs designed to entice the private sector to produce new housing stock for a rapidly expanding population. Some subsidies and tax incentives were directed toward developers of multi-family rental housing for the poor.[34] But most of the post-War housing subsidies went to predominantly white, low- to middle-income households, to enable them to purchase single family homes. These programs, which included mortgage interest subsidies, tax relief, infrastructure support, and even subsidized land, stimulated the production of hundreds of thousands of single family tract houses in newly developing suburban areas, reshaping the geography of American cities.[35] In contrast, in Western Europe the major post-War sub-

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program as a Depression-era measure designed to "alleviate present and recurring unemployment and to remedy the unsafe and insanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income." *Id.* § 1. As originally designed, public housing was administered by municipal housing authorities that were established under state enabling legislation. Construction was funded by tax-exempt bond issues; debt service was repaid over a 40-year period by federal appropriations. The original legislation included an "equivalent elimination" provision that required local housing authorities to demolish one substandard unit for each new unit of public housing constructed. The program was reactivated after World War II in the Housing Act of 1949, ch. 338, Pub. L. No. 81-171, § 307(d), 63 Stat. 413 (codified as amended at 42 U.S.C. § 1437(c) (1988)). *See generally* R. FISHER, 20 YEARS OF PUBLIC HOUSING 73-91 (1959) (discussing origins of federally aided public housing); Bratt, *Public Housing: The Controversy and Contribution*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 335-61 (urging that despite the current lack of funding, public housing remains the best option for producing housing for low-income people).

34. For an overview of this development, see Meehan, *The Evolution of Public Housing Policy*, in FEDERAL HOUSING POLICY AND PROGRAMS: PAST AND PRESENT, *supra* note 32, at 287. One of the first laws to encourage private sector development of low-income housing was the Section 202 program, Housing Act of 1959, Pub. L. No. 86-372, 73 Stat. 654 (codified as amended at 12 U.S.C. § 1701(q) (1988)), which provided below-market interest-rate loans to private nonprofit sponsors of housing for the elderly. Soon thereafter, a series of laws gave subsidies to for-profit developers as well. These included the Section 221(d)(3) Below Market Interest Rate Program, Housing Act of 1961, Pub. L. No. 87-70, 75 Stat. 149 (codified as amended at 12 U.S.C. § 1715(1) (1988)) (subsidizing mortgage interest on for-profit multifamily developments), largely phased out in 1968 by the substantially similar Section 236 mortgage interest subsidy program, Housing and Urban Development Act of 1968, Pub. L. No. 90-448, 82 Stat. 476 (codified as amended at 12 U.S.C. § 1715z-1 (1988)). These programs were largely superseded by the Section 8 programs, enacted in the Housing and Community Development Act of 1974, Pub. L. No. 93-383, 88 Stat. 633 (codified as amended at 42 U.S.C. § 1437f (1988)), which paid monthly rent subsidies directly to landlords. *See also infra* note 66 (discussing Section 8 demand-side housing subsidies). *See generally* Bratt, *supra* note 33, at 342 (discussing government subsidized housing programs); Marcuse, *Housing Policy and the Myth of the Benevolent State*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 248, 257 (discussing the Section 8 subsidized housing programs).

35. The groundwork for this development was laid in depression era legislation providing federal support for private mortgage lenders. *See* Federal Home Loan Bank Act, ch. 522, Pub. L. No. 72-304, 47 Stat. 725 (1932) (current version at 12 U.S.C. §§ 1421-1449 (1989)). In 1934, the National Housing Act established the Federal Housing Administration ("FHA"), which provided federal insurance for home loans. Certain regulatory provisions were tied to this insurance program, including minimum property standards and ceilings on permissible

sidies went toward the construction of "social" housing, that is, state-owned multifamily housing for low- and middle-income groups.[36]

As Congress expanded the federal role in housing production, it made a rhetorical commitment to the goal of "a decent home and a suitable living environment" for all persons.[37] This policy led to a real improvement in poor people's housing in the two decades after

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interest rates. *See* National Housing Act, ch. 847, Pub. L. No. 73-479, § 203, 48 Stat. 1246 (1934) (codified as amended at 12 U.S.C. § 1715b-z (1988)). After World War II, the program was liberalized and expanded in the Housing and Rent Act of 1947, ch. 163, Pub. L. No. 80-129, § 3, 61 Stat. 193 (codified as amended at 12 U.S.C. § 1738 (1988)) (authorizing the FHA to finance the manufacture of houses), and the 1948 amendment to the National Housing Act, ch. 165, Pub. L. No. 80-468, 62 Stat. 101 (codified at 12 U.S.C. § 1238(b)(2) (1988)) (increasing maximum dollar amounts on FHA-insured home mortgages, and increasing maximum loan-to-value ratio to 90%). The FHA insurance program was supplemented by the Veterans Emergency Housing Act of 1946, ch. 268, Pub. L. No. 79-388, 60 Stat. 207 (terminated 1947) (enacting a number of measures to provide quick housing construction, especially for returning war veterans). In 1968, Congress enacted the Section 235 Homeownership Subsidy Program, through which the government authorized direct payments of part of the mortgage interest for low- to moderate-income home buyers. Housing and Urban Development Act of 1968, Pub. L. No. 90-448, § 235, 82 Stat. 476 (codified as amended at 12 U.S.C. § 1715z (1988)). *See generally* Semer, Zimmerman, Foard & Franz, *Evolution of Federal Legislative Policy in Housing: Housing Credits*, in FEDERAL HOUSING POLICY AND PROGRAMS: PAST AND PRESENT, *supra* note 32, at 69, 94-97. These programs provided assistance for about 40% of all private housing starts during the 1940's. *See* Martens, *Owner-Occupied Housing: A Tenure in Transition*, in M. BALL, M. HARLOE & M. MARTENS, *supra* note 32, at 87, 96-97. There is a large body of literature on the impact of these measures on the social geography of American neighborhoods. *See, e.g.*, Checkoway, *supra* note 32, at 39-44 (reviewing literature on post-War suburbanization). In addition to this direct governmental support for individual homeownership, homeowners continue, even after the Tax Reform Act of 1986, to get federal income tax deductions for their home mortgage interest and local property taxes. Tax Reform Act of 1986, Pub. L. No. 99-514, § 511(b), 100 Stat. 2096 (codified as amended in 26 U.S.C. § 163(3) (1988)). The mortgage interest deduction is the largest single federal housing subsidy. In 1987, it amounted to approximately $65 billion in foregone revenues. During the same year, direct federal expenditures for housing and community development programs amounted to only about $13 billion. R. Appelbaum & C. Hartman, A Progressive Housing Program for America 21 (1987) (unpublished manuscript on file with the author); *see also* C. DOLBEARE, FEDERAL HOUSING ASSISTANCE: WHO NEEDS IT? WHO GETS IT? (1985) (arguing that all federal housing expenditures, including "tax expenditures," should be treated together in federal housing policy); Dolbeare, *How the Income Tax System Subsidizes Housing for the Affluent*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 264-71 (discussing federal spending for housing provided through the tax code).

36. *See* Harloe, *The Changing Role of Social Rented Housing*, in M. BALL, M. HARLOE & M. MARTENS, *supra* note 32, at 49-50 (noting that although there were local variations, socially controlled multifamily housing became a "key element in housing provision" in Britain, France, the Netherlands, Denmark, and West Germany after World War II). During the same period, however, these states were also enacting policies to encourage single-family homeownership. *Id.* at 98-100; *see also* R. DUCLAUD-WILLIAMS, THE POLITICS OF HOUSING IN BRITAIN AND FRANCE (1978) (comparing housing legislation and policy in these two countries in the post-World War II era).

37. *See* Housing Act of 1949, ch. 338, Pub. L. No. 81-171, § 2, 63 Stat. 413 (codified as amended at 42 U.S.C. § 1437(c) (1988)) (preamble).

the War. By 1970, the number of units without amenities such as heat or indoor plumbing had measurably declined.[38] This progress should not be exaggerated, however, for data on the condition of housing structures does not reveal the living conditions of the large population without stable tenure, groups such as Latino immigrants and African-American workers, who must move between urban and rural kin to find jobs.[39] Nor does such data reflect the profound social costs imposed by post-War slum clearance programs on the poor.[40]

While norms of housing construction were improving during the post-War era, norms of family composition were tightening.[41] Particularly in the new suburbs, a straight-jacket image of the "normal" family—a white heterosexual couple with two to three children, a male breadwinner, a female homemaker, and no "special needs"—shaped both housing and community design.[42] Virtually every house

38. In 1940, 45.2% of all year-round housing units in the United States lacked some or all plumbing. By 1970, this figure had shrunk to 6.5%. In the same period, the percentage of "dilapidated" units had shrunk from 17.8% to only 4.6%, while the percentage of "substandard units" had shrunk from 49.2% to 9.0%. This overall upgrading of housing stock occurred in every region of the country. J. HUGHES & G. STERNLIEB, THE DYNAMICS OF AMERICA'S HOUSING 180-81 (1987) (Exhibit 13-5, citing a number of government sources, including the U.S. Census Bureau's decennial census and Annual Housing Survey volumes for 1940 to 1983).

39. The failure of the Census Bureau to document fully the demographic circumstances of the poorest groups has been widely acknowledged. *See, e.g., Accounting for Housing and Homeless in 1990 Decennial Census: Hearing Before the Subcomm. on Census and Population of the House Commission on Post Office and Civil Service*, 99th Cong., 2d Sess. (1986); N.Y. STATE ADVISORY COMM. TO THE U.S. COMMISSION ON CIVIL RIGHTS, CENSUS UNDERCOUNTS AND PREPARATIONS FOR THE 1990 CENSUS (1988). Several large cities have even taken the problem to court. *See* City of New York v. United States Dep't of Commerce, 713 F. Supp. 48 (E.D.N.Y. 1989) (suit against the Census Bureau, seeking a statistical adjustment of direct population count because of high likelihood of undercount).

40. The Housing Act of 1949 laid the legal foundations for widespread "slum clearance" in the United States in the 1950's and 1960's. *See* Housing Act of 1949, ch. 338, Pub. L. No. 81-171, §§ 101-110, 63 Stat. 413 (codified as amended at 42 U.S.C. § 1437(c) (1988)). There is a vast body of literature assessing the social impact of these policies. *See, e.g.*, L. FRIEDMAN, GOVERNMENT AND SLUM HOUSING: A CENTURY OF FRUSTRATION 25-55 (1968); URBAN RENEWAL: PEOPLE, POLITICS, AND PLANNING (J. Bellush & M. Hausknecht eds. 1967); URBAN RENEWAL: THE RECORD AND THE CONTROVERSY (J. Wilson ed. 1966); Weiss, *The Origins and Legacy of Urban Renewal*, in URBAN AND REGIONAL PLANNING IN AN AGE OF AUSTERITY 53-80 (P. Clavel, J. Forester & W. Goldsmith eds. 1980).

41. Dolores Hayden has gathered evidence of the wide range of differing visions of housing design that architects, planners, and social critics—particularly feminists—put forth in this country prior to the post-War era. *See* D. HAYDEN, THE GRAND DOMESTIC REVOLUTION: A HISTORY OF FEMINIST DESIGNS FOR AMERICAN HOMES, NEIGHBORHOODS, AND CITIES (1981). Recent work by social historians suggests that the demographic patterns of American families, particularly among the poor, have never been as uniform as the post-War norms of housing design might suggest. *See, e.g.*, L. GORDON, HEROES OF THEIR OWN LIVES: THE POLITICS AND HISTORY OF FAMILY VIOLENCE: BOSTON, 1880-1960 (1988).

42. *See* Hayden, *What Would a Non-Sexist City Be Like? Speculations on Housing, Urban Design and Human Work*, 5 SIGNS (supp.) 170, 171-73 (1980) (citing the policies of large

had two or three bedrooms, a self-contained kitchen, and a private bath. Most neighborhoods lacked public spaces where cooking, child-care, recreation, and other "domestic" tasks might be shared. The very term "substandard," which was often used in the post-War period as a rationale for "clearing" low-income housing in central city areas,[43] reflects a conflation of structural adequacy and social conformity in post-War housing discourse. In recent decades, trends such as the demise of the male-headed nuclear family,[44] the rise of an independent living movement among the disabled,[45] and new models of supportive housing for the profoundly mentally ill[46] have undermined the notion that a detached single-family tract unit is everyone's ideal home. Slowly, a multiple image of adequate housing has begun

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industrial employers, the development of the mass market, and government policy as factors leading to the production of over 50 million small, isolated housing units in contemporary America). For images of alternatives that would encourage a non-gendered approach to domestic labor, see D. HAYDEN, *supra* note 41; J. LEAVITT & S. SAEGERT, FROM ABANDONMENT TO HOPE: COMMUNITY-HOUSEHOLDS IN HARLEM (1990) (documenting the reorganization of household space and tasks in tenants' movement to recover abandoned buildings in Harlem); Leavitt, *Two Prototypical Designs for Single Parents: The Congregate House and the New American House*, in NEW HOUSEHOLDS, NEW HOUSING 161-86 (K. Franck & S. Ahrentzen eds. 1989).

43. *See supra* note 40. For an analysis of how notions of social and structural deviance were marshalled to rationalize the destruction of central city housing, see C. HOCH & R. SLAYTON, *supra* note 2, at 107-23, 172-98.

44. There is a large body of literature analyzing this trend, as well as relating it to the rise in poverty among women and children. *See, e.g.*, D. ELLWOOD, POOR SUPPORT: POVERTY IN THE AMERICAN FAMILY (1988); I. GARFINKEL & S. MCLANAHAN, SINGLE MOTHERS AND THEIR CHILDREN: A NEW AMERICAN DILEMMA (1986); H. RODGERS, POOR WOMEN, POOR FAMILIES: THE ECONOMIC PLIGHT OF AMERICA'S FEMALE-HEADED HOUSEHOLDS (1986); R. SIDEL, WOMEN AND CHILDREN LAST: THE PLIGHT OF POOR WOMEN IN AFFLUENT AMERICA (1986); Kamerman, *Women, Children, and Poverty: Public Policies and Female-Headed Families in Industrialized Countries*, in WOMEN AND POVERTY (B. Gelpi, N. Hartsock, C. Novak & M. Strober eds. 1986).

45. This movement was fully legitimated in our legal norms in 1988 when the federal Fair Housing statute was amended to ban discrimination on the basis of handicap. The statute defined handicap broadly and required defendants to make reasonable accommodations in rules, practices, and services to the needs of disabled home seekers. *See* Fair Housing Amendments Act of 1988, Pub. L. No. 100-430, 102 Stat. 1619, §§ 5(b), 6 (codified at 42 U.S.C. §§ 3602, 3604 (1988)).

46. For a classic critique of warehousing the mentally ill, see J. WING & G. BROWN, INSTITUTIONALISM AND SCHIZOPHRENIA (1970). The literature advocating different treatment milieus includes G. HOLLEB & W. ABRAMS, ALTERNATIVES IN COMMUNITY MENTAL HEALTH (1975); and D. WINNICOTT, THE MATURATIONAL PROCESS AND THE FACILITATING ENVIRONMENT (1965). For discussion of these ideas in the context of the homeless, see Levine, Lezak & Goldman, *Community Support Systems for the Homeless Mentally Ill*, in THE MENTAL HEALTH NEEDS OF HOMELESS PERSONS 27 (E. Bassuk ed. 1986). For a thoughtful critique of both institutional and community-based mental health policies, see Goldman & Morrissey, *The Alchemy of Mental Health Policy: Homelessness and the Fourth Cycle of Reform*, 75 AM. J. PUB. HEALTH 727 (1985).

to emerge.[47] Rather than rows of "little boxes,"[48] this new image suggests flexible configurations of private space, common area, and social support to suit families with diverse cultural traditions, and differing physical, emotional, and social needs.[49]

Thus, the post-War housing boom did not reach families with "different" needs. Nor did it reach many of the poorest groups. Yet, it did improve housing conditions among a large sector of both rural and urban working poor.[50] After about 1970, however, several shifts in the institutions of housing finance, production, and distribution began to reduce the availability of decent, affordable housing for low- to moderate-income groups. These shifts made it difficult for the poorest groups to hold on to any housing at all, especially in periods of personal crisis. Changes in the structure of capital markets destabilized the cost of credit for housing production.[51] Within the building industries, the costs of skilled labor increased. Energy costs rose sharply in the early 1970's, driving up the costs of materials and construction. And land, especially in major urban areas, became increasingly valuable because of population growth, the rise in transportation costs, and the exploitation of demand by real estate speculation.[52]

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47. Or more accurately, to re-emerge. *See* D. HAYDEN, *supra* note 41.

48. *See* M. REYNOLDS, LITTLE BOXES (Schroder Music Co., 1962) (recorded by Pete Seeger for Columbia Records).

49. *See* sources cited *supra* note 42.

50. *See* J. HUGHES & G. STERNLIEB, *supra* note 38, at 180-81.

51. The most sweeping of these developments was the deregulation of financial institutions in the early 1980's through such measures as the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 132 (codified in scattered sections of 12 U.S.C.), and the Garn-St. Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469 (codified in scattered sections of 12 U.S.C.). The deregulation effectively removed the protected status that governmental policy had afforded to housing investment since the 1930's, leaving housing to compete with other sectors of the economy for capital. These measures were enacted to enable the market to operate more efficiently, and their benefits are likely to accrue to affluent credit consumers. However, competition from other sectors of the economy for investment funds is likely to drive up the costs of housing credit for higher risk, low income groups. A full analysis of the impact of these and other measures is beyond the scope of this Essay. *See generally* Florida, *The Political Economy of Financial Deregulation and the Reorganisation of Housing Finance in the United States*, 10 INT'L J. URB. & REGIONAL RES. 207 (1986) (discussing the restructuring of housing finance in the United States); Meyerson, *Deregulation and the Restructuring of the Housing Finance System*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 68-98 (discussing how changes in the housing finance structure have exacerbated the problems of housing affordability); Meyerson, *The Changing Structure of Housing Finance in the United States*, 10 INT'L J. URB. & REGIONAL RES. 465 (1986) (discussing how the altered institutional structure of housing finance will lead to adverse effects on housing and housing consumers). For an overview of the impact of capital market deregulation on the housing sector throughout the industrial economies, see Martens, *The Revolution in Mortgage Finance*, in M. BALL, M. HARLOE & M. MARTENS, *supra* note 32, at 130.

52. For an overview of the impact of real estate speculation, see Feagin, *Urban Real Estate*

These factors caused the cost of new housing construction to rise. A shift from craft to factory production methods became prevalent in housing for middle-class consumption.[53] These changes in production methods inflated the value of the housing stock that had been custom-built in the pre-War era and thus reduced the supply of low-rent units in many central city areas.[54]

Despite inflationary pressures, the market might have delivered housing to the poor if real incomes had risen to keep pace with the rising costs of housing production. Instead, several trends have driven down the real wages of working people while housing costs have been rising. According to many labor economists,[55] entry level jobs have shifted, in recent decades, from manufacturing to the lower paying service sector.[56] Many of these jobs are structured to draw their workforce from politically vulnerable groups who are in a weak position to bargain for wage increases, such as immigrants from poor

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Speculation in the United States: Implications for Social Science and Urban Planning, 6 INT'L J. URB. & REGIONAL RES. 35 (1982).

53. For two accounts of this broad trend, see Ball, *The International Restructuring of Housing Production*, in M. BALL, M. HARLOE & M. MARTENS, *supra* note 32, at 169; Schlesinger & Erlich, *Housing: The Industry Capitalism Didn't Forget*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 139. *But see* J. HUGHES & G. STERNLIEB, *supra* note 38, at 187 (In spite of new developments in the housing sector, the market works to allocate housing equitably among most population groups.).

54. This pressure has become visible in low vacancy rates, high eviction rates, and gentrification in some central city areas. *See generally* Hopper & Hamberg, *supra* note 27, at 29-30. At the same time, the poorest central city areas have experienced disinvestment and housing abandonment. *See* Meyerson, *Housing Abandonment: The Role of Institutional Mortgage Lenders*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 184.

55. For an overview of the literature analyzing this trend, see W. WILSON, THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY 180-81 (1987).

> The United States has entered a postindustrial revolution characterized by a capital-intensive restructuring of the industrial and manufacturing sector and a phenomenal growth of the service sector. . . . This process has wiped out millions of wholesale, retail, and manufacturing jobs in the nation's central cities since 1948, a process that has accelerated since 1967.

Id. It is estimated that this trend will result in the loss of approximately three million manufacturing jobs by 1990, and the polarization of wage scales between rich and poor. *See also* R. HAVEMAN, STARTING EVEN: AN EQUAL OPPORTUNITY PROGRAM TO COMBAT THE NATION'S NEW POVERTY 65-85 (1988) (documenting increasing gap in wage scales and unemployment rates of highly educated and less educated American workers between 1960 and 1980); Barth, *Dislocated Workers*, 7 J. INST. SOCIOECONOMIC STUD. 23 (1982) (discussing the effect of adjustments in the economy on workers); Kasarda, *The Implications of Contemporary Redistribution Trends for National Urban Policy*, 61 SOC. SCI. Q. 373 (1980) (examining trends in redistribution of population and economic activity).

56. It should be noted, however, that other labor economists predict that, on balance, the shifts in the labor market over the last two decades portend a more promising array of employment possibilities in the future. *See* P. OSTERMAN, EMPLOYMENT FUTURES: REORGANIZATION, DISLOCATION, AND PUBLIC POLICY (1988).

countries,[57] women, and ethnic minorities. Changes in gender politics have increased the number of female-headed, single-income households, and gender discrimination in job training, job placement, and wages, as well as inadequate childcare, have kept women at the bottom of the income scale.[58]

It was in this market setting, when both the real wages of low-income families and the supply of low-rent housing stock were in crisis, that centrist and conservative governments were elected in the United States and Western Europe. These new administrations reduced state support for both income subsidy and housing production programs,[59] further expanding the gap between family income and housing prices for the poor. All of these trends—accelerating housing costs with a concomitant decrease in the housing stock available to low-income renters, decreasing household incomes, shrinking state subsidies for the poor on either the income maintenance or housing production sides of the supply-demand equation—have produced a crisis, in industrialized countries, in housing affordability.[60] An increasing proportion of the population simply does not command the income, through wages and welfare transfers, to obtain housing in the marketplace, without compromising other needs. Thus, a growing sector of the population is becoming "shelter poor."

Shelter poverty shows up in several ways. Its most widespread manifestation is the large number of poor households that pay an excessive—and increasing—portion of their income for rent.[61] Hid-

57. The impact of immigration on the economy in urban areas is complex. It is clear, however, that undocumented recent immigrants tend to be employed in the secondary labor market where wages and working conditions are not subject to regulation. *See* Borjas & Tienda, *The Economic Consequences of Immigration*, 235 SCI. 645 (1987); Jensen, *Poverty and Immigration in the United States: 1960-1980*, in DIVIDED OPPORTUNITIES: MINORITIES, POVERTY, AND SOCIAL POLICY 117 (G. Sandefur & M. Tienda eds. 1988); Portes, *Illegal Immigration and the International System, Lessons from Recent Legal Mexican Immigrants to the United States*, 26 SOC. PROBS. 425 (1979); Waldinger, *The Occupational and Economic Integration of the New Immigrants*, 45 L. & CONTEMP. PROBS. 197 (1982).

58. *See* sources cited *supra* note 44.

59. *See* Harloe, *supra* note 36, at 75-81 (comparing the effect on housing policy of the centrist and conservative governments that took power in the United States, Britain, Denmark, the Netherlands, West Germany, and France in the 1980's).

60. For a recent overview of data on the crisis in housing affordability, see P. LEONARD, C. DOLBEARE & E. LAZERE, A PLACE TO CALL HOME: THE CRISIS IN HOUSING FOR THE POOR (1989).

61. Since 1981, federal housing programs have required assisted renters to contribute no more than 30% of their income for housing costs. *See* 42 U.S.C. § 1437a(a)(1)(A) (1988) (mandating 30% rent to adjusted income ratio in public housing). In its original enactment in 1969, this legislation, known as the Brooke Amendment, required tenants to pay only 25% of their income for rent. *See* Housing and Urban Development Act of 1969, Pub. L. No. 91-152, § 213(a), 83 Stat. 379 (amending § 2(1) of the United States Housing Act of 1937). *See generally* Bratt, *supra* note 33, at 335, 339 & 359 n.5 (discussing the Brooke Amendment and

den symptoms of the affordability crisis include the crowding of large families into small apartments and the doubling and tripling up of several families into single-family units.[62] Shelter poverty also shows up in the underenforcement of health and safety standards, in both private and subsidized housing.[63] When shelter is scarce and owners are free to shift their capital to other investments, it is hard for tenants to hold landlords to the letter of housing codes. And the surplus gained by violating such laws is not necessarily passed on to the poor in the form of lower housing costs. Finally, shelter poverty has become visible in the rise of homelessness among the most vulnerable of the poor.[64]

"Homelessness" might be pictured as the tip of a vast iceberg of shelter crisis. In a report on low-income housing in Los Angeles, one member of the UCLA Seminar on Homelessness suggested the depth of the problem. Even if the government were to build enough housing for the city's poor, the average cost of operating each unit—without any debt burden at all—would be between about $190 a month for a single room occupancy unit to about $230 a month for a small apartment in the Los Angeles area. This cost *alone* is barely affordable to someone working full time at a minimum wage job,[65] and is outside the reach of many of the city's poor. Most state and local proposals

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current HUD regulations). These figures reflect a legislative judgment about the portion of disposable income that low-income households should reasonably spend on rent in order to remain able to meet other needs. Yet, on the private market, poor people typically pay far more than a quarter of their income for housing costs. For a comprehensive analysis of the data on this issue, see J. Leavitt, Homelessness and the Housing Crisis 7 (unpublished paper on file with the author) (reporting that in 1980, the lowest rent households were paying 70% or more of income for rent). *See also* Dolbeare, *The Low-Income Housing Crisis*, in AMERICA'S HOUSING CRISIS: WHAT IS TO BE DONE? 29, 30-36 (C. Hartman ed. 1983) (discussing the "housing gap" for low-income households).

62. *See* P. LEONARD, C. DOLBEARE & E. LAZERE, *supra* note 60, at 22-25; Bratt, Hartman & Meyerson, *Editors' Introduction* to CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at xi, xvi; J. Leavitt, *supra* note 61, at 19-20. This overcrowding poses a special dilemma in subsidized units, where occupancy limits are written into lease and subsidy contracts. *See, e.g.*, Housing Quality Standards, 24 C.F.R. § 882.109(c)(2) (1989) (requiring apartments receiving rental assistance payments through the Section 8 Existing Housing Program to "contain at least one bedroom or living/sleeping room of appropriate size for each two persons"). Although a tenant whose family size increases during her tenancy cannot be deprived of her rent subsidy as a result, tenants who misrepresent their family size at the time of rental to qualify for a subsidy can be found in breach of the lease.

63. *See* P. LEONARD, C. DOLBEARE & E. LAZERE, *supra* note 60, at 19-22; J. Leavitt, *supra* note 61, at 8 (citing data from 1983 Annual Housing Survey showing that substandard conditions continue to occur disproportionately in units occupied by lowest income tenants, particularly people of color).

64. *See* Hopper & Hamberg, *supra* note 27; *see also* J. Leavitt, *supra* note 61.

65. A person working full time at a minimum wage job could afford to pay no more than approximately $221 a month in rent, if rent is kept to 30% of income.

for increasing the supply of low-income housing do not budget for the on-going deep subsidies needed if the housing is to remain solvent and rents are kept down to levels that the city's poorest families can afford. Thus, state and local production programs must depend on federal rent subsidies to make them work. Yet, the pool of such subsidies—most of them funded under the Section 8 or rent voucher programs[66]—meets only a fraction of the demand. Indeed, when the government, without any advance publicity, opened up the waiting list for Los Angeles's Section 8 program for a three day period in 1989 to take applications for 300 subsidies, over 400,000 persons tried to apply.[67] When the Section 8 waiting list opened for a similar period in San Diego, there were so many phone calls that the region experienced a momentary "brown out" from the sudden drain on its power supply.[68] The crisis to which these figures speak is not merely a problem of the "homeless." Rather, throughout the industrial economies, a growing stratum of the population simply does not get enough income under present market arrangement to secure their housing needs.

We might overcome this impasse in three ways. First, we might expand the supply of cheap housing by seeking new methods of housing production and adjusting minimal standards, so that the cost of at least some housing stock goes way down. This approach veers from the goal of a uniform standard of decent housing for all social groups.[69] Alternatively, we might adjust the income distribution system—wages, taxes, welfare—so that the poor have more money to spend. To make substantial changes in this realm, however, we must confront a basic tension in our economic system: How can we preserve income and profit as rewards for risk and effort and at the same time provide everyone with the minimum resources required to participate with dignity in social life? Finally, we could search for alternatives to the market, ways to allocate housing through social

66. Section 8 is the major federal demand-side housing subsidy program, enacted in the Housing and Community Development Act of 1974, Pub. L. No. 93-383, 88 Stat. 633 (codified as amended at 42 U.S.C. § 1437f (1988)). *See also supra* note 33 (discussing different subsidy programs). It gives renters a generous income subsidy that is earmarked for rent. The subsidy is paid directly to the landlord, provided that she or he complies with certain minimal requirements in maintaining and operating the unit. Congress has supplemented Section 8 with a rent voucher program designed to increase the flexibility of rent subsidies. *See* 42 U.S.C. § 1437f(o) (1988).

67. Oral Presentation by Charles Elsesser, Senior Consultant, Senate Rules Committee, California State Senate, to the UCLA Seminar on Homelessness (Feb. 7, 1990). A written summary of this presentation, prepared by Dale Weaver, the Seminar's administrative assistant, is on file with the author.

68. *Id.*

69. *See supra* note 37 and accompanying text.

deliberation rather than the invisible hand. This path presents a formidable challenge. Can we, as a society, make housing allocation substantially more equitable in the long run, without destabilizing the economy or further bureaucratizing either housing design or community life? So far, the only sustained efforts to provide affordable housing on a national scale have created more problems than they have solved. To move beyond these failures will require innovation in both the cultural and institutional realms. All three paths beyond the impasse are daunting. But unless we are willing to live amid squatter camps, we cannot simply stay where we are.[70]

III. REFLECTING ON THE RHETORIC

A. *Why Did We Rally Around "Homelessness?"*

Those who are literally "homeless" are not the only victims of the crisis in housing affordability and design. Indeed, stereotypic images of "the homeless" may distort our comprehension of the underlying housing crisis, misleading us about both its nature and its breadth. Given this risk, why did poor people's advocates put so much effort, in the 1980's, into mobilizing the public against "homelessness"? The question is not easily answered, for if our focus on "homelessness" was in any respect a strategic "choice," it was a choice made out of desperation. In a decade in which "poverty" was out of fashion as a target for either federal dollars or public interest, the plight of homeless people provided concrete, compelling images—images that worked to arouse public concern.

In the 1980's, poor people did not have the benefit of broad economic and cultural conditions that would support their own grassroots mobilization or encourage other social groups to ally with them.[71] Therefore, they were left without much leverage in policy

70. In large cities, homeless persons are increasingly establishing quasi-permanent squatter communities, reminiscent of squatter communities in urban areas in the last century. *See, e.g.*, Tierney, *In Tunnel, 'Mole People' Fight to Save Home*, N.Y. Times, June 13, 1990, at A1, col. 2. In describing a group of squatters in tunnels along the Hudson River in New York City, the author noted that "[i]n one sense they are historical restorationists. The mud flats along the Hudson . . . [housed] a full-fledged shantytown until Robert Moses decided to put a park and a highway up the West Side in the 1930's." *Id.* at B4, col. 2.

71. Among the many works that have attempted to specify those sociopolitical, economic, and bureaucratic contexts in which direct mobilization of the poor is likely to produce leverage in the political arena, see, e.g., J. HANDLER, SOCIAL MOVEMENTS AND THE LEGAL SYSTEM: A THEORY OF LAW REFORM AND SOCIAL CHANGE 156-63 (1978); F. PIVEN & R. CLOWARD, POOR PEOPLE'S MOVEMENTS: WHY THEY SUCCEED, HOW THEY FAIL (1977); THE DYNAMICS OF SOCIAL MOVEMENTS: RESOURCE MOBILIZATION, SOCIAL CONTROL, AND TACTICS (M. Zald & J. McCarthy eds. 1978); Jenkins & Perrow, *Insurgency of the Powerless: Farm Workers' Movements (1946-1972)*, 42 AM. SOC. REV. 249 (1977); and Wilson,

making arenas. They could not take the lead in forming coalitions that would shape public policies to address their needs. Instead, during the 1980's, the poor and their advocates were forced into a politics of altruism, of charity, to hold their own in the contest for public goods. Through "homelessness," poverty advocates acknowledged this predicament in the rhetoric that we used. As a "poor people's movement," the mobilization to end "homelessness" has built its ranks by appealing to the sympathy of the well-to-do, rather than to the anger and self-interest of poor people themselves. Rather than leveraging other interests into coalition with the poor, the movement to end "homelessness" has brought groups such as churches, mental health professionals, and even the construction industry, into coalition among themselves, on behalf of a passive and vulnerable image of the poor.

Why did housing and welfare advocates suddenly become "homeless" advocates in the 1980's, presenting people in shelter crisis as a new species of the poor?[72] Put bluntly, we identified ourselves with the cause of "homelessness" because, in an adverse situation, we could not see any better strategic option. Having made that reactive judgment, we promoted the cause of "the homeless" with single-minded determination. We filed lawsuits, drafted laws, lobbied for new programs, set up new organizations, gave speeches, taught courses—the list could go on—all on behalf of "the homeless." We didn't intend, through these efforts, to construct a new moral category of the poor,[73] to impose a new stigma on already beleaguered people, or to introduce new divisions between them. There simply seemed to be no better way, in the 1980's, to picture the urgency of housing market failure and to give new luster to the very old struggles of the poor.

B. *How Well Did the Rhetoric Work?*

Having responded as best we could to a harsh political climate,

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Social Protest and Social Control, 24 SOC. PROBS. 469 (1977). *See also* P. BACHRACH & M. BARATZ, POWER AND POVERTY: THEORY AND PRACTICE (1970) (seeking a theory of power that will suggest ways to increase the political leverage of the poor).

72. To my knowledge, no comprehensive history has yet traced the career backgrounds of lawyers and other advocates who worked primarily on behalf of "the homeless" in the 1980's. However, my incidental observations suggest that many in this group had prior experience working on poverty issues. Many of the participants in the UCLA Seminar on Homelessness, for example, had such experience. *See* Interview, *supra* note 1.

73. For a brief overview of the history and function in poverty policy of categorizing the poor along moral lines, see J. Handler, Constructing the "Political Spectacle": The Interpretation of Entitlements, Legalization, and Obligations in Social Welfare History 45-62 (1990) (unpublished manuscript on file with the author).

and to people actually freezing on the streets, we were amazed to find that our strategy worked, at least in some social circles. Large law firms, unwilling to litigate everyday issues like code enforcement in slum housing, came forward to enforce housing codes on behalf of "the homeless."[74] Law students who were not attracted to courses about poor people were signing up for courses and clinics on "homelessness."[75] While courts were routinely denying the claims of "welfare" recipients,[76] they were reading substance into old welfare statutes, in order to deliver "the homeless" some relief.[77] Legislators sworn to "no new taxes," who had cut housing subsidies for the very poor,[78] passed laws that raised new funds and set up new programs—for "the homeless."[79] Even voters, while they continued to reject "liberals," imposed new tax obligations on themselves when spending programs were packaged as aid to "the homeless."[80] And "homelessness" sparked a veritable prairie fire of light in the voluntary sector.[81]

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74. *See* Paris v. Board of Supervisors, No. C-C 523361 (Cal. Super. Ct. filed Dec. 24, 1984). The Los Angeles law firm of Irell and Manella spent approximately one million dollars in pro bono lawyer time and costs litigating this case brought by a class of homeless persons to compel the county to enforce health and safety codes in welfare hotels. Presentation by Sharon Hartmann, attorney for the plaintiffs, to a class on Advocacy for the Homeless, UCLA Law School (Apr. 7, 1988).

75. *See* AM. BAR ASS'N REPRESENTATION OF THE HOMELESS PROJECT, STATE AND LOCAL BAR ASSOCIATION HOMELESS PROGRAMS (1988) (describing local homeless assistance projects sponsored by bar associations or law schools).

76. *See* Sard, *The Role of the Courts in Welfare Reform*, 22 CLEARINGHOUSE REV. 367 (1988).

77. Consider, for example, the first right to shelter case, Callahan v. Carey, No. 42582/79 (N.Y. Super. Ct. Aug. 26, 1981) (order entering final consent decree) (interpreting precatory language in New York State Constitution and welfare statute to impose a specific affirmative duty on government to provide emergency housing to homeless men), *reprinted in* PRACTICING LAW INST., THE RIGHTS OF THE HOMELESS 181-203 (1987). *See also* Hodge v. Ginsberg, 303 S.E.2d 245 (W. Va. 1983) (interpreting broad language in state's welfare law to require state welfare department to provide shelter to non-mentally or physically impaired indigent persons).

78. *See* Hartman, *Housing Policies Under the Reagan Administration*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 362.

79. *See, e.g.*, Stewart B. McKinney Homeless Assistance Act, Pub. L. No. 100-77, § 441, 101 Stat. 482 (codified at 42 U.S.C. § 11401 (1988)).

80. In California, for example, voters have recently enacted two measures through the initiative process to aid the homeless. Proposition 84, the Housing and Homeless Bond Act of 1988, S. Res. 1693, 1987-88 Reg. Sess., 1988 Cal. Legis. Serv. 231 (West), authorized a $300 million bond issue to provide funds for six low-income housing programs, including $200 million for rental housing construction, and $25 million for an emergency shelter program for the homeless. Proposition 107, the Housing and Homeless Bond Act of 1990, (S. Res. 1693, 1987-88 Reg. Sess., 1988 Cal. Legis. Serv. 233 (West)) authorized a $150 million bond issue to provide for rental housing construction, home purchase assistance, and funding for emergency shelters.

81. For an indication of the scope and creativity of private sector initiatives, see UNITED WAY OF AMERICA, RAISING THE ROOF: A SAMPLER OF COMMUNITY PARTNERSHIPS FOR

As Michael Katz observes in his history of modern poverty policy, the homeless did indeed become a new category of the "deserving poor."[82]

Even in the early part of the decade, however, the public's sympathy for "the homeless" did not undermine its support for conservative social policies. The movement did not derail the "taxpayer revolt" or mobilize voters to block deep cuts in federal housing and welfare expenditures. And as the decade advanced, the public's emotional response to "the homeless" became openly ambivalent, indeed even hostile. As shelter expenditures began to mount,[83] as the luster of the new images began to fade and the same old intractable problems of poverty in a race-skewed market reappeared,[84] as "the homeless" failed to respond appropriately to charity, panhandling too aggressively for comfort,[85] and as advocates themselves began to bootstrap bold reform agendas onto their innocent appeals,[86] a backlash against "the homeless" began to develop. The rhetoric of "homelessness" was no longer a reliable way to evoke public sympathy for the poor. The movement against "homelessness" reacted to this backlash by narrowing the scope of its central imagery. Reacting to the growing sense in public opinion that *all* homeless persons may not be

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AFFORDABLE HOUSING (1988) (providing information on a number of innovative local programs to expand the supply of low-income housing).

82. M. KATZ, THE UNDESERVING POOR: FROM THE WAR ON POVERTY TO THE WAR ON WELFARE 192 (1989) (citing Stern, *The Emergence of Homelessness as a Public Problem*, in HOUSING THE HOMELESS (J. Erickson & C. Wilhelm eds. 1986)); *see also* Stern, *The Emergence of the Homeless as a Public Problem*, 58 SOC. SERVS. REV. 291 (1984) (arguing that the homeless issue is an element of the reemergence of conservative political practices and the traditional style of American social welfare).

83. In fiscal year 1989, Congress appropriated a total of almost $380 million for McKinney Act programs. Although this was just over half of the amount authorized, it was nonetheless a substantial new federal expenditure. *See* O'Connor, *Homeless: A Local View of the McKinney Act*, 23 CLEARINGHOUSE REV. 116, 125 (1989).

84. There is growing recognition in the research literature of what service providers have long recognized—that ethnic minorities, especially blacks, are overrepresented in the homeless population. *See, e.g.*, First, Roth & Arewa, *Homelessness: Understanding the Dimensions of the Problem for Minorities*, 33 SOC. WORK 120 (1988); *see also* P. ROSSI, *supra* note 16, at 122-25 (discussing the racial/ethnic composition of Chicago's homeless).

85. *See* Young v. New York City Transit Auth., 729 F. Supp. 341 (S.D.N.Y. 1990), *rev'd in part, vacated in part*, 903 F.2d 146 (2d Cir. 1990) (rejecting first amendment challenge by homeless persons to prohibitions against begging and panhandling in subways), *cert. denied*, 111 S. Ct. 516 (1990). The United States Court of Appeals for the Second Circuit, in commenting on the evidentiary record of the case, noted that a majority of subway passengers perceive begging as " 'intimidating,' 'threatening,' and 'harassing.' " *Young*, 903 F.2d at 158.

86. For example, soon after it was organized, the National Coalition for the Homeless began lobbying for its "Homeless Persons' Survival Act," a far-reaching proposal covering all aspects of poor people's housing, health, and social welfare needs. *See* The Homeless Persons' Survival Act of 1987, H.R. 286, 100th Cong., 1st Sess., 133 CONG. REC. E82; The Homeless Persons' Survival Act of 1986, S. 2608, 99th Cong., 2d Sess., 132 CONG. REC. S8727.

equally worthy of society's largess, the movement against "homelessness" shifted its focus away from single males, the group hardest hit by the shifting economy and most likely to be literally sleeping on the streets. The new focus was on families, women and children, the fastest growing sector of "the homeless" according to the statistics, and surely a group of indisputable moral worth.[87] The image of "homeless families" tarnished, however, when it became clear that most of the families were simply welfare mothers—single women, often of color, with children—who had not been able to pay their rent.[88] That group's claim to hand-outs had been bilaterally rejected by the 1988 Congress, when it revised federal welfare laws to require nearly all single parents to work in order to receive public aid.[89] Only children still seemed likely to inspire charitable sentiments toward the poor.

But even children can provoke ambivalent responses. For as children approach puberty, they become "runaways" or "throwaways." Suddenly, they look like drug-dealers and prostitutes who have brought on their own misfortune.[90] Michael Katz predicts that our chance to use "the homeless" to mobilize sympathy for the poor may soon be history. Especially as the homeless engage in direct political action on their own behalf, "their special appeal will fade. They will be warned that militance backfires; run into conflict with many of their liberal champions who, hurt, will retreat from their cause; and slip again into the ranks of the undeserving poor."[91]

C. *What Were Its Costs?*

Even before most of "the homeless" were reassigned to the ranks of the "unworthy poor," the costs of the rhetoric began to mount. The concept skewed social policy away from the broad crisis in hous-

87. This new focus was reflected in Congress. *See The Crisis in Homelessness: Effects on Children and Families: Hearing Before the Select Comm. on Children, Youth, and Families*, 100th Cong., 1st Sess. (1987). The Committee Chair, Representative George Miller, noted that "[w]e assume that those who are homeless are middle-aged men and women, displaced by institutions or ravaged by chronic alcoholism. . . . [But] the reality is that a significant portion of this nation's homeless population are families with children." *Id.* at 1.

88. David Wood, for example, found that 73% of the homeless families in his sample were drawing AFDC. *See* D. WOOD, *supra* note 1, at 11.

89. *See* Family Support Act of 1988, Pub. L. No. 100-485, 102 Stat. 2343 (codified at 42 U.S.C. § 602(a)(19) (1988)) (mandating states to develop new education and training programs for eligible welfare recipients).

90. *See* J. Wheeler & R. Novak, The System of Care in Los Angeles and Chronic Homeless Youth: Why More Is Not Enough 67 (1990) (unpublished paper on file with the author) (arguing that many homeless youth, who are often not yet in their teens, have severe problems such as substance abuse and sexual trauma with which transitional housing services are generally not designed to cope).

91. M. KATZ, *supra* note 82, at 194 (footnote omitted).

ing affordability, without providing substantial relief for those most desperately in need. It reinforced a long tradition in our culture of categorizing the poor, *not* in order to target social programs to those with the greatest need, but rather, in order to blame poor people for their own destitution. And although "homelessness" sensationalized the shelter crisis, it may have also helped numb the public to an overwhelming problem.

1. A SKEWING OF POLICY

The first of these costs is the skewing of low-income housing policy away from permanent solutions and toward ad hoc crisis intervention. Until "homelessness" became a focus of federal social legislation, housing assistance, though never adequate, was at least long-term. It was aimed to produce new units or to reduce rents. Federal housing programs have never established legal entitlements: those programs have never purported to meet the full need.[92] They are deeply flawed in other respects as well.[93] But the goal of federal housing policy has been to build homes and community.[94] In contrast, federal legislation for "the homeless" has focused on crisis assistance, short-term emergency relief. Federal "homeless" assistance was originally administered by the Federal Emergency Management Agency ("FEMA"),[95] an agency that was set up to respond to

92. Limited entitlements for rent assistance are provided, in some states, through federal income maintenance programs, such as Aid to Families with Dependent Children ("AFDC"), Pub. L. No. 74-271, §§ 401-406, 49 Stat. 627 (1934) (codified as amended at 42 U.S.C. § 606 (1988)), and Supplemental Security Income ("SSI"), Pub. L. No. 74-271, §§ 1-210, 49 Stat. 620 (1935) (codified as amended at 42 U.S.C. §§ 301-306 (1988)). A recent study has found that the total annual federal expenditures for such rent subsidies amount to about $10 billion, about the same amount that HUD spends on housing assistance. S. NEWMAN & A. SCHNARE, SUBSIDIZING SHELTER: THE RELATIONSHIP BETWEEN WELFARE AND HOUSING ASSISTANCE 1-2 (1988). These programs are uneven and inadequate in the benefits that they provide. However, because these programs provide legal entitlements to those who meet need-based criteria, they have expanded in recent years in response to the growing shelter crisis among the poor. *Id.* at 2-4.

93. The flaws include inadequate funding levels resulting in the deterioration or foreclosure of large numbers of federally-financed housing developments, opportunities for program abuse by private sector housing developers, persistent problems with design and management of large projects, inadequate protections against systemic racial segregation throughout the subsidy programs, and, in the Section 8 certificate program, an inadequate supply of units available for program beneficiaries to rent. For two critics' analyses of these and other flaws in federal housing programs since the Depression, see Achtenberg & Marcuse, *The Causes of the Housing Problem*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 27, at 4, 7-11.

94. *See supra* note 37 and accompanying text.

95. FEMA was created by Reorganization Plan No. 3 of 1978, 43 Fed. Reg. 41,943 (1978), *reprinted in* 15 U.S.C. § 2201 (1988), *and in* 92 Stat. 3788 (1978), under the authority of several disaster relief statutes. *See also* Federal Emergency Management Agency, Exec. Order

acts of god. When "homeless" assistance was expanded under the McKinney Act[96] in 1987, the programs were placed under the diffuse authority of an "interagency task force" at the national level. These programs are often managed by traditional charities at state and local levels.[97]

Legislation targeted to "the homeless" has expanded the federal role in emergency assitance. As a result, more short-term help is now reaching some people with urgent shelter needs. The problem with the legislation is not that it has provided such relief. Rather, the problem is that the legislation has institutionalized emergency relief into a permanent federal response to the housing crisis, while providing little else. The crisis of "homelessness" has not forged a new national commitment to make housing affordable for the poor. Nor has the crisis advanced the national discussion about how to finance and manage low-income housing on a wide scale. Instead, "homelessness" has stimulated a few experiments in small-scale housing for poor people with special medical or social needs. These model programs have been heavily influenced by psychiatric models, even when the target populations are not mentally ill.[98] "Homelessness" has also produced new proposals to "warehouse" the mentally ill, and new ideas for the technologies that might be used within those institutional walls.[99] And, with the new money that has been routed to "the homeless," new interests have sprung up. A growing sector of service providers and academic researchers are inevitably—even if unintentionally—becoming invested in stabilizing "homelessness" as a per-

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No. 12127, 3 C.F.R. 376 (1979), *reprinted in* 15 U.S.C. § 2201 (1988) (establishing FEMA); Federal Emergency Management, Exec. Order No. 12148, 3 C.F.R. 412 (1979), *reprinted in* 50 U.S.C. app. § 2251 (1988) (transferring emergency management authority to FEMA). The FEMA program for the homeless was originally authorized by Congress in the Emergency Jobs Bill, Pub. L. No. 98-8, 97 Stat. 13 (1983) (codified as amended at 42 U.S.C. §§ 9902-9903 (1988)).

96. *See* Stewart B. McKinney Homeless Assistance Act, Pub. L. No. 100-77, § 441, 101 Stat. 482 (codified as amended at 42 U.S.C. § 11401 (1988)).

97. Nat'l Hous. Law Project, *New Federal Assistance for the Homeless*, 17 HOUSING L. BULL. 77 (1987) (describing McKinney Act programs). Under the McKinney Act, the federally funded Emergency Food and Shelter Program is administered by national and local boards, whose membership is drawn from major private charities, such as the United Way and the Salvation Army. *See* 42 U.S.C. § 11331 (1988).

98. *See* Bassuk, *Redefining Transitional Housing for Homeless Families*, 6 YALE L. & POL'Y REV. 309 (1988) (suggesting that "multi-problem" homeless families be confined in transitional shelters managed on the model of psychiatric facilities).

99. *Id.*; *see also* Barbanel, *Bellevue Unit to Aid Koch Homeless Plan*, N.Y. Times, Sept. 14, 1987, at B1, col. 2 (describing policy in New York City of placing homeless mentally ill in psychiatric wards under more relaxed criteria than state's commitment laws); Irwin, *Mentally Ill Homeless Are Focus of New Policies*, Christian Sci. Monitor, Sept. 11, 1987, at 3, col. 4 (describing a New York City policy of bringing the homeless into shelters, even if they are not considered to be endangering their own heath).

manent crisis, so their skills won't become obsolete, and their jobs won't go away.

2. ENTRENCHING THE VICTIM FOCUS

A second cost that "homelessness" has exacted, closely linked to the shift in housing policy from bricks and mortar to emergency aid, is the extension of the "victim" focus that long has typified welfare discourse in this country into the housing domain. Welfare historians have documented how poverty, in Euro-American culture, long has been understood to originate in the individual character of the poor.[100] Although welfare policy has reflected systemic interests, relief has been doled out on the basis of shifting social judgments about the "moral worth" of the poor. Through the crisis of "homelessness," this idea of meting out social benefits according to moral worth has invaded the realm of housing. "Homelessness" has taught us to focus on the victim when we confront someone without housing. We wonder about his symptoms, his history, why he can't hold down a job, why he would never "make it" it if he were offered a home. This victim-focus will shape housing policy to mirror poor laws. Assistance will be limited to the few who are deemed "worthy," while the majority will be viewed to have caused their own homelessness.[101] Fault-based inquiries already can be detected in a few housing programs.[102] In periods of broad shelter crisis, victim-focused policies

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100. *See* M. KATZ, IN THE SHADOW OF THE POORHOUSE: A SOCIAL HISTORY OF WELFARE IN AMERICA (1986); M. KATZ, *supra* note 82; Handler, *The Transformation of Aid to Families with Dependent Children: The Family Support Act in Historical Context*, 16 N.Y.U. REV. L. & SOC. CHANGE 457 (1987-1988); J. Handler, *supra* note 73.

101. Hopper & Hamberg, *supra* note 27, provide the following examples: In December, 1983, President Reagan's Attorney General, Edwin Meese, opined that soup-kitchen patrons were there "because the food is free and . . . that's easier than paying for it." *Id.* at 39 n.4. (citing McFadden, *Comments by Meese on Hunger Produce a Storm of Controversy*, N.Y. Times, Dec. 10, 1983, at A12, col. 5); on January 31, 1984, President Reagan expressed the view that some of the homeless were there "by choice." *Id.* (citing Weisman, *Reagan Previews $925 Billion Plan for G.O.P. Chiefs*, N.Y. Times, Feb. 1, 1984, at A1, col. 1, B11, col. 2).

102. The definition of a homeless individual in the McKinney Act does not contain any criteria addressed to individual morality. *See* 42 U.S.C. § 11302 (1988). However, Melinda Bird, Staff Attorney, Western Center on Law and Poverty, reports that eligibility for California's homeless assistance program is being interpreted by front-line workers on the basis of subtle notions of fault. For instance, the worker will inquire into the conditions under which a family became homeless, to determine if the family brought the homelessness on itself. Presentation by Melinda Bird to UCLA Seminar on Homelessness (Jan. 25, 1990). Such questions reflect the criteria written into Britain's Housing (Homeless Persons) Act, 1977, ch. 48, which excludes persons deemed to be "intentionally homeless" from the Act's coverage. *See* Birkinshaw, *Homelessness and the Law—The Effects and Response to Legislation*, 5 URB. L. & POL'Y 255, 259-60 (1982). A further hint that the worthy/unworthy distinction may be penetrating housing policy is suggested in the National Affordable Housing Act of 1990, which for the first time imports the "workfare" concept into federal housing subsidy programs in the

shift the blame for unfair housing allocation from market failure to personal fault.

3. NUMBING US TO THE PROBLEM

"Homelessness" has raised public awareness about people living on the streets. Ironically, however, one of its long-term consequences may be to desensitize the public to the housing crisis. When we are bombarded with media images of homeless people, we eventually get accustomed to what those images represent. After the initial anomaly wears off, we begin, unconsciously at first, to expect to confront sleeping bodies and beggars on city sidewalks. Real-world encounters that might otherwise shake us up are thus more easily taken in stride. Gradually, we start associating images of the homeless with our own hometowns, rather than with far-away "third world" cities. After a while—we hardly notice when—it doesn't seem unusual at all. It has become an anticipated part of the urban landscape, a nuisance that one learns to step around without ever focusing on.

This normalization of "homelessness"—its gradual assimilation into our visual and cultural world—has been accompanied by hints in the academic literature that the problem is too vast for the nation to cope with according to outdated New Deal ideas. Such literature points to the "third world" for ways to manage the problem.[103] By looking in this direction, this literature has ominous implications for social policy. It suggests that "we" should not even aspire to subsidize "our" style of housing for those uncountable masses. That would make no sense. Their culture is different. Don't they *choose* to sleep crowded together in tiny rooms?[104] Their social life, after all, traditionally takes place out of doors. The only claim that these people can legitimately make on the public is "site and service," that is, enough infrastructure support for their ad hoc, self-designed communities so that they don't jeopardize the public health. And if the bur-

"Operation Bootstrap" demonstration program. *See* Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, § 2554(b)(2)(A) (1990), 1990 U.S. CODE CONG. & ADMIN. NEWS (104 Stat.) 4079, 4232 (incorporating an evaluation of federal housing programs, including Operation Bootstrap); S. REP. No. 316, 101st Cong., 2d Sess. 244, *reprinted in* 1990 U.S. CODE CONG. & ADMIN. NEWS 5763, 6006 (detailing the Operation Bootstrap Demonstration Program).

103. *See* Burns, *Third-World Models for Helping U.S. Homeless*, Wall St. J., Jan. 2, 1986, at 14, col. 3.

104. HUD official Philip Abrams expressed this opinion in public in May 1984. *See* Pear, *Housing Official Defends Remarks*, N.Y. Times, May 15, 1984, at A25, col. 3, *cited in* Hopper & Hamberg, *supra* note 27, at 39 n.4. Abrams remarked that "[s]tatistically, overcrowded housing occurs more often in communities that also have a large Hispanic population," in part because of a "cultural preference" among Hispanic Americans for keeping the "extended family" together in one household. Pear, *supra*, at A25, col. 3.

dens of providing these services become too great, their settlements can be relocated to more remote land.[105]

Thus, as a strategy for raising public consciousness about the shelter crisis, "homelessness" has had a paradoxical effect. The intense focus on "the homeless" by the media and the advocacy community has made the public more aware that poor people are literally living on the streets. But this exposure has also desensitized us to the problem, extending the limits of legitimate discussion to non-egalitarian, "third world" policy responses. At the same time, the intense focus on "homelessness" has rendered other forms of critical shelter need relatively less visible. Such shelter issues as urban slums,[106] work camps for migrant farmworkers,[107] and the vast "colonias" along the United States-Mexico border[108] have no place in a discourse in which "homelessness" is ipso facto the most urgent of housing needs. Advocates have made heroic efforts to use "homelessness" to educate the public about the larger housing crisis. Yet, for at least two reasons, these efforts have had limited success.

First, "homelessness" worked so well to mobilize public attention that little media space or citizen energy has remained available to address other housing issues.[109] Second, "homelessness" galvanized public interest because it translated an abstract "housing crisis" into compelling pictures of human need. This concreteness had a cost, however: it obscured the link between "homelessness" and other, more familiar forms of shelter poverty. Even the most urgent shelter problems of people who *are* housed look qualitatively different, less compelling—less exotic—than "homelessness." The focus on "home-

105. For an account of how such thinking has shaped South African housing policy, see White, *To Learn and Teach: Lessons from Driefontein on Lawyering and Power*, 1988 WIS. L. REV. 699.

106. *See supra* note 63 and accompanying text.

107. Although this problem has been a focus of labor organizing and legislative lobbying for decades, it remains acute. *See The Rural Housing Revitalization Act of 1989: Hearing Before the Senate Comm. on Banking, Housing, and Urban Affairs*, 101st Cong., 1st Sess. (Elizabeth City, N.C. 1989) (describing inadequate housing conditions of migrant farmworkers in North Carolina).

108. *See* H. McGee & D. Fuentes Romero, Lost Cities at the Border: Unlawful Habitation in Mexico and the United States 11, 28-30 (1990) (unpublished paper on file with the author) (citing reports which estimate that as many as 250,000 Mexican-Americans inhabit unregulated, shabby subdivisions along the United States-Mexico border in which infectious diseases pose a serious threat to public health).

109. This statement assumes that there is a limited amount of media space and public energy available to address housing issues. No such limit need operate, at least in theory. However, in practice, when so many pressing issues compete for media space and public attention, it is difficult for advocates to focus public attention on any poverty issues. Therefore, advocates experience themselves to be working within rigid limits as they try to draw public attention to low-income housing problems.

lessness" might be viewed as a "triage" of limited social energy, the hard choice to route a fixed store of public outrage to those most in need. But the movement against "homelessness" has not leveraged housing or social services on a wide scale, even for the targeted group. Rather, this movement has led to a little more ad hoc assistance and a lot of fear.

D. *How Have the Images Worked?*

The ideological costs of "homelessness" have been substantial. The concept has reframed public debate about housing into a quasi-medical discourse, skewing policy toward crisis relief, psychiatric models, and individual fault. Yet, the concept has also directed substantial social energy toward the poor. Local organizing for the "homeless" has sparked numerous grassroots initiatives in housing finance and production.[110] Indeed, the "homeless" lobby finally helped push Congress to approve new housing legislation at the decade's end.[111] These effects are hard to weigh. Indeed, evaluating the focus on "homelessness" as if it were a deliberate strategy, with measurable benefits and costs, is too rigid an approach. This analytic framework obscures the complex fabric of constraint and opportunity within which poor people and their advocates must work.

Organizing against "homelessness" was not a choice that either poor people or advocates "freely" made. Rather, the attention paid to "the homeless" was a reluctant admission of how severe the shelter crisis had become. Building a movement around the problem was an effort to turn a bleak reality into a moment of opportunity. For a reactive maneuver, "homelessness" worked remarkably well. But it worked in unpredictable ways. "Homelessness" provoked scattered and often ambiguous political responses rather than broad systemic reforms. It had unintended, and indeed unclear, effects on policy debate. And although it generated constructive social energy, it also mobilized prejudice and fear. The movement against "homelessness" emerged from the day to day work of advocates and the poor as they tried to cope with a bad situation. In retrospect, they might have done better. But they also might have done much worse.

We might end our inquiry on this equivocal note. Yet, we might also pursue our inquiry into another sphere. Putting aside the impact of "homelessness" on social policy, can we say anything about how

110. *See supra* note 81 and accompanying text.

111. *See* National Affordable Housing Act, Pub. L. No. 101-625, 1990 U.S. CODE CONG. & ADMIN. NEWS (104 Stat.) (authorizing block grants to states for various housing assistance programs).

the rhetoric of "homelessness" actually worked?[112] What underlying assumptions about poor people, what paradigms of poverty, does the rhetoric of "the homeless" subtly reinforce? To explore this question, I will focus on two images of "the homeless" that have become familiar over the last decade.

1. THE TWO IMAGES

a. A Human Insect

The scene is the nation's capital in November 1978. A reporter for the *Washington Post* writes a feature to laud the work of a new arrival to Washington, D.C.'s streets, a Vietnam veteran who has founded a kind of "swat team" to agitate on behalf of the poor. By the end of the next decade, this man, Mitch Snyder, will be a household word among "homeless" advocates. His suicide, in early July of 1990, will be an occasion for national mourning.[113] His "Community for Creative Non-Violence" will be one of the largest operators of mass public shelters for the city's poor.[114] The article begins with an image:

> The man lay motionless on his back like a huge overturned beetle, his knees and forearms cocked in the air as he slept a deep inebriated sleep.
>
> . . . Four other bodies were slumped around [a steam] vent. Their belongings—empty wine bottles, a tattered Safeway bag, bits of string, remnants of clothing—were drawn close to them. One man raised himself on an elbow and took savage bites from a boiled potato given him by a passerby.[115]

When lifted out of context, this image is surreal. It evokes our childhood nightmares, or schoolbook versions of ancient myth. Yet, such rhetoric became quite familiar in the mainstream media in the 1980's. The article continues:

> These are the street people of Washington. There are hundreds of them, perhaps thousands. . . .
>
> The city government and several private mission houses already provide emergency shelter and food for hundreds of destitute and homeless people each night. But . . . there is a hard core

112. *See supra* note 10 and accompanying text.

113. *See* DeParle, *Mitch Snyder, Advocate for Homeless, Dies at 46*, N.Y. Times, July 6, 1990, at A16, col. 1.

114. *See* Barras, *Mitch Snyder's Shelter Operates Outside the Law*, Wash. (D.C.) Times, Oct. 18, 1989, at B3, col. 3 (describing shelter operated in District of Columbia by Community for Creative Non-Violence).

115. Valentine, *Christian Group Seeks Succor for D.C.'s Street People*, Wash. Post, Nov. 30, 1978, at B1, col. 1.

> of street people who, even if such beds and food were available, would not or could not accept them.[116]

Why not? Because, in the article's words, they simply cannot " 'play the game' " anymore.[117]

b. The Perfect Family

It is now 1986. The category of the "deserving homeless" has now shrunk to "families," that is, households with young children. Jonathan Kozol, the educator and journalist who gained fame in the 1970's for an exposé of inner city public schools,[118] has seized the moment to write about "homeless families." His book, *Rachel and Her Children*,[119] begins with a chapter entitled "Ordinary People":

> He was a carpenter. She was a woman many people nowadays would call old-fashioned. She kept house and cared for their five children while he did construction work in New York City housing projects. . . .
>
> When they were told about the fire, they grabbed the children and ran home. Everything they owned had been destroyed. "My grandmother's china . . . I had that book of gourmet cooking . . . ."
>
> They had never turned to welfare in the twelve years since they'd met and married. . . . Peter is thirty. Megan is twenty-eight.[120]

After becoming homeless, the family falls apart. The story continues:

> A year later I'm in New York. In front of a Park Avenue hotel I'm facing two panhandlers. It takes a moment before I can recall their names. . . . The children have been scattered—placed in various foster homes. "White children," Peter says, "are in demand by the adoption agencies."[121]

2. HOW THE IMAGES WORK

On a first reading, these two images seem to work in very different ways. The first image pictures a homeless man as only ambiguously human. He presents a stark contrast to an implicit "us" that

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116. *Id.* at cols. 1-3.

117. *Id.* at col. 3 (quoting Mitch Snyder).

118. *See* J. KOZOL, DEATH AT AN EARLY AGE: THE DESTRUCTION OF THE HEARTS AND MINDS OF NEGRO CHILDREN IN THE BOSTON PUBLIC SCHOOLS (1967). Kozol has subsequently written a number of other books on education and literacy. *See, e.g.*, J. KOZOL, ILLITERATE AMERICA (1985); J. KOZOL, ON BEING A TEACHER (1981).

119. J. KOZOL, RACHEL AND HER CHILDREN: HOMELESS FAMILIES IN AMERICA (1988).

120. *Id.* at 1-2.

121. *Id.* at 2.

the reader is invited to join—able bodied, psychologically "normal," economically productive, and affiliated to others through a traditional nuclear family and a stable job. The homeless man in the center of the picture seems to challenge this norm. It is not just that his physical appearance suggests a monstrous insect; his behavior is also unsettling. He defies our social contract; he refuses to play our games. Indeed, he won't even deign to accept our charity, to admit that he needs our help. By posing as an Other[122] to the dutiful worker, the image calls up the anxiety—the repulsion and fear—that poor people have always aroused in our culture: It seems to present a deep threat to our social norms.

The image then abruptly subverts the threat that it seemed, at first, to pose. For the ambiguous, sinister image that might command our fear is flipped on its back and pictured with limbs beating the air. Thus, the challenge of difference is evoked, only to be soundly vanquished. Through this reversal, the defiant—or at least radically deviant—being in the picture is subjected, quite completely, to our control. When we see this imposing figure rendered helpless by his own momentum, flailing on his back, legs raised, we see a figure well-known in our culture to invite domination.[123] When confronted by this flipped image, our anxiety is transformed into the complex impulse of superiority, aggression, and rescue that motivates charity. As an object of charity, the homeless figure poses no challenge to our culture's norms of personhood. Nor does it command even the most ambiguous feelings of respect. Instead, it arouses expansive feelings of self-righteousness and power.[124] Charity delivers goods that the poor desperately need, but too often in exchange for gratitude, dependency, and humiliation.

Kozol's image of Peter and Megan seems to work in a very different way. Rather than presenting the homeless as Other, Kozol's

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122. For explications of how people of color are figured as alien—"Other"—in racist discourse, see E. SAID, ORIENTALISM (1978); and JanMohamed, *The Economy of Manichean Allegory: The Function of Racial Difference in Colonialist Literature*, in "RACE," WRITING, AND DIFFERENCE, *supra* note 12. *See also* sources cited *supra* note 11. It should be noted that by using the term "Other" to refer to the ways that dominant groups have often depicted people of color, one runs the risk of reinforcing the very structures of thought that one intends to criticize.

123. Some feminist theorists would describe this figure, in the extreme vulnerability of its posture, as archetypically feminine. *See* C. MACKINNON, FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW (1987).

124. For discussions of the impulse of charity and its relationship to the discourse of homelessness, see M. KATZ, *supra* note 100; M. KATZ, *supra* note 82; Marcuse, *supra* note 31; and Stern, *supra* note 82. *See also* Marin, *Helping and Hating the Homeless: The Struggle at the Margins of America*, 274 HARPER'S 39 (1987) (discussing anger and fear of the homeless and the moral obligation society owes to this group).

"ordinary" family has all of the features of normalcy and virtue that the culture accosts the middle classes to achieve. Peter and Megan have already attained "whiteness." As the carpenter and the gourmet cook, they conform dutifully to patriarchal gender roles. They don't need welfare because they have managed to secure employment that still pays a fifties style family wage to the male breadwinner, even with his five kids. Like those cardboard shapes that we stick our heads through at carnivals to create novelty photographs, Kozol's "ordinary people" have put "us" into center of "homelessness." On first impression, Kozol's strategy seems to be a stroke of rhetorical genius. For if "we" are all at risk of "homelessness," then we surely must take some steps to end, or at least to contain, this threat. What other move could work as well to shift public debate about poverty from the pathologies of the poor to "structural" issues, such as the dynamics of housing production and the need to target social wealth to human needs? Doesn't the picture of Peter and Megan help move us as a nation in precisely the direction that we need to go?

It might, in a counterfactual world. But the image evokes concern for the poor by appealing to race and class privilege, to the desire that is engineered among all groups in this society to be "white." The image may have been designed to combat racism, to refute the myth that the culture and character of people of color, rather than the complex workings of social and political power,[125] cause enclaves of "hard core poverty" in a land of opportunity. But, in appealing to the storybook stereotype of the "nice white family" to engage readers with the plight of the poor, the image of Peter and Megan evokes that stereotype's darker opposite. It subtly suggests that there may be *other* families who look less "perfect," and are also less worthy of public concern. Thus, the image works to reinforce an "unconscious" racist theme in our culture, a theme that helps to legitimate the economic subordination of people of color.

The concept that Professor Charles Lawrence has called "unconscious racism,"[126] is particularly apt in interpreting this image. For when *Rachel and Her Children* is considered as a whole, Kozol does not appear to have "intended" to appeal to subtly racist themes.

125. For an insightful explication of the complex ways that power can operate to sustain the economic and political subordination of some social groups to others, see S. LUKES, POWER: A RADICAL VIEW (1974). Other theorists have described power as a fluid medium of political contest, rather than a fixed commodity that is "held" by one social group and "exercised over" others. In this view, power is continually made—and challenged—through the strategic interactions among groups located at different positions in a hierarchical social and economic terrain. *See* M. FOUCAULT, *supra* note 9.

126. *See* Lawrence, *supra* note 11.

After the introductory chapter, *Rachel* profiles several homeless women of color with both candor and sensitivity. It is these images, rather than the brief introductory vignette, that are at the center of the work's rhetorical plan. Yet, in spite of Kozol's design, the image of Peter and Megan evokes a deep theme in the dominant Euro-American culture, a theme which links "whiteness" and its cognates to social virtue. Therefore, just like unconscious processes in the psychological realm, the image of Peter and Megan works on readers in ways that subvert Kozol's own intentions.

When Peter and Megan become one's mental image of those homeless families whom the citizenry should feel moved to help, one is likely to resist poverty policies that shift goods and power to groups that depart from the image in obvious ways. Thus, serious efforts to address race-linked poverty, for instance, or to design permanent housing that would enable single parents, the chemically dependent, or the mentally ill to live dignified lives, will be dismissed as either unfair, unfeasible, or peripheral to the morally compelling core of the "homeless problem." When one's picture of "homelessness" shuns the complex, irreducibly *problematic* life experiences of the real people, often of color, who have been subject to economic and political subordination, one is likely to support social policy that subtly rewards "whiteness," non-deviance, the "worthy" poor.

The two images look quite different and mobilize sympathy in different ways. They also offer two different analyses of the nature of "homelessness" and two different prescriptions for its cure. The *Washington Post* article[127] paints deviant victims as the source of the problem, while Peter and Megan shift our scrutiny from individual victims to a systemic shortage of social goods like affordable housing, steady employment, and adequate insurance against unforeseeable risks. The two images invite different policy responses: agendas for curing "the homeless" on the one hand, and a better supply of needed commodities on the other. This apparent *contrast* between the two images conceals how they work together, however, to constrict our understanding of poverty and, thus, confine our imagination as we try to respond to it.

Together, the two images interpret poverty in dichotomized terms: Poverty can be thought of as structural or personal failure, and we seem to be forced to make a choice. It is either the failure of a "system" to make goods available to otherwise "ordinary" people, or it is a collection of sad, but random, cases of personal dysfunction or moral fault. Each of these paradigms grossly simplifies the reality of

127. *See supra* note 115.

poverty, as it feels to those who live it and as it appears to those "outsiders" who try to do something about it. Furthermore, each paradigm illuminates only a single dimension of social action—broad allocative structures on the one hand, and individual moral capacities on the other. Neither paradigm accounts for the level of social reality that the other paradigm addresses, showing how that other dimension of social life impinges upon its own theoretical scheme. Therefore, when we try to talk about poverty within this bipolar discursive field, we find ourselves forced to choose—or jump—between two inadequate theoretical frames.

This bipolar discourse allows only two broad responses to poverty. On the one hand, we can cure, or punish, dysfunctional victims. Or, on the other hand, we can fix the system, so that it delivers more generic goods to statistically constructed human beings.[128] Both responses deny the moral agency, the political saavy—the human particularity—of the living communities of people who find themselves poor. Within this structure/victim discourse, we cannot acknowledge, much less enhance, the ingenuity with which networks of people, even "the homeless," build lives for themselves in harsh circumstances, more or less. We cannot address the anger that we feel when others in our social networks seem to be letting us down. Nor can we talk adequately about power, either the weight of power in maintaining subordination, or its fluidity, as poor people contest the state in public settings every day.[129] Rather, the bipolar discourse of poverty caricatures poor people into either generic reproductions or deviant opposites of "ourselves." In so doing, this discourse privileges a disembodied "us" to speak *about*, rather than *to*, "their needs."

One strategy for pushing beyond the these limited paradigms of poverty is to attend more closely to what those who live in poverty say about what it means. Some people who have lived through "homelessness" are speaking directly to dominant social groups, expressing what their experiences of poverty have meant. Theater companies and writers' groups, for instance, are introducing the voices of sometimes homeless persons into the dominant culture's

128. *See* Simon, *The Ideological Effects of Actuarial Practices*, 22 L. & SOC'Y REV. 771 (1988) (commenting on the normative consequences of statistical representations of human beings in modern social life).

129. For recent accounts of what some of these moments of contest look like, see Austin, *Employer Abuse, Worker Resistance, and the Tort of Intentional Infliction of Emotional Distress*, 41 STAN. L. REV. 1 (1988); and Sarat, *". . . The Law Is All Over": Power, Resistance and the Legal Consciousness of the Welfare Poor*, 2 YALE J.L. & HUMANITIES 343 (1990). *See also* G. Lopez, Rebellious Lawyering (unpublished paper on file with the author).

artistic spheres.[130] Poor people also have received support from some local governments to help design poverty policy.[131] Occasions for representative groups of poor people to speak out in artistic and political settings can and should be expanded. But even if such opportunities increase, many poor people will continue to comment about poverty in less "visible" ways. For instance, to gain admission to an emergency shelter, a homeless person must devise an instrumental strategy; she must figure out what to say, and indeed how to look, in order to get through the door.[132] But as each person acts out her chosen strategy, enhancing some features of the dominant stereotypes of poor people and rejecting others, she also expresses a subtle critique of those stereotypes and the paradigms of poverty which undergird them. Through her distinctive style of survival, each homeless person works out a critique of the theories of poverty to which her behavior is expected to conform.

Thus, poor people are "theorizing" about poverty in both public spaces like theaters and city council chambers, and informal settings like welfare waiting rooms and city parks. Some are expressing their views in ways that dominant groups can readily respond to; others are enacting a critique in ways that may be hard for others to comprehend. Our bipolar paradigms of poverty will expand as we become more attentive to all of these activities and reshape the mainstream norm-setting institutions—universities, legislatures, courts—to invite the diverse styles of reflection that we are learning to comprehend. This is an on-going utopian commitment rather than a manageable task, a commitment whose meaning must be defined by what proves possible in our everyday work. As our thinking about poverty becomes more open to the theorizing of poor people themselves, our simplistic anthropology of poverty will inevitably be undermined. But more powerful theories will not therefore emerge. Indeed, as more diverse groups are brought together to elaborate social norms, the challenge of how to understand and respond to differences will become even more profound. Several moments from the UCLA Seminar on Homelessness suggest how formidable that challenge will be.

130. *See* M. Shokrai, Art and the Homeless (1990) (unpublished paper on file with the author).

131. *See* S. Wilson, Homeless Mobilization and Empowerment: A Case Study of the Coalition of the Santa Monica Homeless (1990) (unpublished paper on file with the author) (documenting such an experiment in the city of Santa Monica, California).

132. This observation was made frequently by the shelter providers in the UCLA Seminar on Homelessness. It is also a frequent subject of satire in performances by the Los Angeles Poverty Department. One of their skits, for instance, involves an applicant for general relief answering the questions of an eligibility worker while at the same time commenting to himself on the strategies that are shaping his responses.

E. *Some Moments from the Seminar*

1. RESENTMENT

In the Seminar,[133] we spent some time discussing welfare, especially Aid to Families with Dependent Children ("AFDC"),[134] the main income source for homeless women with children.[135] In California, a special AFDC-linked program was set up in response to a lawsuit, to pay short-term shelter costs and security deposits for homeless families.[136] This program creates a legal entitlement: Anyone who applies and meets the program's requirements should get its benefits. Yet, complex rules and hostile front-line workers make AFDC homeless assistance, like all welfare programs for the "unworthy" poor,[137] very hard for homeless people to secure.

We invited a California welfare official to discuss the problems in the homeless assistance program. He conceded that entry barriers prevent some people from getting the assistance which they are legally due. He considered the biggest problem to be the eligibility workers, who often treat applicants with suspicion and hostility. According to our guest, this "attitude problem" among welfare workers is inevitable because any working person in our society will resent the folks who are taking a "free ride." He conceded that front-line welfare workers have very difficult jobs; they are typically overworked, poorly trained, and have few paths for career advancement. For these workers, the homeless assistance program is a form of speed-up: it has added to their work-load without increasing their pay. Our guest complained that the counties, rather than the state, hold the purse strings for program administration, and the counties cannot find the money to upgrade the eligibility workers' jobs. He concluded that welfare workers express these frustrations by abusing clients in subtle ways.

2. FEAR

At the first meeting of the Seminar, the shelter providers in our group expressed reservations about a city program to house homeless families temporarily in public housing projects in predominantly Afri-

133. *See supra* note 6 and accompanying text.

134. 42 U.S.C. §§ 601-687 (1988).

135. *See* sources cited *supra* note 18.

136. *See* Hansen v. Department of Social Servs., 193 Cal. 3d 283, 238 Cal. Rptr. 232 (1987) (requiring state to extend emergency housing services to homeless children and their families); *see also* D. Weaver, The Homeless Assistance Program (1990) (unpublished paper on file with the author).

137. *See supra* notes 73, 82 & 100 and accompanying text.

can-American neighborhoods. For many reasons, this program was a bad idea. But the advocates' reluctance to help homeless families move into public housing was grounded, most centrally, in their assumptions about how bad "life in the projects" must be.

This discussion took the group in several directions. We invited the tenant representative on the local Housing Authority, who candidly shared with us some of the problems that public housing tenants face as they try to build community in an extremely adverse world. She suggested policies that would improve public housing and measures that might help new residents, particularly those from minority ethnic groups within a project, to feel more at home. Then she explained that public housing tenants have good reason to fear "the homeless" because so many of the homeless were mentally ill.

We had invited an organizer for the homeless, formerly without housing himself, to the same meeting. In response to the tenant representative's concern, this man explained that his constituency was the "economically displaced" among the homeless, rather than the bums, the drug addicts, or the mentally ill. In his emphatic exclusion of these troubled brethren, he seemed to extend a bridge to the public housing resident. We understand your fears, he seemed to say. Indeed we share them. We can't deal with those people either, and we don't want *their* problems to hold us down. We are homeless because we were bumped from our jobs through no fault of our own. Deep down inside, we—but not those others—are just like you.

3. LOVE

In another session, we talked with two women who had lived on the street. Unlike many, they had found their way to shelters that had worked for them. One woman, after living at a small shelter for several weeks, now coordinates its childcare program. A second woman, evicted from an illegal rooftop unit near the end of a pregnancy, spent several months at an apartment-style shelter and is now back in permanent housing and seeking work. To both of these women, we posed the same question. What was it about your shelter experience that helped you get back on your feet?

In their answers, both women touched on the same themes. When they became homeless, they felt very frightened and very alone. They also felt an overwhelming sense of failure; their lives felt totally out of control. The most important thing that the shelters gave them was not welfare benefits, job counseling, parenting classes, or even a room and a bed. Rather, in the shelters, other people treated them with dignity and with patience. In this setting, they gradually recov-

ered the will to take control of their lives. These women had found what observers have described in programs that work with "high risk" populations: a human scale, a lack of bureaucracy, a caring staff who focus, as peers rather than professionals, on the "whole" person, rather than the disease. They also had found a place to share their own strengths with others, as a way for the entire group to gain power.[138] Both of these women—one speaking in Spanish and the other in English—summed up what they had found in the same word—"love."

The moment was moving, but we also felt it to be fraught with risk. How could one translate the elusive insight from these women's experience into policy, or politics, on a wide scale? From our knowledge of the private shelter system, we were all well aware of the risks of exploitation of vulnerable persons in small-scale private shelters. Even in well-managed shelters, we were aware that programs that feel "loving" to some are experienced as confining and manipulative by others. What policies would support the range of programs that could meet diverse cultural and personal values, and at the same time guard against "creaming"[139] and abuse?

Social deliberation about poverty would be enriched if poor people were admitted into those conversations as full, indeed leading, participants. Yet, these three moments from the Seminar suggest that such deliberations will be difficult, even—or especially—as subordinated groups take a more central role in them. In any society in which human differences are used to mark out a hierarchy of worth and power,[140] every group, even those who are relatively disempowered, will have trouble making sense of their social reality—making appropriate distinctions—without subtly turning those distinctions into the stereotypes that might buttress their own relative power.[141] Thus, those with low level jobs will shore up their own marginal security by active resentment of the non-working poor. The healthy will affirm their own strength and sanity by spurning those who appear to be ill. All groups will use the claim of their own relative "whiteness" as a last resort to insist on their own dignity at

138. *See* L. SCHORR, WITHIN OUR REACH: BREAKING THE CYCLE OF DISADVANTAGE (1988); Leavitt, *The House of Ruth*, 246 THE NATION 472 (1988).

139. "Creaming" refers to the process of selecting those clients for social services programs who are judged to be the most likely to meet program criteria of success. See J. WHEELER & R. NOVAK, *supra* note 90, for a discussion of "creaming" in shelters for homeless youth.

140. *See* A. MEMMI, "ATTEMPT AT A DEFINITION," IN DOMINATED MAN: NOTES TOWARD A PORTRAIT 185-207 (1968).

141. Martha Minow has written eloquently on the dilemma of difference. *See* M. MINOW, MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW (1990).

others' expense. Finally, and perhaps understandably, people lucky enough to experience moments of community—of love—will often seek to secure that elusive feeling by proselytizing, so that others might share their faith.

IV. CONCLUSION

We cannot say with certainty that it was bad strategy for poor people's advocates to mobilize against "homelessness" in the 1980's, given the political climate in which we had to work. Yet, we can link the concept of "homelessness" to disturbing trends in housing and welfare policy, and to simplistic, indeed invidious, images of the poor. It may not be possible, in our present society, to picture poverty, or to theorize about it, in ways that avoid such risks. We cannot simply close our eyes to extreme shelter uncertainty, refusing to acknowledge "the homeless" at all. Nor can we deny the differences that are linked with extreme poverty, as unfair or as troubling as some of those differences might seem. As Peter and Megan show us, when we try to craft images of poverty that deny those differences, our images are not "neutral." Rather, they too often reinforce the particular human distinctions that have been linked with social privilege.

What, then, can we do? First, we must stay alert to the subtle ways that our own images and concepts of poverty cut against our intentions, subtly mocking the very aspirations that we have crafted those images, in good faith, to move us toward. Second, we must search for ad hoc, creative responses to the housing crisis, new ways to raise money, streamline production, and save existing housing stock for low-income residents. Poor people must be afforded both the opportunities and the resources to take a leading role in this search. "Homelessness" is an intrinsically negative way to conceptualize shelter uncertainty. It too easily suggests images of absence and depletion, of defeated human beings. If the work of "outsiders" to challenge economic and political subordination becomes more open to, and centered in, the work that poor people themselves are doing to survive, then our images of "homeless" people—and our theories about "them"—may begin to change. Our new images may begin to look like complex, troubled human beings, getting along as best we can in adverse circumstances, both less—and more—like "us." The images are sure to be unsettling. Poverty is diffuse and ugly, and nothing about human beings is all black or all white. But only as our paradigms of poverty dare to edge closer to the "Real Deal,"[142] will

142. *See supra* note *.

we be able to model the flow of social power in multiple dimensions, envisioning how those caught at the center and stranded at the margins of that stream of power might jointly shift its course.