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HUNGER AND HOMELESSNESS IN AMERICA: A SURVEY OF STATE LEGISLATION

During the past decade, state governments have started to play an active role in enacting legislation on behalf of the homeless. Increased media attention, congressional hearings, and numerous studies and reports have heightened concern for these people.¹ Until recently, all relief was left to private sector service providers. The Reagan Administration's position has been that caring for the homeless is primarily the responsibility of private groups and local governments.² However, because of the increasing numbers of homeless people and the complex nature of this problem, private sector response has proven inadequate. In 1986, a survey of over 400 private and public sector agencies involved in serving the homeless was conducted in sixty cities across the country. Of the cities and localities surveyed, 84.7% indicated that private donations were insufficient to help them meet the increased needs of the homeless during winter.³ The federal government recognized that more money and coordination of services for the homeless was needed. On July 22, 1987, the Stewart B. McKinney Homeless Assistance Act ("Act") was enacted to provide funds for emergency housing, nutrition, health care, and educational programs.⁴ Recognizing that varying conditions across the country result in differing needs for the homeless, the Act was intended to supplement existing local efforts rather than establish new programs for the homeless.⁵ State governments must become active in response to homelessness. Only through specific statutory provisions can the rights of the homeless be protected and effective solutions realized. Part I of this paper will describe the problems facing the homeless and explore its causes. Part II will examine federal and state government responses to homelessness. This section will review federal programs for the homeless⁶ as well as state legislative enactments and explore why state governments must become more active.

1. M. CUOMO, 1933-1983: NEVER AGAIN, REPORT TO THE NATIONAL GOVERNOR'S ASSOCIATION TASK FORCE ON THE HOMELESS, 3 (1983). Few can profess ignorance of the problem why in this land of conspicuous bounty Americans go hungry and homeless? *Id.*

2. R. SCHUSSHEIM, THE REAGAN 1987 BUDGET AND THE HOMELESS 8 (1986).

3. THE PARTNERSHIP FOR THE HOMELESS, BROKEN PROMISES/BROKEN LIVES: NATIONAL GROWTH IN HOMELESSNESS—WINTER 1987 3, 8 (1987). See *National Association of State Mental Health, Program Directors Conference* (1985) (homelessness is a generic social problem of increasing magnitude which can be resolved only through the coordinated efforts of governmental welfare, social, health, and mental health programs in conjunction with the private sector). See also U.S. CONFERENCE OF MAYORS, HOMELESSNESS IN AMERICA'S CITIES: TEN CASE STUDIES (1984) [hereinafter HOMELESSNESS IN AMERICA'S CITIES].

4. Stewart B. McKinney Homeless Assistance Act, Pub. L. No. 100-77, 101 Stat. 481, 482 (1987).

5. See *infra* note 48 and accompanying text.

6. See *infra* notes 37-47 and accompanying text.

I. HOMELESSNESS

A. *Complexity of the Problem*

Today in America, more men, women, and children are homeless than at any time since the Great Depression. In city after city, town after town, record numbers of Americans lack even the basics: a bed to sleep in and a meal to eat. Today, in the richest nation on earth, growing numbers of Americans are engaged in a primitive struggle for survival.⁷

1. The Number of Homeless

Estimates on the number of homeless⁸ in this country vary anywhere from 250,000 to 2.2 million. Factors used to document the number of homeless include: (1) requests for emergency shelter beds and food; (2) services provided to applicants for public assistance who list a shelter as their address or cannot furnish an address; (3) arrests and observations by police; (4) personal observation of the number of homeless on the streets; (5) actual efforts to count the homeless on the streets in specific areas of a city.⁹ The transient nature of the population and the lack of stable housing from which to calculate those who are without adequate shelter give some indication as to why these numbers vary. The homeless may include disaster victims, political refugees, and migratory workers, all of whom are difficult to document in studies.¹⁰ They are increasing at a rate of anywhere from 19.6%¹¹ to 25%.¹² Regardless of the statistics used, a substantial number of citizens in every state cannot afford decent housing.

2. Characteristics and Causes of Homelessness¹³

The typical homeless were once considered to be older white males

7. NATIONAL COALITION FOR THE HOMELESS, NATIONAL NEGLECT/NATIONAL SHAME, AMERICA'S HOMELESS: OUTLOOK—WINTER 1986-1987 (1986).

8. Many different definitions have been used to describe homelessness. The General Accounting Office defines the homeless as "those persons who lack resources and community ties necessary to provide for their own adequate shelter." GENERAL ACCOUNTING OFFICE, HOMELESSNESS: A COMPLEX PROBLEM AND THE FEDERAL RESPONSE 5 (1985). The National Governor's Association uses a restrictive definition of "persons or families who, on one particular day or night, have neither friends, family, nor sufficient funds which will provide for certain elementary resources they need to survive." M. CUOMO, *supra* note 1, at 15. The Stewart B. McKinney Act defines homeless to mean "an individual who lacks a fixed, regular, and adequate nighttime residence; and [includes] an individual who has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations . . ." Stewart B. McKinney Homeless Assistance Act, Pub. L. No. 100-77, sec. 103, 101 Stat. 481, 485 (1987).

9. SCRUGGS, THE HOMELESS: BACKGROUND, ANALYSIS AND OPTIONS 2 (1985).

10. SNOW, Baker, Anderson & Martin, *The Myth of Pervasive Mental Illness Among the Homeless*, 33 SOC. PROBS. 407, 408 (1986) [hereinafter *Myth of Mental Illness*].

11. THE PARTNERSHIP FOR THE HOMELESS, *supra* note 3, at 6. See also Freeman & Hall, *Permanent Homelessness in America*, 6 POPULATION RES. & POL'Y REV. 3 (1987) (which determined that even with economic recovery, the number of homeless continues to grow).

12. NATIONAL COALITION FOR THE HOMELESS, *supra* note 7, at 4.

13. These are characteristics based on national estimates which vary from region to region. See *infra* notes 26-34 and accompanying text.

suffering from alcoholism or drug addiction.¹⁴ This is no longer the case.¹⁵ Unlike the skid row derelicts who comprised the stereotypical street people in the 1960's, today's homeless population consists of many diverse groups of people including the mentally ill, evicted families, the elderly, alcoholics, drug addicts, minorities, veterans, and abused or abandoned children. Today, homeless families make up about one-third of the homeless population.¹⁶ They are the fastest growing segment of the population.¹⁷ Approximately one-fourth of the homeless are women. As many as one-third of the homeless population have attended college. Minorities may comprise up to 50% of the total homeless population.¹⁸

Contemporary theories concerning the causes of homelessness have developed throughout the last three decades.¹⁹ In the 1960's and 1970's, changes in the treatment of the mentally ill resulted in many institutionalized people ending up on the streets of America.²⁰ It is estimated that as many as 50% of the homeless are mentally ill. Much of the blame for this large percentage has been directed at state mental health policies which had shifted emphasis on the treatment of the mentally ill away from institutionalization by cutting budgets rather than providing alternative living arrangements, and treatment of the mentally ill involved the use of psychotropic medication. This concept, known as deinstitutionalization, has contributed significantly to increased numbers of homeless people.

In the 1970's and 1980's, budget cuts in federal low-income housing assistance resulted in a scarcity of affordable housing. From 1977 to 1987, for example, federal housing assistance dropped from \$28 billion to \$7.5 billion.²¹ Other factors have likewise contributed to the problem of homelessness—rising rents, utility cut-offs, the abandonment of unprofitable buildings and gentrification, where higher-income profes-

14. NATIONAL COALITION FOR THE HOMELESS, *supra* note 7, at 2. See also SCHILLMOELER & SPAR, *THE HOMELESS: OVERVIEW OF THE PROBLEM AND THE FEDERAL RESPONSE* 1 (1987).

15. A national survey determined that the average age of homeless single adults dropped to 32.5 years. See *supra* note 3, at 11.

16. See Bassuk, Rubin & Lauriat, *Characteristics of Sheltered Homeless Families*, 76 J. PUB. HEALTH 1097 (1986).

17. Bassuk, *The Feminization of Homelessness: Families in Boston Shelters*, 7 AM. J. SOC. PSYCHIATRY 19 (1987).

18. SCRUGGS, *supra* note 9, at 3.

19. M. CUOMO, *supra* note 1, at 30.

20. DEPARTMENT OF HEALTH AND HUMAN SERVICES AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *REPORT ON FEDERAL EFFORTS TO RESPOND TO THE SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS* 3-4 (1985). A study in Austin, Texas indicated that only 16% of the homeless population were mentally ill. See *Myth of Mental Illness*, *supra* note 10, at 413. See also Robertson, *Mental Disorder Among Homeless Persons in the United States: An Overview of Recent Empirical Literature*, 14 ADMIN. MENTAL HEALTH 14 (1986).

21. NEW YORK CIVIL LIBERTIES UNION FOUNDATION, *URBAN RIGHTS PROJECT* 10-11 (1986). See also Christian Science Monitor, May 13, 1988, at 3, col. 2 (where Congress blames much of the current problem concerning the homeless on budget cuts in low-income housing subsidies); *Homelessness in America I: Hearing Before the Subcomm. on Housing, Banking, Finance and Urban Affairs, House of Representatives, 97th Cong., 2d Sess.* (1982).

sional people replace older, lower-income people in previously deteriorated inner-city housing. Increases in unemployment over the past twenty years have created more homeless families.²² Increasing divorce rates suggest that single-parent families, left without the primary breadwinner, are also facing homelessness.²³

As divorce rates climb, and the numbers of single mothers and teenage pregnancies increase, the homeless family population will continue to grow. A large majority of female heads of households are untrained and unskilled. When they are eligible for employment, they only qualify for jobs that do not pay enough to support a family. The combination of low income and exorbitant housing can make sustaining quality of life impossible for many single women with children.²⁴

In the 1980's, there have been cuts in funding for Social Services programs which have also contributed to this problem.²⁵ The complexity of the homeless problem in this country suggests a need for effective state-government oversight.

B. *Local Variations of the Problem*

A national study conducted by the Department of Housing and Urban Development in 1984, and a number of local studies have all emphasized the diversity of the homeless population.²⁶ The highest per capita concentration of homeless people is found in the West, which has 19% of the nation's population but one-third of the homeless population. The South, on the other hand, has 33% of the nation's population, yet only 24% of the total homeless.²⁷ Several states which have enacted legislation for the homeless have done so because they have found large numbers of people in their jurisdictions without shelter either because of a lack of affordable housing²⁸ or high levels of unemployment.²⁹ On the other hand, the New Jersey legislature found the rise of homeless

22. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, HUD PROGRAMS AND SERVICES FOR THE HOMELESS UNDER THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT 1 (1987). See also M. CUOMO, *supra* note 1, at 30.

23. *Homeless Families, A Neglected Crisis: Sixty Third Report by the Comm. on Government Operations, Together with Dissenting and Additional Views*, 99th Cong., 2d Sess. 4 (1986) [hereinafter *Homeless Families*]. One-third of homeless families had a personal crisis such as a dissolved relationship, incidences of beatings, death or illness. These factors are direct causes of their homelessness. *Id.*

24. *Id.*

25. M. CUOMO, *supra* note 1, at 30.

26. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *supra* note 22, at 1. For example, in St. Louis, the homeless are predominantly families and half of the homeless are children. In 1983, 54% of the homeless households were single women with children. Murray, *The Homeless in the United States and in St. Louis*, 4 PUB. L. F. 455, 457 (1985). On the other hand, families represent 80% of the homeless in Yonkers, New York, but only 40% in Chicago and Boston. *Homeless Families*, *supra* note 23, at 8.

27. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *supra* note 22, at 1.

28. CAL. GOV'T CODE § 15290 (West Supp. 1987); MD. ANN. CODE art. 400 § 14 (1986); N.J. STAT. ANN. § 55:13c-1 (West Supp. 1987); N.Y. SOC. SERV. LAW § 41 (McKinney 1987).

29. CAL. GOV'T CODE § 15290 (West Supp. 1987); MD. ANN. CODE art. 400 § 14 (1986).

victims of domestic violence results in an ever present need for emergency shelters.³⁰

Cities are showing the diversity of the homeless population as well. For example, Boston, Chicago, Columbus, New York City, Salt Lake City, San Francisco and Seattle all report significant increases in the numbers of women and families with children.³¹ Other cities indicate that unemployment was the biggest characteristic of the population.³² Seattle and Salt Lake City, for example, identified lack of food and/or poor nutrition as the most serious issues facing the homeless, while Cleveland and Philadelphia identified problems relating to employment as their primary issues.³³ "To meet [these] goals . . . federal agencies, state and local governments, and dedicated private non-profit institutions will have to work together. By joining forces in public and private partnerships, we may hope to achieve far more than any agency or the public or private sectors of society could do alone."³⁴

II. PART TWO

A. *The Federal Response: Requiring State Action*

As indicated in Part I, homelessness is a pervasive problem with many causes and much diversity. Because solutions are as complex as the problem,³⁵ homelessness must be approached at many levels.³⁶ Responding to this heightened concern regarding the number of homeless, and realizing that local governments and charitable organizations are finding it difficult to meet the calls for assistance, the 100th Congress approved major legislation to increase emergency services, housing,

30. N.J. STAT. ANN. § 52:27c-24 (West 1986).

31. See U.S. CONFERENCE OF MAYORS, A STATUS REPORT ON HOMELESS FAMILIES IN AMERICA'S CITIES: A 29-CITY SURVEY (1987).

32. For example, in Atlanta, 33% of the homeless are unemployed. HOMELESSNESS IN AMERICA'S CITIES, *supra* note 3 at 6.

33. U.S. CONFERENCE OF MAYORS, *supra* note 31, at 7.

34. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *supra* note 22, at 1 (a message from the Secretary, Samuel R. Pierce).

35. The National Coalition for the Homeless, for example, has developed a three tiered approach. The first tier consists of short-term emergency services including beds, food, and medical services. The second tier consists of transitional or intermediate services, which provides living accommodations for individuals for up to six months while an individualized plan for permanent housing is implemented. The third tier provides for long-term permanent housing at low cost. Werner, *On the Streets: Homelessness Causes and Solutions*, 18 CLEARINGHOUSE REV. 11, 15 (1984).

36. CAL. GOV'T CODE § 15290 (West Supp. 1987). The California Legislature has recognized the complexity of the problem and the need for coordination in the various levels of government and the private sector. Relevant subsections of CAL. GOV'T CODE § 15290 include:

(b) Federal, state, local, and private efforts to assist these homeless persons are not well coordinated and data concerning these shelterless persons are not kept in a consistent manner. (c) Local and state efforts to help homeless persons have not fixed overall coordination responsibility with individuals in either county or state government. (d) Existing programs providing homeless services to unsheltered residents, especially clients such as the elderly, displaced workers, juveniles, veterans, and the mentally ill do not adequately meet the needs of these persons.

See *infra* note 64 and accompanying text.

medical services, educational aid, and job training by enacting the Stewart B. McKinney Homeless Assistance Act.³⁷ The purpose of the Act is to fund programs to deal with the problem more effectively.³⁸ The language of the Act requires effective state involvement.

The Act provides \$443 million in aid for fiscal year 1987, and \$616 million in fiscal year 1988. It includes nearly twenty different provisions to address the needs of homeless people by providing for emergency shelter, food, health care, housing, educational programs, job training, and other services.³⁹ These programs are to be administered by several agencies which are monitored by the Interagency Council on the Homeless. Member agencies include: the Federal Emergency Management Agency ("FEMA"); the Department of Housing and Urban Development ("HUD"); the Department of Health and Human Services ("HHS"); and the Department of Agriculture ("USDA").⁴⁰

The Emergency Shelter Grants Program, originally included in appropriations to HUD in 1987,⁴¹ was included in the Stewart B. McKinney Act to make grants to states and local governments for the purpose of renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.⁴² States and cities must develop and have approved a Comprehensive Homeless Assistance Plan ("CHAP") to participate in this program.⁴³ States must also provide matching funds.

The Supportive Housing Demonstration Program provides funding for transitional housing and supportive services for homeless persons capable of moving into independent living arrangements, and funding for permanent housing for homeless handicapped individuals. Funding is available to private nonprofit organizations, states, and local agencies.⁴⁴ Matching funds are also required for this program.⁴⁵

The McKinney Act requires states to provide services to the homeless mentally ill. The McKinney Act provides assistance to states for

37. Stewart B. McKinney Homeless Assistance Act, Pub. L. No. 100-77, 101 Stat. 481 (1987). See EDUCATION AND PUBLIC WELFARE DIVISION, CONGRESSIONAL RESEARCH SERVICE, THE HOMELESSNESS PROBLEM: BACKGROUND AND LEGISLATION 1 (Updated Aug. 19, 1987).

38. The purpose of the Stewart B. McKinney Act is:

(1) to establish an Interagency Council on the Homeless, (2) to use public resources and programs in a more coordinated manner to meet the critically urgent needs of the homeless of the Nation, and (3) to provide funds for programs to assist the homeless, with special emphasis on elderly persons, handicapped persons, families with children, Native Americans, and veterans.

Stewart B. McKinney Homeless Assistance Act, Pub. L. No. 100-77, sec. 102(b), 100 Stat. 481, 484 (1987).

39. *National Governors' Assn. Status of Programs Under the Stewart B. McKinney Homeless Assistance Act and Related Legislation* (April 2, 1988).

40. SCHILLMOELLER & SPAR, THE HOMELESS: OVERVIEW OF THE PROBLEM AND THE FEDERAL RESPONSE (CRS Report for Congress) (1987).

41. Provisions for this program were originally included in Supplemental Appropriation Bills: Related Agencies Appropriation Act 1987, Pub. L. 99-500, 100 Stat. 3341 (1986).

42. 42 U.S.C. § 11373 (Supp. 1987).

43. 42 U.S.C. § 11361 (Supp. 1987).

44. 42 U.S.C. § 11381-94 (Supp. 1987).

45. 42 U.S.C. § 11385 (Supp. 1987).

supportive and transitional housing for the homeless and mentally ill. States must provide 25% of the funding and agree that the money will be used to provide outreach and community mental health services for care and treatment.⁴⁶ The McKinney Act also requires the Department of Health and Human Services to conduct a study on the extent to which state deinstitutionalization policies have contributed to homelessness and to report to Congress recommendations that can reduce the number of chronically mentally ill persons who are homeless.⁴⁷

The Stewart B. McKinney Act provides substantial funding in an effort to combat homelessness. The structure of the McKinney Act requires local and state governments to become active in coordinating and service providing capacities to ensure a comprehensive approach to solving the problem of homelessness.

B. State Legislation

"We do not want this to be a bill that absolves the States from their responsibilities, but we do want to be supportive to the work that they are doing, in helping them I think this [Act] is a bridge, a transition kind of program."⁴⁸ Federal money available from the McKinney Act is not designed to free local and state governments from their critical responsibility of meeting the needs of the homeless. Rather, the purpose of federal funding is to help state resources go further.⁴⁹ To date, fifteen states have enacted legislation for the homeless. The greatest potential for innovation in dealing with the problem rests with state legislatures.⁵⁰

Enforcing the rights of the homeless in the courts is a recent phenomenon. Consequently, there are no significant precedents.⁵¹ Litigation to require a right to shelter has been successful in only three states: New York; West Virginia; and New Jersey.⁵² In all three cases, statutory

46. Pub. L. No. 100-77, sec. 611, 101 Stat. 481, 516 (1987).

47. 42 U.S.C. § 11301 (Supp. 1987).

48. 133 Cong. Rec. H5,922 (1987) (Statement of Mrs. Roukema, Co-sponsor of H.R. 558, the Stewart B. McKinney Homeless Assistance Act).

49. MIT CENTER FOR REAL ESTATE DEVELOPMENT, HOUSING AND THE HOMELESS (March 1988).

50. M. O'CONNOR, STATE LEGISLATIVE INITIATIVES FOR THE HOMELESS, (National Conference of State Legislatures) (January, 1986).

51. NATIONAL CLEARINGHOUSE FOR LEGAL SERVICES, INC., HOMELESSNESS IN AMERICA, A LITIGATION MEMORANDUM FOR LEGAL SERVICES ADVOCATES (1986).

52. Langdon & Kass, *Homelessness in America: Looking for a Right to Shelter*, 19 COLUM. J.L. & SOC. PROBS. 305, 306 (1985). The right to shelter in New York was established in *Callahan v. Carey*, N.Y.L.J., Dec. 11, 1979 (Sup. Ct. N.Y. Cty. 1979). The court required the city and state of New York to provide shelter to every homeless man who requested it. The court found authority for this under article xvii, sec. 1 of the New York State Constitution, sec. 62(1), 131(1) and 131(3) of the New York Social Services Law, and sec. 604.1(b) of the New York City Administrative Code. The New York State Constitution article xvii, sec. 1 provides: "The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions and in such manner and by such means as the legislature may from time to time determine." See Dakin, *Homelessness: The Role of the Legal Profession in Finding Solutions Through Litigation*, 21 FARN. L. Q. 93, 115 (1987). The right to shelter was later found to apply to women under equal protection grounds *Eldridge v. Koch*, 118 Misc. 2d 163, 459 N.Y.S.2d 960, *rev'd on other grounds*, 98 A.D.2d 675, 469 N.Y.S.2d 744 (1983).

authority was the basis for the right to shelter. For example, in *Hodge v. Ginsberg*,⁵³ the court held that homeless persons were entitled to shelter under a recently enacted chapter of the protective services laws. *Maticka v. Atlantic City*,⁵⁴ held a right to shelter existed under that state's protective services laws. The Constitution does not guarantee a right to shelter. What is needed is a large scale effort in the state legislature to secure shelter entitlements.⁵⁵

This section will paint a picture of emerging legislative attempts which have specifically provided for the needs of the homeless and have begun to find solutions to homelessness through programs focusing on prevention, emergency services, data collection, and comprehensive approach strategies.

1. Prevention

New Jersey and Massachusetts have enacted legislation specifically focused on preventing homelessness.⁵⁶ The goal of the New Jersey Prevention of Homelessness Act is to prevent displacement of persons who face eviction and to establish less costly alternatives to the emergency placement of homeless households in temporary accommodations. Money from this program is provided to low-income families who are facing imminent eviction.⁵⁷

2. Emergency Shelter and Other Services

States have enacted legislation for the homeless⁵⁸ primarily focusing on the need for shelter. Fourteen states have enacted legislation for the homeless which provide funding or regulate the habitability of emergency shelters.⁵⁹ New Jersey has a program which makes the state re-

53. 303 S.E.2d 245 (W. Va. 1983).

54. 216 N.J. Super. 434, 523 A.2d 416 (N.J. Super. Ct. App. Div. 1987).

55. Dakin, *Homelessness: The Role of the Legal Profession in Finding Solutions Through Litigation*, 21 FARN. L. Q. 93, 115 (1987).

56. MASS. GEN. LAWS ANN. ch. 450 (West 1987); N.J. STAT. ANN. § 52:27c-24 (West 1984).

57. PREVENTING HOMELESSNESS IN NEW JERSEY: REPORT ON THE FIRST YEAR OF OPERATION OF THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS HOMELESS PREVENTION PROGRAM 25 (1985). New Jersey law provides:

(e) To provide rental assistance grants to persons of low or moderate income to enable them to pay the fair market value for housing units; (f) To provide loans and grants of temporary rental or other temporary housing assistance to persons without housing or in imminent danger of losing housing as a result of having insufficient income from other sources to allow payment of the rental or other housing costs.

N.J. STAT. ANN. § 52:27c-24 (West 1984).

58. California defines "homeless person" as "an individual who lacks the financial resources, mental capacity, or community ties needed to provide for his or her own adequate shelter." CAL. GOV'T CODE § 15292 (West Supp. 1987).

59. CAL. GOV'T. CODE § 15296 (West Supp. 1987); ILL. ANN. STAT. ch. 83-1382 (Smith-Hurd Supp. 1987); MASS. GEN. LAWS ANN. ch. 117, § 4 (West Supp. 1987); ME. REV. STAT. ANN. tit. 30, § 4601-A (1986 Supp.); MICH. COMP. LAWS ANN. § 400.14(a) (West 1987); N.J. STAT. ANN. § 53.13c (West 1988); PA. CONS. STAT. ANN. § 62 (Purdon 1987); WASH. REV. CODE ANN. § 43.185 (1987); W. VA. CODE § 31-18-3 (1985); WIS. STAT. ANN. § 46.97 (West 1988).

responsible for insuring that these federal dollars, and all monies which provide assistance for shelters, are given only to facilities which are licensed and inspected by the state. This insures that shelters are safe, habitable and available to all residents of the state.⁶⁰

3. Data Collection

Two states have initiated pilot programs to more effectively study the homeless problem in limited geographical areas.⁶¹ California, for example, has established the Homeless Relief Pilot Project, designed to create a comprehensive plan for the coordinated delivery of existing state services in San Diego County.⁶² Funds allocated for this program are for: (1) coordinating delivery of public and private sector services for the homeless; (2) collecting information regarding the number of homeless persons; and (3) ascertaining the unmet needs of the homeless. Funds under this program also facilitate direct services such as delivery of food, clothing, emergency shelter, and case management.⁶³ In 1988, the legislature was to receive a report on the status of this project and make recommendations.⁶⁴ Programs such as this allow states to clearly evaluate the extent of the unmet needs of the homeless within their jurisdiction.

4. Coordination and Oversight

Private service providers are not in a position to adequately coordinate their programs as effectively as states.⁶⁵ In Maryland, for example, the Department of Human Resources is responsible for policy determinations in administering shelter and nutrition services for the homeless. This state agency is also responsible for allocating federal and state funds for the homeless to areas of the state in consideration of the unmet needs and the number of homeless persons in those areas.⁶⁶

5. Comprehensive Programs

Several states offer comprehensive programs. Massachusetts, for example, expanded its general relief assistance to the homeless. The state has increased emergency assistance benefits to Aid to Families with Dependant Children recipients by providing funds for up to thirty days in temporary shelter for homeless families.⁶⁷ The emergency assistance

60. N.J. STAT. ANN. § 55 (West 1987).

61. CAL. GOV'T CODE § 15291 (West 1987); MINN. STAT. ANN. § 268.38 (West 1987).

62. CAL. GOV'T CODE § 15293 (West 1987).

63. CAL. GOV'T CODE § 15294 (West 1987).

64. CAL. GOV'T CODE § 15300 (West 1987).

65. A few states have established programs which coordinate services for the homeless. See CAL. GOV'T CODE § 15294 (West 1987); ILL. ANN. STAT. ch. 12-4 para. 7 (Smith-Hurd 1987); MD. ANN. CODE art. 88a § 137 (1985); UTAH CODE ANN. § 55-22-1 (1987).

66. MD. ANN. CODE art. 88a § 137 (1985). See also source cited *supra* note 64 and accompanying text.

67. The Massachusetts Right to Housing Project is seeking to amend the Massachusetts Constitution by adding that all citizens have a right to occupy habitable and affordable non-transient housing.

program of the state was expanded to provide money to those who are at risk of being homeless. This includes funding for back rent, utility, and fuel bills for families facing eviction.⁶⁸ Maryland also has a comprehensive shelter, nutrition, and service program for homeless individuals which includes crisis and transitional shelter.⁶⁹ New York has enacted the Homeless Housing and Assistance Program which provides financial assistance for projects which are deemed necessary for homeless persons, and includes funding for social, medical and mental health services.⁷⁰ The Homeless Housing and Assistance Act provides funding for private non-profit and charitable organizations and public corporations to become involved in supplying shelter and other services to the homeless. Other provisions of the Homeless Housing and Assistance Act allow for contractual arrangements with private service providers in a variety of areas. This includes acquiring residential leases for the purpose of providing housing on an emergency basis to families with children who are in need of public assistance and care. It is this grass roots type of organization that gives states the flexibility needed to provide a variety of services to needy persons.

California has instituted a program in which a contractor may utilize funds allocated in the Assistance to Homeless Persons Act to provide loans for the first and last month's rent to individuals placed in employment.⁷¹ New York has initiated legislation designed to increase the availability of housing for homeless persons,⁷² and also provides for non-housing services such as dining, recreation, sanitary, social, and mental health services.

III. CONCLUSION

Poverty forms a culture, an interdependent system. In case after case, it has been documented that one cannot deal with the various components of poverty in isolation, changing this or that condition but leaving the basic structure intact. Consequently, a campaign against the misery of the poor should be comprehensive. The campaign should not be limited to a specific aspect of poverty but should strive to establish new communication, or substitute a human environment for the inhuman one that now exists.⁷³

This article has described the homeless problem as it exists in

68. THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE DEPARTMENT, SUMMARY OF DUKAKIS ADMINISTRATION ACTIONS ON HOMELESS ACCOMPLISHMENTS (1987). The Executive Office of Communities and Development operates a program which provides counseling and assistance to landlords and tenants to help people stay in existing housing. Other programs administered by the state include emergency services for the medically ill, support services including case management for the chronically mentally ill and permanent housing services. *Id.*

69. MD. ANN. CODE art. 88a § 131 (1986).

70. N.Y. SOC. SERV. LAW § 41 (McKinney 1987).

71. CAL. GOV'T CODE § 15299 (West 1987).

72. N.Y. SOC. SERV. LAW § 312 (McKinney 1987).

73. M. HARRINGTON, THE OTHER AMERICA: POVERTY IN THE UNITED STATES 168 (1964).

America today. The homeless population is growing at a faster rate than ever before. The faces of the homeless are changing. Private service providers do not have the funding or the ability to attack the problem at the various levels necessary to effectively reduce the number of homeless people. What is needed is an integrated approach combining federal, state, and local governments with private service providers. Only fourteen states have enacted legislation thus far. All states must take an active role in the oversight and implementation of social policies regarding homelessness.

Do people have a right to life simply by reason of their humanity or citizenship? Put another way, shall we permit people to freeze to death in the winter, to starve, to die from the effects of preventable disease, merely because they are poor, insane, or addicted to drugs? In the long run, the ways in which our society responds to that fundamental question will determine far more than the plight of the homeless. It will define our civilization.⁷⁴ State legislators must act to protect the rights of the homeless to effectively solve this modern social problem.

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Mike McGurkin

74. Blasi, *Litigation on Behalf of the Homeless: Systematic Approaches*, 31 WASH. U.J. URB. & CONTEMP. L. 137 (1987).

