The Ordeal of Shelter: Continuities and Discontinuities in the Public Response to Homelessness

Kim Hopper
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Kim Hopper*

Late in the ill-fated 1988 Democratic bid for the presidency, but still early enough for the outcome to be in doubt, the writer Joan Didion was traveling with the Dukakis campaign. She discovered that some of the young team of advisers, policy analysts and media consultants that the candidate had assembled around him had taken to referring to themselves as "the best and the brightest." They did this, Didion reports, "with no sense of irony and none, therefore, of history."1

Santayana, of course, had said it earlier. And before him, Marx (echoing Hegel) had remarked how all great events and personages on the world stage occurred twice—the first time as history, the second as farce. No one even remotely conversant with the shambles of the emergency shelter effort in our country today can fail to be impressed with the wisdom of these observations; or to be dismayed, as if additional reason for dismay were needed, at the lack of familiarity with even rudimentary Poor Law history on the part of our policy makers.

But it is not merely ignorance of precedent that cripples the effort. It is, I would suggest, a set of fundamental tensions at the core of the provision of public shelter, tensions that have their roots in the elemental ambiguities that permeate the problem of how—under what terms and conditions, and protected by what safeguards—are public resources to be used for meeting private needs in market-based economies.

I. THE HOMELESS IN HISTORY

Old Homer had it right: there is nothing so charged with sentiment as the unexpected homecoming of a loved one—especially when that arrival means setting right a gross injustice. Even the most jaded undergraduate can barely suppress a cheer when, in that final scene of The Odyssey, a disguised Odysseus reveals his identity and routs the parasites who have been

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pestering his wife, humiliating his son and squandering his wealth. Odysseus had returned home clad in the rags of a beggar, a figure that was held in low regard by the ancient Greeks.\(^2\) To press the point, Homer had earlier on, in a textbook instance of dramatic irony, set us up nicely for that rousing conclusion. It is an offhand remark about beggars by (of all people) a swineherd, but it does the job:

> Wandering men tell lies for a night's lodging, for fresh clothing; truth doesn't interest them.\(^3\)

Mythology may alert us to the abiding resonances of "home," but it was government's responsibility for the room and board of itinerant strangers and the local "friendless poor" that would provoke the debates over the terms, conditions and the telltale signs of "deservingness" that are with us even today.

The situation of the dependent poor, and the basis and stipulations of public provision for their support, have been troublesome issues for Western governments since they were first broached in a systematic way in the sixteenth century.\(^4\) The earliest attempt to design a comprehensive public relief apparatus, *De Subventione Pauperum* (1526), was the work of Thomas More's friend, the Spanish scholar Juan de Vives, at the behest of the good citizens of Bruges. They were especially struck by the importunings of beggars lining the way to the cathedral—thrusting oozing stumps in the faces of churchgoers, displaying sickly infants, and otherwise making a menace of their appeal for alms. Vives' treatise draws an explicit connection between poverty and crime and makes it clear that the chief impetus behind a decent provision for the poor is civic self-interest. For when the indigent, "driven by need," turn to "open brigandage" or "thieve in secret" it will be too late; the welfare of the entire community will have been jeopardized. (Elsewhere, Vives compares the threat of mendicancy to that of the plague.)

\(^2\) "A *thes* [a propertyless laborer who worked for hire when he could find it and begged a living otherwise], not a slave, was the lowest creature on earth that Achilles could think of. The terrible thing about a *thes* was his lack of attachment, his not belonging." M.I. Finley, *The World of Odysseus* 57 (2d ed. 1978).

\(^3\) *The Odyssey* 251 (R. Fitzgerald, trans.) (1961).

Vives' solution, one that will be replayed in many variations by governments down to our own, is first to classify the needy by circumstance and ability and then to devise corrective measures accordingly. Above all, recipients of relief were to be set to work. Those without a trade would be taught one; those competent in one would be given an opportunity to practice it, either by local merchants or in state-subsidized workshops. Few are exempt: the elderly and simple-minded could be taught "to dig, to draw water, to sweep, to push a barrow, to be an usher in court, to be a messenger;" even the blind could be taught to sing, play an instrument, turn a lathe or spin. The basic premise had a brutal simplicity about it: "no one is so enfeebled as to have no power at all for doing something." 5

Canon Law had charted the course for learned discourse much earlier. Ecclesiastical attention to the problem of alms-giving dates at least from the time of the late patristic writings of Augustine, who counseled against giving alms to those who "neglected righteousness." By the twelfth century, Church commentaries on the Decretum of Gratian had identified the core issues that would henceforth command the attention of relief specialists:

[Whether eligibility for relief should be determined by need alone or by other considerations, whether there should be any fixed order of preference among eligible applicants, whether the principle of selection should be conditioned by a desire to reform or, alternatively, to punish, the pauper seeking relief.] 6

This growing rationalization of charity went along with a changed attitude toward poverty. By the thirteenth century, the high medieval attitude that had prized poverty as a purification state—one that was personified in the figure of Francis of Assisi—was in abeyance and would soon be supplanted altogether. 7 There were a number of reasons for this change. First, what had been founded as mendicant orders of friars (Franciscan and Dominican especially) had grown rich and complacent over time. Disillusionment and indignation followed. 8

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5. de Vives, De Subventione Pauperum, in P. Salter, supra note 4.
8. "[M]endicity is now their trade, which some practice well, others better; miracles of self-denial are demanded of them, and behold, on the contrary, prodigies of selfishness. It is no longer religion, it is their order
Second, the composition of the poor had changed as a consequence of the dislocations of war, plague, economic displacement, and civil uprising. No longer were the roads home largely to the aged, infirm and pilgrims; now they were joined by brigands, demobilized soldiers, and peasants released from the manor (especially in the period following the Black Death). Word had it that the arduous journeys of many “pilgrims” were rather chiefly pleasure trips, and the rowdy example of janglers, tale-tellers and liars was thought to be “an encouragement to laziness and idle living.”

Third, not only had the Church desanctified poverty, it had elevated industry to a virtue. The obligation to work was now seen as an essential part of human nature. Though by no means a wholesale transformation, the new emphasis is quite striking in some popular confessional guides. Labor, which, in Gregory the Great’s exegesis of the Book of Job, had meant “suffering,” came to mean “work;” quies, which for Augustine had signified “tranquillity,” became synonymous with laziness. The old anchorite vice of acedia (the temptation to neglect one’s spiritual exercises or seek release from the rigors of a desert monk’s life) was “laicized.” By the late Middle Ages, the sin of sloth included not only spiritual slackness, but the neglect of one’s worldly responsibilities as well.

Lastly, of course, the sheer numbers of the wandering poor had reached numbers never seen before.

The Church’s recasting of “holy poverty” in the late Middle Ages set the stage for a decidedly less benevolent, more discerning and demanding attitude on the part of people at large toward the dependent poor. Formerly, writes Braudel, “the beggar who knocked at the rich man’s door was regarded as a messenger from God, and might even be Christ in disguise.” With the roads swollen by the addition of large numbers of displaced laborers, ex-soldiers, robbers, and occasional bands of vagrants, only the foolhardy still believed such notions. No longer was the legitimacy of need, in this the lowest station of a pauper’s life, to be taken as self-evident. The figure of the beggar became suspect and the poor at large were tainted by association: “Idle, good for nothing and dangerous,

which must be protected.” J. Jusserand, English Wayfaring Life in the Middle Ages 298 (1897).

9. Id. at 350-51.


was the verdict passed on the destitute by a society terrified by the rising tide of mendicancy."

Nor, experience would soon teach, was there much hope that this rising tide was a transient thing. As the years passed, the numbers of the poor continued to grow, and it was this "conjunction of older problems with poverty, with population growth and economic expansion" that spurred the "international movement for welfare reform" on the European continent in the sixteenth century. The forces behind this conjunction, in the main, are not difficult to identify. As capitalism began its slow ascendancy to a global economic system, the settled verities of the feudal world gradually came undone. Custom would give way to competition, the security of a manor-bound peasantry would yield to the uncertainty of the landless proletariat, and the medieval institution of charity would soon prove unequal to the task of assistance. One cardinal feature of this need was its routine character: "destitution [emerged] as a normal and not, as heretofore, an abnormal element in social life."

The sheer volume of need with which cities and parishes were expected to cope, more than anything else, probably explains the uniform move toward rationalized poor relief at this time. In order that the growing ranks of the innocent poor (those whose "infirmities were merely providential," as Defoe would later put it) might be justly served, it was necessary to devise means of distinguishing them from those whose need was counterfeit. The attempt to divide the villainy of "sturdie beggars and vagabonds" from the true need of the "impotent poor" was the first of many to draw workable distinctions between the deserving and undeserving poor.

And so, with a force wholly out of proportion to his actual contribution to the social burden of dependency, the figure of the vagrant would assume a pivotal role in the development of public policy toward the indigent. The Webbs, for example, argued that the roots of state poor relief schemes are to be found in these early efforts to control the wandering poor. In the ensuing centuries, forced imprisonment, compulsory work, banishment, branding, pillory, and torture would all be

12. *Id.* at 508.
13. N.Z. Davis, supra note 4, at 258, 267.
15. P. Salter, supra note 4, at xvi.
16. J. Garraty, supra note 4, at 27.
resorted to as means of curbing the movements of the rootless poor.\textsuperscript{18}

In retrospect, the fear animating such repressive measures appears to have been threefold. In an era when footpads and highwaymen made road travel hazardous, vagrants were widely assumed to be robbers in disguise. Even when a beggar's harmlessness could be vouched for, the integrity of his need was open to question; many believed that he could find work or secure assistance elsewhere if only he would try. Lastly, and perhaps most importantly, the example of the vagrant (especially in a society soon to be introduced to the discipline of the factory on a massive scale) was thought to pose a threat: if idleness could be turned to profit, or at least assured subsistence, how then could the ranks of "free labor" be harnessed to arduous and ill-paid jobs? So long as it could be pursued with impunity, vagrancy was a standing mockery of the decent poor's submission to the new regime of work.

Animus toward the vagrant, of course, sufficed in the long run neither to discipline the working poor nor to deter the needy. But the intent was there, an insistent reminder of the necessity to discriminate among classes of the potentially dependent poor.\textsuperscript{19} Need must be reasoned if the public fisc is to be protected, the insidious example of the idle be quelled, and the outlandish notion that a livelihood might be had without being earned kept in check. If envy is a revolutionary sin,\textsuperscript{20} refusal to work is its secular accessory. Vagrancy fed the suspicion among the poor at large that the terms and conditions of work as they were presently constituted need not be immutable. In a laboring populace whose loyalty to the wage and shop-floor was tenuous at best, such suspicions bordered on the seditious.

\section*{II. The Social Recognition of Homelessness}

Homelessness in the most encompassing sense of the term has to do with various kinds and degrees of residential instability. In the absence of secure and stable dwelling, people have devised makeshift shelters that span everything from shared

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\item 20. M. Mollat, \textit{The Poor in the Middle Ages: An Essay in Social History} 231 (1986).
\end{itemize}
(and overcrowded) living quarters to a nomadic life on the streets. Officially, only those improvisations that are on display in public spaces, and the need that declares itself to public or charitable authorities, are classified as "homeless." Until that threshold of visibility is crossed, hardship may exist and suffering may occur—but they happen off stage, to people who although "at risk" are, for the time being, "coping." "Unmet need," to put it bluntly, is publicly irrelevant need.

My remarks here will shuttle between the narrow, official definition of homelessness and the broader, increasingly common set of survival strategies that (following Olwen Hufton) I will refer to as "economies of makeshift." Clearly, the precise dimensions of the problem, and the type of coping arrangements to be considered as legitimate instances of "homelessness," are contested matters, not likely to be solved by the wand of classification or the wizardry of statistics. Tradition too has its political aspects and advocacy—not logic—plays the larger role in reasoning the need.

A. Varieties of Homelessness

Even in the strict sense adopted here, caution should obviously be exercised in applying the notion of homelessness to other times, places or cultures. While homelessness probably occurs in most societies, great variation is found not only in the forces of displacement but also in the configuration and meaning of the ensuing transient state. Nor is the reference point against which homelessness is to be measured always clear: the rudimentary Western notion of home as a place of domesticity is of comparatively recent origin. Rural housing for the majority of the population of the ancien regime amounted to little more than hovels, shared with animals, and "fulfilled no social function," not even the minimal one of "serv[ing] as homes for families."22

Resort to irregular forms of accommodation—what, with some reservations, might be called "homeless ways of life"—may describe the usual situation of whole communities (such as gypsies, Irish "travellers," or nomadic hunters and gatherers), or the chosen practice of certain groups (religious mendicants, warring or hunting parties), or, it can be the lot of specific occupations (migrant workers, prospectors, itinerant preach-

ers). A kind of professional homelessness may even make its appearance from time to time, as in the figure of the American tramp. Official attitudes toward these atypical persons and practices vary greatly, depending in part (I suggest) on the threat that such symbols of unearned livelihood are thought to pose.

For centuries, to take an unusually colorful example, companies of unemployed scholars roved the medieval countryside. Having taken minor orders in the church, they readily found refuge at monasteries located a day's walk apart. The custom was that these guests repaid the hospitality of their hosts with ribald parodies of liturgical texts and deft lampoons of the established church. Their antics sufficiently provoked the church fathers of the day that denunciations of this *ordo vagorum* were regular items on the calendar of Council proceedings from the thirteenth century on. The Church's patience eventually wore thin and repressive measures were enacted. Vagrant clerics were shorn of their tonsure (and thus deprived of their protection against secular justice) and ecclesiastics who sheltered them were subject to fine or imprisonment.\footnote{See H. Waddell, *The Wandering Scholars* 161-84 (1927).}

(If I may digress for the moment: I take it that one lesson of this medieval episode is that the privileges of even honorable mendicants were conditioned upon political tolerance of both their numbers and whatever cultural "commentary"\footnote{For a fascinating discussion of distinctive psychiatric disorders as cultural "commentary," see Karp, *Deconstructing Culture-Bound Syndromes*, 21 Soc. Sci. & Med. 221 (1985).} they dared to offer. A similar rule may well apply today to some of the more energetic efforts to rid city streets of mendicants and sidewalk dwellers.)

Occasionally, the distinctive niche recognized as homeless was occupied by a miscellany of players, with little in common other than their mobility. In fourteenth century England, for example, "wayfaring" was an established way of life. The minstrels, laborers, musicians, pardoners, "pedlars" and pilgrims who made up its ranks provided valuable communication links between distant regions.\footnote{J. Jusserand, *supra* note 8.} (And, just as the legacy of the wandering scholar is preserved in the *Carmina Burana*, so that of the wayfarer comes down to us as *The Canterbury Tales*.) But even recognizing their useful function, the wayfarers could not escape the traditional suspicion of strangers, a suspicion aggra-
vated by the predations of robbers and the lawless example of runaway serfs. 26

In eighteenth century France, an enumeration of the population on the road reads like an inventory of misfortune and artifice:

[W]idows, orphans, cripples . . . journeymen who had broken their contracts, out-of-work laborers, homeless priests with no living, old men, fire victims . . . war victims, deserters, discharged soldiers and even officers . . . would-be vendors of useless articles, vagrant preachers with or without licenses, 'pregnant servant-girls and unmarried mothers driven from home,' children sent out 'to find bread or to maraud' . . . strolling players whose music was an alibi. . . . 27

Many others, Braudel remarks, were "virtually homeless, living in makeshift shelters (what we would call shanty-towns)." 28 And if random adversity was responsible for the displacement of some, the closer one gets to the modern period the more chronic is uncertainty about sources of subsistence and the more routine is irregularity in ways of life. 29

B. A Confusion of Tongues

Diversity in form and content is the rule not only of the appearance but also of the names by which homelessness has been known. Victorian England would have recognized as "homeless" those whom its Elizabethan forebears would have hunted down as "masterless men;" each era would have readily identified the other's "vagrants." Late nineteenth century America would excoriate as "tramps" what New England colonists had occasion to refer to as "the strolling poor." 30 In the early decades of the twentieth century, America's "hobo" was equivalent to Canada's "bunkhouse man." 31 Closer to the present, when the Saturday Evening Post asked "Will Ours be the Century of Homeless People?" 32 it had in mind not the dis-

27. F. Braudel, supra note 11, at 510-511.
31. See generally N. Anderson, The Hobo (1923) and E. Bradwin, The Bunkhouse Man (1928).
32. Will Ours be the Century of Homelessness, 232 Saturday Evening Post 10 (September 12, 1958).
placed poor but the vast numbers of political refugees that were making their ways to new lives across the globe.

Even today, certain anachronisms seem bound to sow confusion in the minds of urban visitors. Along Manhattan's thoroughfares, for example, there regularly appear small yellow signs, discolored by age, with the words "Public Shelter" and an arrow directing one to a nearby building. Official capacity is also given. These signs refer not (as a perusal of the local press might lead one to suppose) to refuges for the homeless poor, but to civil defense precautions taken thirty years ago in surreal expectation of surviving an atomic war.

Nor is terminological ambiguity the exclusive preserve of the observer. In the course of my own fieldwork (and the observation has been reported by others as well), I regularly met people living on the street or in public places who denied being homeless. In the minds of some, such a term should be restricted to those of their compatriots who were clearly disordered in mind.

III. Core Themes in the History of Homelessness

That public provision of shelter has suffered from a kind of institutional amnesia is not a novel observation. Writing in 1934, by which time the lodging house rolls were at an all time high and the city had logged over a century's experience in dealing with the problems of street beggars and the shelterless poor, one seasoned observer wondered if anything had been learned:

Dependent homeless persons have always been a problem in New York City and, whether by discipline or charity, or both, the attention of the public has been challenged on numerous occasions. Each time the public seems to have met the challenge in the easiest and most expedient manner, with very little reference to previous experience and only intermittent, casual interest in the future.33

Specific measures to relieve the hardship of the homeless poor came into existence in the mid-nineteenth century in New York. In part, this was owing to a larger movement to differentiate subclasses of deviancy.34 The upshot was that for the first time being homeless was recognized as a distinctive circum-

33. N. ANDERSON, THE HOMELESS IN NEW YORK CITY 2 (1934).
stance of need, one that would no longer be exhaustively defined by the traditional term vagrancy. Reformers were quick to perceive subcategories among the homeless poor and to propose appropriate measures to deal with each accordingly. Specialized and, for once, nonpunitive public shelters (rooms in police station houses) were designated for the use of the homeless. In a marked departure from the all-encompassing regimen of the old institutions of "indoor relief," use of these makeshift shelters was haphazard, part-time, on a first-come first-served basis, and entailed no submission to rules beyond the modest requirement of not interfering with the right of others in similar straits to get a night's rest. These were, in a word, marginal institutions, rigged up to meet a need that would otherwise have gone unheeded. They functioned by default not design. And they mark the initiation of a policy of improvisation that has endured to the present.

The history of the public response to homelessness can be described by identifying the core themes that have dominated the enterprise from the beginning.

A. Damaged, Disagreeable People

Despite stubborn indications to the contrary, homelessness has traditionally been viewed as a problem of troubled—and troublesome—individuals. The terms of opprobrium have changed, from the allegations of "barbarism" favored by nineteenth century reformers to the diagnosis of impaired capacity for social connectedness favored by latter-day sociologists, but the logic has not. Whether by predisposition, slow decline, or sudden trauma, this argument runs, such people are damaged and their homelessness serves merely to confirm and compound that fact.

Nineteenth-century reformers were convinced that the tramp was a kind of genetic throwback, an only partially civilized "savage," whose primitive nature was but tenuously held in check. Turn-of-the-century observers held up alcoholism, a congenital antipathy to work, and "feeble-mindedness" as the chief causes. Postwar analysts of "skid row" society saw "disaffiliation"—an inability to form, or refusal to abide by, the ties that bind us together as members of a common society—at the heart of the problem. Commentators on homelessness today refer to the deranged biochemistry of the urban street-dweller; to deficits in their ability to engage and sustain informal networks of support; and to a too-ready willingness on the part of shelter users to take municipal authorities on "a good housing
deal." In each instance, the assumption is that the distinctive shape of a social niche is best explained by examining the traits of its occupants.

In a word, the appeal of such an approach could be summed up as convenience. For if it is the character faults or pathology of the poor that best accounts for their poverty, then the deeper structural questions that their disturbing presence might otherwise provoke may be safely ignored.

B. Relief for a Price

Not only poor relief (institutional or office-based) was governed by the principle of "less eligibility," but emergency shelter was as well. Proof of neediness was assessed in several ways. Submission to interrogation to determine whether one had responsible relatives in the area, and willingness to perform work (usually splitting wood or doing chores around the facility) or to endure a sermon in exchange for bed and board, were the most common. Artful lodgers could sometimes find their way around these requirements. But the essential "means test" was simplicity itself; the mere fact that one was willing to put up with the wretched conditions in the almshouse or municipal lodging hose or police station house was de facto proof of the desperation of one's straights.

Given the condition of housing in the late nineteenth century city, strict enforcement of the principle of less eligibility would have amounted to an invitation to cruelty. In fact, reformers of that day repeatedly expressed their frustration at seasonal almshouse residents who found the facility—spartan and unforgiving as it was—of superior quality to their usual digs. Even so, the notion continued to hold sway and proved remarkably resistant to fluctuating circumstances. As shelter directors were quick to realize and powerless to change, the institutional routine was a rigid one, unvarying even when thousands of normally working men showed up at the shelter door. To have altered the routine, to have made allowances for a "different class of homeless man" (as some private shelters did during times of economic depression), would have been to confront the founding principle and operating premise of such institutions: these were temporary makeshift shelters, not sub-


36. The principle of less eligibility states that the situation of the assisted pauper was to be less attractive (or "eligible") than that of the most menial laborer, so as to keep sharp the spur of necessity and preserve the incentive to work.
sidized alternatives, and anyone contemplating a longer stay had better think twice. Writing in the pages of The New Republic in 1933, Matthew Josephson was astonished to discover that shelter policy, in the midst of the worst depression the country had ever seen, was still "premised on the theory of the bum."[38]

C. An Institutional Hybrid

Repeatedly, shelter administrators have been vexed to learn that this one facility was saddled with two quite contrary tasks. For the most part, it was to serve as a refuge of last resort for institutional castoffs, "inappropriate referrals," and people for whom the idea of the structured life of "indoor relief" was anathema—it had inherited, in short, the catch-all function of the colonial almshouse. In addition, as conditions in the labor market would demand, it was to be pressed into service as the temporary bivouac for the "reserve army" of the new industrial capitalist order. It was expected to be both a place of rehabilitation—"a great human repair shop" in Commissioner Kingsbury's phrase (1914)—and a public lodging house—a flop, where penniless men could find a bed and a meal. The two functions demanded wholly different programs and in the end neither took precedence. Instead, as Stuart Rice put it, an "institutional hybrid" evolved, "incoherent in policy and extravagant in operation."[39]

The same contradiction plagued the emergency programs for the homeless in the 1930s[40] and has returned to haunt contemporary shelters. At heart, the fundamental issue is not the quality of the shelters themselves, but an enduring ambivalence toward this category of relief whatever its guise.

37. In fact, for most of its history, the municipal lodging house in New York enforced monthly limits of stay.
38. Josephson, The Other Nation, 75 New Republic 16 (May 17, 1933).
40. "In the care of [the local homeless] there had been neither application of the generally accepted standards of institutional care required of other city departments furnishing institutional care on a long time basis, nor the recognition of individual budgetary needs generally accepted in the care of resident families on relief. . . . A philosophy of temporariness characterized the program. . . ." Governor's Comm'n on Unemployment, Public Relief for Transient and Non-Settled Persons in the State of New York 145 (1936).
D. Institutional Deterrence vs. Popular Makeshifts

Much as had been the case with reformist campaigns against street-begging, popular practice was out of joint with public policy with respect to the principle of "less eligibility" and the institution of the "means test." Professional charity railed against "indiscriminate alms-giving;" common folks found it awkward and demeaning to try to divide "deserving" from "undeserving" and organized drives to distribute food, fuel and clothing during times of acute need. More pervasive still were the varieties of unobtrusive aid, the everyday practices of sharing and support to which ordinary people resorted as routine matters. These things were done quietly, out of sight, without any public declaration of need, and thus for the most part have eluded the social scientist's prying gaze.

The ingenuity and improvisations of the unemployed and their families that would so impress social scientists in the Great Depression were already well-established traditions among the urban poor in the late nineteenth century. Hardship, bad luck and spells of real scarcity were familiar to working-class households and formal institutional aid, especially if it meant enduring humiliating rites of admittance and a bed in the anonymous democracy of a public flophouse, was an act of uncommon desperation. Recourse to kinship and custom—not the state—was the usual means for dealing with misfortune.

The larger story of emergency shelter is thus the informal one, and a cardinal feature of that assistance is that the need it meets never becomes a statistic of official relief. Acknowledged or not, the support extended by kin and neighbors was an indispensable prop—and continues to be an indispensable prop—to the formal relief apparatus charged with sheltering the homeless.

IV. Continuities and Discontinuities

The homeless crisis besetting our cities today is of a markedly different sort than that traditionally dealt with in American urban settings. Still, while the singularities of the contemporary scene are striking, they should not be allowed to mask enduring staples of the public response to homelessness.

A. Discontinuities

1. Geography:

Public homelessness and the institutions set up to relieve it are far more spatially dispersed phenomena in most cities today than at any time since the Great Depression. Skid row, that repository of official homelessness in the postwar era, has long since outgrown its former boundaries as a zone of disgraced social identity. The sheer visibility of much urban homelessness is markedly at odds with its picture in the past, again excepting periods of severe depression.

2. Demography:

The homeless poor today are a more diverse population, one more obviously drawn from a cross-section of the urban poor, than at any time in the past. To take just two indicators: families make up the fastest growing subgroup within the class, and impoverished ethnic minorities are found in much higher proportions than in the population at large.\(^4\) (Much variation is found regionally, of course.) At the same time, there are great differences in the mobility of local homeless populations, with western and southern areas tending to see more transient populations. Finally, although often overemphasized in popular accounts, the presence of unusually high frequencies of severe psychiatric disabilities among the homeless poor cannot be denied. The most recent authoritative review finds that in well-designed studies the prevalence of current mental illness ranges from 28 to 37 percent. Compared to their nondisabled counterparts, the psychiatrically disabled homeless differ chiefly in being homeless for longer periods and in having less contact with friends and family, more with the criminal justice system, and fewer employment prospects.\(^4\)

3. Structural causes:

Marked changes in the segmented composition of the labor force—and not, as was typically the case in the past, massive unemployment—figures centrally among the structural fac-

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\(^4\) They do not differ with respect to age, sex, ethnicity, residential history, substance abuse, or the role of economic factors or family crisis in causing their homelessness. See R.C. Tessler & D. L. Dennis, A Synthesis of NIMH-funded Research Concerning Persons who are Homeless and Mentally Ill 28, 36 (February 1989).
tors behind contemporary homelessness. The emerging polarized labor market of high tech, highly skilled, professional service jobs at one end, and low-paid, menial service work (maintenance, clerical, delivery) and some residual manufacturing at the other, coupled with the deteriorating situation of poor households at large, is what makes for the pronounced marginality of young black men in particular (in places like New York, the largest group of shelter users). Abetting both these factors is a new dynamic of scarcity in urban housing markets. Briefly, this is a function of changed urban land values, the loss of much older low-cost housing (especially residential hotels), growing demand for higher priced dwellings, and a diminished capacity on the part of many poor households to keep up with rising rents. The net effects are an intensified demand for an increasingly scarce good—affordable housing—and, in many quarters, the mounting suspicion that to trust in the self-corrective tendencies of the market to rectify the situation is sheer folly.

4. Advocacy:

An older, long dormant tradition of self-mobilization among the homeless poor has recently resurfaced and promises to be a shaping force in future advocacy efforts. Similarly, guerrilla theatre—public marches and demonstrations, prolonged fasts and encampments, disruptions of official ceremonies—has played an important role in training popular attention on the issue. Organized lobbying and legislative action have begun to bear substantial fruit as well. But the most distinctive feature of contemporary advocacy efforts to date has been the role of the courts, and the original right to shelter case will be examined in some detail below.

B. Continuities

1. Marginal people/Liminal relief:

For the most part, public shelters continue to be physically and socially segregated, their institutional space mimicking the social status of their residents. The isolating and often forbidding character are elements in the traditional policy of deterrence. In New York, abandoned schools and psychiatric

44. See HOPPER, SUSSER, & CONOVER, Economies of Makeshift: Deindustrialization and Homelessness in New York City, 14 URB. ANTHROPOLOGY 183 (1986).

facilities, armories, refurbished troopships and ferries, and—the ideal site since the middle of the nineteenth century— islands, have emerged as the preferred sites for new shelters.

2. Almshouses in all but name:

Recycled but unrecognized as such, the “undifferentiated” almshouse function has survived in the guise of contemporary shelters. With the exception of a recent (and only partially implemented) move to restrict certain shelters or sections of shelters to specific clientele—men participating in work programs, ex-patients, men with outside jobs—the vast, cavernous facilities have been home indifferently to people of all manner of need and handicap. As early as the mid-1970s, moreover, it was clear to shelter staff that this erstwhile skid row haven had become the newest “dumping ground” for the misfits and discards of other public facilities. That recurring failure of the nineteenth century almshouse—proper “classification”—has been recycled along with the institution itself.

3. The poor bear the burden:

Finally, as researchers in Los Angeles, Minneapolis, Chicago and New York have all found, official shelter rolls tell only part of the story. The larger part of the emergency assistance burden is borne today, as it was in the nineteenth century, by poor households themselves. By rough estimates, the scale of “doubled up” families in public housing alone in New York City outnumbers those who are officially homeless by 20 to 1.

V. THE ROLE OF LEGAL ADVOCACY

Arguably the most distinctive feature of the current public policy deliberations has been the role of legal advocacy. At no time in the history of public shelter has the court played so central and persisting a role as in the original right to shelter case, filed in October 1979 on behalf of homeless men in New York.

46. See Koegel & Burnam, Traditional and Nontraditional Alcoholics, 11 ALCOHOL HEALTH AND RESEARCH WORLD 28 (1987); I. Piliavin, Stayers and Leavers among the Homeless, Paper Presented at the NIAAA and UCSD Conference on HOMELESSNESS, ALCOHOL AND OTHER DRUGS, San Diego (February 2-4, 1989); P. Rossi, WITHOUT SHELTER: HOMELESSNESS IN THE 1980s 37-43 (1989); and Hopper, Susser & Conover, supra note 44.

York City, *Callahan v. Carey.* After a preliminary injunction in December 1979 which directed the city to provide shelter to all "needy, indigent men," the public system began to expand for the first time in fifteen years. Conditions, however, remained dismal and the treatment of the men harsh and degrading. Faced with a situation of de facto deterrence, the advocates insisted that the case go to trial.

Formal proceedings commenced in December 1980 and testimony on shelter conditions was solicited from both homeless men and local experts. Confronted with steadily amassing evidence of the gross insufficiency in capacity and intolerable situations within the shelter system, abetted by mounting pressure from Judge Richard Wallach, the city and state entered into prolonged negotiations with counsel for the defense in early spring 1981. The result, in August 1981, was a court-entered consent decree that not only reaffirmed a right to shelter but set minimal standards of decency for public shelters, and provided for ongoing monitoring of conditions in them. A major victory appeared won. No longer would a tradition that had made contempt for the homeless man its operating premise be acceptable.

In the nearly eight years that have elapsed since, the court has issued dozens of orders directing the city to comply with one or another of the terms of the decree. Shelter capacity has exploded: from a haphazard collection of Bowery flophouses and floor space at a central intake facility, with a maximum capacity of 1600, to a network of some twenty shelters throughout the city, with a total bed capacity of over 9,000. Quality, which had improved in the immediate aftermath of the decree, now fluctuates considerably, owing both to variations in the sheer size of facilities (up to 1200 on a single floor) and to the intensity of demand on a given night. There has been no noticeable decline in the street-dwelling population; just last fall (October 1988) a survey by the Transit Authority put the number of people sleeping in the subway system at over 1400. Overall costs for emergency shelter in New York City now top $0.3 billion annually.

**A. Callahan Revisited**

Judicial decrees may be blunt instruments for making policy, but the pressure they generate for immediate action, the continuing oversight by informed parties they offer, and the

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leverage they wield with notoriously unresponsive bureaucracies, make them all but matchless as catalysts for reform. At the same time, severe limitations are placed on the exercise of that power in practice. The implementation of reforms (especially costly reforms) is subject to myriad compromises and exceptions; the scope of application may be arbitrarily drawn; and obsessive concern with the details of the decree and subsequent orders may well eclipse the long-term goal. As such compromises have multiplied and the shelter system itself has mushroomed, advocates have found themselves hoist on their petard—seeking to maintain standards in an emergency enterprise that nearly everyone agrees is a shambles, and that threatens nonetheless to become the "crisis management" solution to homelessness.

I can put it simply: improvised as temporary measures under exigent circumstances, these institutional makeshifts soon developed inertial force of their own. Satellite apparatuses (health, mental health, drug rehab and job training programs) were spun off, adding to the service density of this new institutional niche. Whole systems evolved where jury-rigged stopgaps had been planted.

If there is one substantive advance, aside from the sheer gain in capacity, it is the provision for ongoing monitoring. Doggedly, the court has refused to cede oversight responsibility for the system, and has proven responsive to evidence of infractions of the terms of the decree. But if the recent history of the Willowbrook case is any guide, this will become an increasingly tenuous position as managerial responsibilities expand and external pressure mounts for less costly—or, more to the point, less privileged—forms of relief.

B. The Willowbrook Consent Decree

Six years into the implementation of a community placement plan for former residents of a state institution for the developmentally disabled, the state defendants appealed to the court to relax the size limit on transitional facilities (raising the ceiling from 15 to 50 beds per facility). The state cited improved conditions at the Willowbrook hospital, a tightening real estate market, and growing community opposition in support of its petition. The lower court ruled that the state failed to show that sufficient cause for a modification of the decree—"grievous wrong evoked by new and unforeseen conditions"—applied in this case. To the surprise of nearly all concerned,
the appeals court reversed. It is the logic of its reasoning that concerns me.

The appeals court's ruling hinged on what it construed as the artificiality of the judicial laboratory that had spawned the consent decree in the first place. "In judicial reform litigation such as this," the court wrote,

judicially imposed remedies must be open to ... accommodation of a wider constellation of events than is represented in the adversarial setting of the courtroom.49

The court took particular note of the exigencies of budgetary constraints and neighborhood resistance to the transitional housing. The error in the lower court's ruling, in effect, was to have arrogated to the judiciary decisions about the implementation of public policy that are properly left to the legislature and the free play of the political arena. In a word, the lower court had mistaken for an exception a set of interests that warranted no special consideration.

Such a conservative construction of judicial redress was precisely what city and state defendants had been urging all along in Callahan. Had it prevailed, the course of public interest litigation in this case would have been rather different. Indeed, one may already glimpse what the end of an era that has only recently learned to treat the homeless as exceptions might look like.

VI. By Way of Conclusion

If not the person, then at least the image of homelessness has undergone significant rehabilitation in recent years. Indeed, there is a steadily mounting store of evidence, largely ethnographic and increasingly longitudinal in nature, that most homeless people are homeless on an episodic basis; that many manage to retain old ties and may even cultivate new contacts with friends and kin who remain housed; that a good many still work, if only part-time, or at least scavenge in order to lay claim to some income; that, in short, the received image of the homeless poor as "abject" in their helplessness is dead wrong. Indeed, there are signs—fleeting and haphazard though they may be to date—that something of an inversion in our image of the homeless may be under way. One can discern an almost celebratory tone in reports that purport to have found surpris-

ing evidence of resiliency and resourcefulness among some segments of the homeless poor.

At the same time, however, calls to "Bring Back Asylums"\(^ {50}\) resound with numbing frequency in the popular press, as though disorders of mind—perhaps compounded by pathologies of place—were the only issue.

My concern is less the accuracy of either of these versions than it is the implications to which they lend themselves in policy circles. Two proposals in particular I find troublesome. Both seem to me premised upon a principle of economy of social effort: resort to old institutions is less costly, in terms both of cultural reckoning and budgetary outlays, than would be serious and as yet untried attempts to grapple with the underlying issues of dispossession and resource scarcity that widespread homelessness raises.

The first is the recently initiated (October 1987) practice in New York City of forcibly removing street-dwellers found to be so "gravely disabled" that they are unable to care for themselves. In the first thirteen months of operation, over 300 persons were admitted to a special unit of a city hospital set up for this purpose. Over half were subsequently sent to a state hospital where most remain today. (The disposition of the others discharged is unclear, although it appears that for some number, families were located and agreed to receive them.) Recently, the advocates' worst fears about the absence of any long-term planning for permanent housing for these individuals were confirmed in a breathtaking announcement by the mayor, made over the objections of two of his commissioners, that manages to ignore both elementary axioms of community psychiatry and two decades of bitter experience. Discharge to the municipal shelter system will henceforth be considered an "appropriate" aftercare placement for psychiatric patients in municipal hospitals.\(^ {51}\)

Two objectives are thus accomplished. By fiat, a reclassification of the figure and meaning of homelessness is effected. From vagrants to patients: we now know what to do with such people, where to send them, what they need—at least up to the time of their discharge, when the warrant of their need again becomes ambiguous. We need not riddle the awful immediacy of their presence amidst us, nor invest it with any deeper resonances than those of mere pathology. We need not ponder what they had been offered, the grounds for their refusal of

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past assistance, or the strange logic that may be discerned in
the art of their necessities.

The second achievement merely extends the first: we need
not inquire—because the issue is never seriously broached—
into the specifics of long-term provision for their subsistence.
It is enough, apparently, that the semblance of competent care
has been initiated and the rough theatre of their misery
brought to an end. In the event our memories fail us, eighteen
months later, when we are informed that it was not their home-
lessness (or, indeed, their hypothesized underlying disorder)
that was the object of the intervention: shelter residents are,
after all, still homeless. It was rather their visibility.

Thus, the shelter, now recast as a quasi-therapeutic institu-
tion, is made to reenact not only the legacy of the almshouse
but that of the asylum as well. And, like that nineteenth cen-
tury institution, it remains, "a convenient way of getting rid of
inconvenient people." 52

The second proposal, to my mind, is a bit trickier, building
as it does on solid evidence of the support networks of the
urban poor. It has been made most clearly (and, I hasten to
add, constructively) by Peter Rossi. 53 The suggestion is to sub-
sidize the spontaneous support of kin by establishing a categor-
ical assistance program—Aid to Families with Dependent
Adults. Leave aside for the moment the administrative
nightmare such a program would present; 54 I want to concen-
trate on the principle of reform it embodies.

As a provisional measure, such an interim proposal has
merit, recognizing as it does the sheer scale of housing devel-
opment needed to close the gap between need and supply and
the time that will take. The difficulty, of course, is that transi-
tional demands have a way of settling into established prece-
dents. It is that prospect of institutionalizing dependency for
"redundant" adults that I find troubling.

The problem is that the proposal takes dependency as a
given rather than as a contingent status. Arguably, the whole
point of a public assistance program (or a social insurance pro-
gram, as the European versions are known) is to introduce a
buffer into the interface between worker household and labor
market. Such programs are premised on a recognition, long in

52. A. Scull, supra note 34, at 33.
54. Think only of the difficulties of establishing ongoing residence, of
apportioning payment to family and supported member(s), of setting
appropriate eligibility criteria.
coming and contested in application, that unemployment is not primarily a function of individual character but of market forces operating according to their own logic. This logic is indifferent to the demands on or consequences for the laboring men and women subject to its sway. Confusions about the causal arrow in this dynamic have, of course, been the stuff of vigorous debate for centuries. To take but one instance, throughout the nineteenth and well into the twentieth century, "vagrancy" was thought to be the cause of unemployment, rather than the other way around.55

My point is the obvious one: once we accept that failure to procure a job—even in a labor market as hostile to the skills and capacities of many minority youth as ours is today—is equivalent to the surrender of the adult claim to independence, we will have ceded significant territory in the ground won by the welfare state in the last fifty years. We can, to my mind, ill-afford such a concession today, at a time when the mills of impoverishment grind ever more unerringly in the minority households of urban areas.

As a stopgap—an emergency, voluntary measure of limited duration—I can see the point to such a program. But as a long-term measure, it seems to me misguided and defeatist. Far more productive, I would argue, would be to open debate on the issue of "General Relief"—at present, a state funded and administered program of shamefully low benefit levels and minuscule coverage. That at least would build on the precarious achievements of past struggles to wrest the prospect of livelihood away from sheer market determination.

These are parlous times for the poor. Formally to assign responsibility for the provisioning of adult citizens to the uncertain scaffolding of custom and kinship is to redirect a demand that ought properly be made of government. That such a proposal seems, on the face of it, so prudent and well-grounded is, I would suggest, a measure of the ground we have lost in the last eight years.
