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Social Obligations Towards the Homeless

by

Brad Stewart

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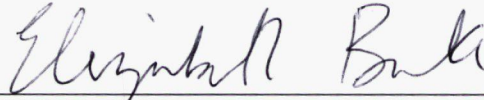
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UNIVERSITY OF CALGARY
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The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies for acceptance, a thesis entitled "Social Obligations Towards the Homeless" submitted by Brad Stewart in partial fulfillment of the requirements for the degree of Master of Arts.



Brenda Baker, Department of Philosophy



Elizabeth Brake, Department of Philosophy



Pamela Miller, Faculty of Social Work

August 1, 2002
Date

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DEDICATION

To Magdalena with love.

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Chapter 1: Introduction, Preliminary Notes

I. Introduction

Being homeless is a bad predicament for many reasons. There are obvious pains that homeless people face as well as not so obvious harms. Chapter 2 outlines some of the many difficulties, challenges, pains and harms that homeless people face, as well as some of the difficulties, challenges and pains that are pretty much exclusive to homeless people. Some theories of what a minimally satisfactory life consists in as well as what may be needed for a full, satisfying life are briefly explored, and the difficulties homeless people face in meeting these requirements are also discussed. This chapter deals with the specific challenges, difficulties and deprivations that homeless people face. It is the starting point for the rest of the thesis, which concentrates on duties that arise because of these harms.

Chapter 3 explores the problem of what is owed -morally speaking- to the homeless. It is argued that there are some pressing positive duties, both generally and in regards to the homeless, and there is also a duty of rescue. This duty is shown to be distinct from other duties such as the duty to save an individual. Appropriate distinctions will be made between these related duties, especially concerning the relative onerousness of fulfilling such duties. It is shown that some traditional objections to the duty to rescue are based on misappropriating such duties under principles of beneficence. A harm based approach (which is the approach of this thesis) will accept a duty to rescue, and will also accept other potentially more controversial duties, which are discussed in chapter 4. Such

an approach concerns itself primarily with the minimization and reduction of harms rather than focussing on elevating the wellbeing of individuals to a certain level.

Chapter 4 argues that the homeless have a right to subsistence and that the duty to save is entailed by this right in a specific way, even though this duty is one that can be more onerous than the duty to rescue. First though, it is important to have some conception of what accepting a right entails in theory and in practice. The works of Henry Shue and Jeremy Waldron are presented, providing a starting point for a preliminary discussion of rights. Then, a guide provided by Shue as to what relative priority we should place on respecting basic needs and the right to subsistence is offered. Some common objections to the adoption of social programs for the homeless based on the acceptance of the aforementioned rights are outlined, and a response is offered.

Proving that the homeless have a right to subsistence does little on its own towards improving the lot of the homeless. Given this concern, the final chapter attempts to take the problems, concerns and arguments from the previous chapters and provide practical solutions to helping the homeless. The question of how the right to subsistence can be honoured is taken up very briefly in this final chapter and some general guidelines are offered regarding types of social assistance that homeless people will need.

II. What is Homelessness?

One preliminary question should be answered before continuing. That is, what - for the purposes of an ethics thesis- is homelessness? As with many categories to describe large populations of people, homelessness is a deceptive concept. Being homeless is

somewhat related to having no shelter, but to what extent? Some homeless people have more consistent shelter than others whom we would not consider homeless. Though having no house or lacking shelter might be an important determining factor towards being homeless, it is not the only factor we will cite when determining whether or not someone is homeless. Homelessness is primarily about *disenfranchisement* in a specific sense related to not having adequate or consistent shelter. The stories behind homeless people's lives are often ones of loss, disempowerment, bad luck, and so on. Though a lack of consistent shelter is something that many homeless people have in common, homelessness is a situation that we will not exhaustively describe in terms of how much or how little shelter is available to someone. There are many morally worrisome aspects of homelessness and many commonalities amongst homeless people aside from lacking consistent shelter: why a homeless person lacks shelter, their day to day difficulties related to these facts, the social stigma of being homeless, the lack of freedom that having no shelter entails, being misunderstood by society, living on the street in constant fear, the lengths one must go to in order to get temporary respite from the elements, the difficulties of providing oneself with nutrition, discomfort, disease, and the list goes on.

The focus of this thesis has much more to do with “what it is like to be homeless” than with “what ‘homelessness’ entails”. In chapter 2 for instance, a clinical description of frostbite is offered. Further to this though is the important question of what it is like to have frostbite along with a host of other medical conditions related to being exposed to the elements. Once we have some understanding of this, we can imagine what this would

be like while being shunned by every passer-by, and fearing a mugging. As we will see, the difficulties and deprivations that homeless people face act in concert to create a very bad situation. We might choose to call this a “phenomenological,” “humanistic” or a “holistic” account of homelessness. Whatever we decide to call it, it is an approach that attempts to paint a picture of homelessness that is guided by moral worries. To understand suffering, one cannot simply know the definition of the word. Likewise, to comprehend the suffering that homeless people face, one cannot simply rely on basic definitions and accepted every day language use. So, the aim of this thesis is to develop a conception of homelessness that goes beyond simple definitions and lists of symptoms. The moral obligations, and the rights that are eventually argued for regarding homeless people fall out of this type of understanding.

Even if we came up with a very rigid, accurate definition of homelessness, this would not be entirely useful for the purposes of this thesis. We will be concentrating on certain morally relevant aspects of homelessness such as the harms that homeless people face and what ought to be done, if anything, to alleviate these harms. Someone who leaves their home to pursue a nomadic, yet comfortable and secure lifestyle will not be treated by the questions and concerns of this thesis. Likewise, someone who does have consistent shelter (say in a homeless shelter, or by exchanging her body for shelter) will be very much of a concern. The question is not really whether someone is genuinely “homeless” or not. The relevant concerns are the various harms, difficulties, deprivations that most homeless people face, in the past, present and future. So, the question as to

whether someone is homeless is relevant to the extent that their homelessness brings about an unacceptable level of pain, deprivation, harm, difficulty, and so on. The question of what ought to be done in light of these situations is also of key concern.

As we will see, many of the difficulties described in this thesis are applicable to many other groups of people (the severely poor, housed population for instance). By not including these people in discussions about the harms that befall homeless people I do not want to imply that our obligations are not just as strong toward them as they are towards homeless people, given that they also fulfil the relevant criteria. The homeless obviously do not have some sort of monopoly on suffering and deprivation.

What will become clear about homelessness is that it is a social condition that should be a concern for specific reasons related to a lack of permanent and consistent shelter. There are specific harms, deprivations, challenges and difficulties that are pretty much exclusive to even the most healthy, able-bodied homeless person. Of course there are problems that arise from any situation. Being a homeowner, for instance, brings about specific challenges and pains. However, what will be seen is that the pains, difficulties and deprivations that homeless people suffer are a serious, *moral* concern. The homeless suffer *to a degree* that is unacceptable. The combination of difficulties, deprivations and the particularly vulnerable status of homeless people is a uniquely bad set of circumstances. The pervasiveness of the pains and difficulties are also a concern. As we will see, the homeless get little respite from their especially difficult situation. For these reasons, amongst others, it is argued that homelessness is something that ought to concern

us.

Homelessness as well is often symptomatic of deeper problems. The background histories of many homeless people are often very grave. Stories of abuse, tragedy and mental illness abound with homeless people. This is relevant to the present discussion because quite often homeless people are unable to get themselves out of their present situation and were unable to avoid their present plight. In other words, these are often people who really need help. They will continue to suffer unless some effective action is taken by someone else. The plight of the individual homeless person is often not ameliorated by even the best and most well intended efforts to improve her situation. Simply telling a homeless person what they ought to do in order to get out of their situation or avoid the situation in the first place will often not do. The histories of these individuals generally points to a genuine need for assistance from others. This is relevant to the discussions that follow because if homelessness were something that could be changed by individual efforts there would certainly be fewer -if any- obligations to aid homeless people. As we will see, the degree of helplessness and disenfranchisement that homeless people face is one reason that there are obligations to provide assistance. Since the miseries of homelessness are something that -in actual fact- are often not solvable by the individual homeless person, there is a pressing need for society to step in.

Finally, the avoidable aspects of homelessness are of particular concern to this thesis. Many of the difficulties and deprivations that homeless people face could be easily avoided with changes in attitudes and social systems, especially in an affluent society

such as ours.¹ Because of space constraints many of these changes will not be expounded upon in great detail. I hope however that some of the conclusions of this thesis will provide the groundwork for taking these problems very seriously and putting creative energy into their solution.

¹The specific focus of this thesis is on the North American homeless population. There will be similarities between this and other populations of homeless people in the world. However, the prescriptions and conclusions of this thesis are most applicable to the North American situation.

Chapter 2: Difficulties and Deprivations

Imagine a life without choices. Every time we enter a coffee shop we have a multitude of pleasurable choices to make: cappuccino, espresso, or regular coffee; skim milk, two per cent, or whole milk; a muffin or biscotti? Life on the street is often a life without choices. You take the food that's served, the clothes that are donated and hope the shoes fit.

Susan Scott and Mike Sturk, No Fixed Address: Tales From the Street

I. Introduction

Being homeless is a bad predicament for many reasons. There are obvious pains that homeless people face as well as not so obvious harms. In this chapter I will outline some of the many difficulties, challenges, pains and harms that homeless people face, as well as some of the difficulties, challenges and pains that are pretty much exclusive to homeless people. Some theories of what a minimally satisfactory human life consists in will be briefly outlined, and the difficulties homeless people face in meeting these requirements will be discussed.

The challenges homeless people face stem from a list of pressures related to not having a dwelling. Some of these are social prejudice and stigma; the social environment of the street; health problems, including death and the threat of death because of these problems; emotional factors, including mental stress and anxiety; lack of freedom and lack of empowerment. This chapter deals with the specific challenges, difficulties and

deprivations that homeless people face. Much more can be said about any of these specific conditions, but because of space constraints I will only offer a brief survey of some of the more poignant and striking problems. I hope by the end that the reader is offered a glimpse of the most serious problems that homeless people face.

Special Difficulties in Being Homeless

II. Personal Security

Homeless people lack personal security. Living on the street can be very dangerous. The homeless are subject to street violence with very limited protection and resources. Panhandling, and living one's life on the street as someone who is visibly vulnerable poses serious problems for personal security and also for one's peace of mind. A number of studies have found that homeless women experience higher rates of sexual and physical victimization than their housed counterparts.¹ Street youth have been found to have greater exposure to violence and forced sex than youth from foster homes.² Homeless people are subject to extortion with the threat of violence. A former homeless man named Fred Robertson refers to a form of taxation that many on the street are subject to: "Gimme all your money or I'll beat the s**t out of you!"³ A recent documentary on self-defence featured a man who was a karate instructor who had grown up in the Bronx. He claimed that those who appear most vulnerable or unaware are usually the exclusive

¹Suzanne L. Wenzel, et. al. "Antecedents of Physical and Sexual Victimization Among Homeless Women: A Comparison to Homeless Men" American Journal of Community Psychology 28, no. 3 (June 2000): 368.

²Jo Ensign and John Santelli, "Shelter-based Homeless Youth: Health and Access to Care" Archives of Pediatrics and Adolescent Medicine 151, no. 8 (August 1997): 818.

³Fred Robertson, "Street Vet Responds to Globe and Mail's Take on Homelessness", Catholic New Times 24, no. 2 (6 February 2000).

victims of street crime. Criminals tend to avoid confronting those who seem to have more confidence and defence resources.

One model used to describe an individual's susceptibility to victimization places homeless people -particularly women- at very high risk. The structural-choice model divides risk factors into two categories: "structural," referring to such macro features as an individual's environment and proximity to crime, and "choice," referring to the features that would make someone a suitable candidate for criminal victimization.⁴ Homeless people are in a very high risk category because they often live in high crime areas with very few defence resources, and they are easy targets who often carry all of their belongings (including cash) on them.⁵ Their visible vulnerability also makes them relatively attractive targets. For many homeless the possibility of extortion, violence, rape, robbery and even murder is a very real, day to day worry.

In his volume Street Lives: An Oral History of Homeless Americans, Steven Vanderstaay recounts some of the more dramatic fates of homeless people he's encountered: "...people who die ignominious deaths in trash compactors, who freeze outside the doors of hospitals, and who have been burned alive while sleeping on park benches."⁶ Such fates are no different than the horrible random tragedies that befall the lives of any group of human beings. However, for homeless people, these tragedies are a constitutive part of everyday life. There is very real physical risk that comes with

⁴Wenzel, 368.

⁵Wenzel, 369. A person's suitability for victimization is called "target attractiveness" in the article.

⁶Steven VanderStaay, Street Lives: An Oral History of Homeless Americans (Philadelphia: New Society Publishers, 1992), 4.

spending a lot of time on the street and having no permanent shelter and few defence resources to protect oneself from the elements or from other people.

There are many headlines recounting violent acts towards the homeless. Every few months a newspaper article will surface that speaks of someone, like Adrian Filmore in Toronto, whose throat was slit in a Toronto bus shelter.⁷ By spending so much time on the streets, homeless people dramatically increase their odds of becoming victims of random violence. Since Filmore had virtually no social network, there were no witnesses and by the time his body was discovered the criminal had long since disappeared.⁸ Since no one knew Filmore or his life history very well, the authorities were severely hampered in proceeding with a thorough or effective investigation.⁹ As with many homeless, his lack of sufficient defence resources and a stable social network contributed to his victimization by an opportunistic criminal.

III. Exposure to the Elements

Many homeless people depend upon shelters in order to avoid the cold. Aside from the fact that shelters themselves can often be dangerous places, homeless people must live with the knowledge that they may return to a shelter only to be turned away because of over-crowding and lack of resources. In Northern climates, this is especially dangerous.

⁷Canadian Press, December 2000. (This was a newspaper clipping with no other bibliographic information available).

⁸Canadian Press.

⁹Canadian Press.

In a recent interview, a well known homeless advocate named Jack Layton claimed that there are at least one hundred people who die on Canada's streets every year.¹⁰ In his book, Homelessness: The Making and Unmaking of a Crisis, he states that in the twelve months before April 2000, 10 homeless Calgarians died from exposure.¹¹ In an affluent city such as Calgary, many would think that this is a surprisingly high number of deaths from an avoidable cause. However, if estimates are correct that there is a one percent vacancy rate in Calgary homeless shelters and that there are about 3800 homeless in Calgary¹², a mere ten deaths in one year may be testament to the resourcefulness of homeless people. Given the harsh winters in Calgary, it is surprising to hear that so many homeless did manage to keep themselves out of the cold.

In an inquest into the deaths of three Toronto homeless men, Eugene Upper, Irwin Anderson, and Mirsalah-Aldin Kompani, the Coroner's jury determined that all three men died, avoidably, of exposure related circumstances.¹³ They proceed with recommendations (some of which are outlined in Chapter 5) towards preventing such deaths. They conclude from the investigation that "...there is a growing problem of meeting the needs of a portion of our population who may have similar situations and circumstances as the three gentlemen aforementioned."¹⁴

¹⁰Howard May, "Expert Sees Hope for Homeless", Calgary Herald, 13 January 2001.

¹¹Jack Layton, Homelessness: The Making and Unmaking of a Crisis (Penguin/McGill, 2001).

¹²Charles Mandel, "Homelessness Hits Close to Home" Calgary Herald, 13 January 2001.

¹³Office of the Chief Coroner, Inquest Into the Deaths of Eugene Upper, Irwin Anderson, and Mirsalah-Aldin Kompani: Verdict of Coroner's Jury, 30 July 1996.

¹⁴Office of the Chief Coroner.

IV. Health Problems

The number of homeless deaths due to exposure is only one relatively easily recordable statistic. Many other afflictions that affect the homeless do not make newspaper headlines or statistical reports. Though much is known about the conditions that affect homeless people (e.g. physical conditions such as frostbite, hypothermia, exposure, hunger, dehydration, infection, and psychological conditions such as loneliness, depression, and addiction), surprisingly little is written about the experience of these afflictions. A clearer picture of the homeless experience can be offered by understanding these afflictions and *how they combine* to create a desperate situation.

Frostbite is a serious affliction that often disables limbs, deadens nerves, destroys skin tissue, causes serious pain, and increases susceptibility to infection.¹⁵ There is little one can do to treat frostbite outside of a sterile medical environment. Once frostbite has affected an area of skin, the victim's susceptibility to infection increases dramatically. Touching or rubbing the affected area can cause serious tissue damage. This means that homeless people who are susceptible to frostbite because of their environment are also susceptible to its irreparable damage because of their lack of immediate access to prompt medical attention. A common consequence of such damage is amputation or loss of mobility due to nerve damage. For men this poses a special problem because the penis is a portion of skin that is highly prone to frostbite damage.¹⁶

¹⁵Peter Steele, Medical Handbook for Mountaineers (London: Constable and Company, 1988), 211.

¹⁶ Steele, 211.

Mild hypothermia can cause confusion, stiffness of the limbs and severe anxiety. If left untreated, severe hypothermia will develop, which usually leads to death.¹⁷ Since hypothermia is most common in cold or damp environments, many homeless people suffer in climates where people would not expect hypothermia to be common. For instance in 1996-1997 three people died from hypothermia in Georgia.¹⁸ The major risk factors for hypothermia include nutritional status, alcohol and drug intoxication, mental illness, starvation, poverty, dehydration, immobilizing illnesses, social isolation, and homelessness.¹⁹ These are all conditions that homeless people are prone to.

Hunger is painful and causes a sense of psychological unease and a feeling of helplessness. The term used in current literature to describe both the predicament of having an insufficient or inconsistent food source and the accompanying sense of insecurity is aptly called “food insecurity”²⁰. Aside from the painful experience of hunger, even when it is satiated malnutrition may still exist.²¹

Hunger and dehydration work together in devious ways. When the body loses fluids it also loses precious electrolytes (e.g. sodium, potassium, and chlorides). These are essential to cell regeneration. Even if one can regain lost fluids, one must also re-gain lost electrolytes.²² Without a proper diet or prompt medical attention, electrolytes cannot be re-gained, the immune system will deteriorate, and the victim will be more susceptible

¹⁷Steele, 205.

¹⁸R. Hanzlick, et. al. “Hypothermia Related Deaths- Georgia” The Journal of the American Medical Association 281, no. 2 (13 Jan 1999): 124.

¹⁹Hanzlick, 124.

²⁰Robert Greenburg, “The Painful Reality of Hunger” Archives of Pediatrics and Adolescent Medicine 152, no. 5 (May 1998): 423.

²¹UNICEF Report, “Malnutrition: Causes, Consequences, and Solutions” Nutrition Reviews 46, no. 4 (April 1998):115.

to infections. Those infections are very difficult to fight off if the individual is under hydrated, under rested or malnourished. Having experienced severe dehydration, a subsequent infection and near life-threatening fever I can attest to the fact that the consequences of dehydration are very dangerous, painful and immobilizing. However, I had the benefit of prompt medical attention and the resources (i.e. a warm bed, clean clothing, etc.) to get myself out of this predicament. Homeless people are at a disadvantage given that they are unprotected from the elements and often lack the resources to bring themselves back to health. The familiar saying “get lots of rest and drink plenty of fluids” is much easier said than done for people who have difficulty finding a bed from one night to another.

VI. Stress, Anxiety and Mental Illness

“You see, when they see you’re homeless the first thing they think is you’re sick. You are sick, you’re mentally sick, being homeless makes you that way. But you’re not as they think you are. I mean they could pull you off the streets –which they have done for a lot of people: pulled them off the streets and given em’ a job, and they’ve been on that job ever since, every day.” -Tanya, homeless 30 year old woman in Philadelphia.²³

There is much truth to Tanya’s observations. Many people have a tendency to write homeless people off as pretty much all mentally ill. Many people I talk to consider homelessness to be a symptom of some form of mental incapacitation. However, there is

²²Peter Stark, Last Breath: Cautionary Tales from the Limits of Human Endurance (New York: Ballantine Books, 2001), 288.

²³VanderStaay, 135.

some truth to people's general view. Homeless people are under a great degree of psychological stress. It would be a rare occurrence to meet a homeless person who is completely mentally and emotionally intact. Living on the street causes a great degree of stress and anxiety, maybe to the extent of contributing to a certain degree of mental instability. However, studies suggest that only about a third of homeless people are *chronically* mentally ill.²⁴

Though it is widely agreed that mental illness is prevalent amongst the homeless, its frequency relative to the general population is a point of contention amongst sociologists and other professionals. Like most demographic studies of the homeless, there is huge variance between experts' estimations as to what percentage of homeless people are mentally ill (estimates range from between twenty five and fifty percent regarding the percentage of homeless people in large American cities).²⁵ The variance in estimations is not only a product of the difficulties mentioned earlier about studying homeless people, but also "...sampling biases, failure to use standardized procedures, [and] lack of a consistent definition of 'mental illness'."²⁶ However, whether researchers agree or not on exact figures, there is general agreement that the percentage of mentally ill people in the homeless population exceeds that of the general population by an obvious margin.

²⁴Standard criteria for determining various forms of chronic mental illness can be found in the Diagnostic and Statistical Manual for Mental Disorders, Fourth Edition, (Washington: American Psychiatric Association, 1994).

²⁵Gonzalez, R.G., Gonzalez, F.J., and Fernandez-Aquirre, M.V. "Rehabilitation and Social Insertion of the Homeless Chronically Mentally Ill" International Journal of Psychosocial Rehabilitation 4, no. 4 (2000): 448.

²⁶Gonzalez, 449.

Some homeless people have fallen through the arguably wide cracks of public mental health care.²⁷ For others however, being without shelter while exposed to the elements causes enough anxiety to bring about symptoms of mental illness. In an interview, a former homeless woman, Anita Freeman, observes about herself and those around her that "...being under extreme chronic stress stretches most people to some form of breaking."²⁸ It's important to note that though there are massive psychological stressors for homeless people, it should not be concluded that they become ill in any chronic sense. As was stated earlier, there is a higher incidence of chronic mental disorders such as depression and schizophrenia among homeless people,²⁹ but this does not mean that homeless people are by any means made up of mostly *chronically* mentally ill individuals.

Being shunned by society has a profound effect on the human psyche. Frustration, sadness, anger, a sense of worthlessness, and in extreme cases depression and even symptoms akin to schizophrenia are all reactions a person may have to being ignored and shunned.³⁰ A veteran writer and adventurer named Jon Waterman claimed that his greatest challenge in travelling alone via sea-kayak and touring skis for the 1,023 mile solo traverse of the Northwest passage along the Arctic Coast was the profound loneliness. Though he regularly encountered grizzly bears and other life threatening obstacles, the lack of human companionship he endured was enough to make him think it

²⁷Canada's dismantled mental health system is recounted in Barbara Murphy, On the Street: How We Created the Homeless (Barbara Murphy, 2000).

²⁸Microsoft Internet Explorer, "Society and Politics: Life on the Streets: On the Brink of Insanity", <http://societypolitics.chickclick.com/articles/1728p1.html>, 1 January 2002.

²⁹Gonzalez, 449.

³⁰Scott and VanderStaay recount these reactions in their interviews with homeless people.

quite normal to converse with animals.³¹ This is an individual who was well prepared for the isolation and rigours of arctic travel, but who nonetheless fell victim to the symptoms of prolonged loneliness.

Though the homeless may be surrounded at all times by people, they are rarely regarded by passers-by as candidates for good conversation. People tend to avoid them for many reasons, which I am sure we've all heard. The resulting condition is one of loneliness. Researchers have yet to determine exactly how loneliness damages well being, but strong evidence suggests that it has a direct effect on well being and that it does not need to be conjoined with other factors in order to be deleterious to an individual.³² Anecdotal evidence and current research suggests that loneliness on its own poses a special problem.

VII. Freedom, Public Opinion and Some Common Misperceptions

There are some misplaced or mistaken perceptions of homelessness. Even though it may be obvious to most that homelessness is a plight that anyone would want to avoid, there are still skeptics who believe that homeless people experience a level of freedom that many do not enjoy. An excerpt from a recent article expounds on John Stackhouse's recent observations regarding alleged levels of freedom that many homeless people are privy to: "...homelessness, for many, is an occupation, a way to exploit a deep well of public sympathy and ignorance, and a way of liberating oneself from the stress, effort and

³¹Kimberley Lisagor, "Yes, I do Speak Snow Goose", *Outside Magazine*, January 1999, 34.

³²P.M. Murphy and G.A. Kupshik, *Loneliness, Stress and Well-Being: A Helper's Guide* (New York: Routledge, 1992): 65-66.

sacrifice required by work and family life.”³³ Though Stackhouse does not state his position this explicitly, he does imply in his writing that homelessness is not as bad in actual fact as it is usually perceived to be.

Life on the street is not as bad as people might think according to our critic. It is a relatively free life, devoid of many responsibilities of civil society. No bills to pay, accountable to no one but themselves, the homeless person can be seen in some ways as better off than the average person. Citing their use of cell phones, access to free meals, and the fact that they are living a life on other’s handouts in a relatively wealthy society, we can add that the predicament of homeless people in North America does not hold a candle to the pain and suffering of people in impoverished countries like India. It is not as bad for them as we might think, and certainly not as bad as it could be.³⁴

In response to this, it should be understood that certain freedoms that homeless people *apparently* have really do *not* exist. Some critics claim that the homeless are free from certain societal constraints. There is no social pressure for them to maintain a minimal level of hygiene, be well-kept, even act appropriately for various social situations. However, contrary to such beliefs, these constraints can be more pronounced for the homeless. Since people on the street make their livings in the public eye, and since they do not have the same privacy amenities as those who are housed, they are subject to public view, and subsequently to public perception and scrutiny. They are the subject of countless newspaper articles: some charitable, some scathing, some accurate, some not so

³³Paul Bunner, “How to Beg for \$750 million: The Friends of the Homeless Panhandle Ottawa for a Mega-Handout They Probably Don’t Need” Report Newsmagazine (Alberta Edition) 26, no. 47 (7 February 2000): 42.

³⁴John Stackhouse (Globe and Mail, Dec. 19-22, 1999) makes such claims.

accurate. They are constantly being judged as a general class of people. The individual homeless person is affected very much by the public opinion of homeless people in general. They are victims of others judgements, whether well informed and truly applicable, or not.

This is a concern because the well being of the homeless is highly dependent upon societal judgements and perceptions. Given their lack of important resources, the homeless are impeded in ways that others are not in trying to meet basic needs. In order to meet these needs the homeless are often directly dependent on the good will of passers-by.

Some writing by Jeremy Waldron and a personal experience with a homeless man one January evening help to illustrate the above points. Jeremy Waldron claims that “everything that is done needs to be done somewhere”.³⁵ The homeless have no consistent place to perform some very basic tasks, which are conducive to fulfilling their needs. There is no (or at least very few) place(s) sanctioned by society’s rules where homeless people can perform some very basic human tasks.³⁶ Homeless people’s freedom of place is severely limited by state-sanctioned rules of property and the enforcement of those rules.³⁷ So, because of society’s property arrangements, not only do homeless people find themselves without any publicly sanctioned place, but they are also driven from places where they seek to fulfil the needs that are not (and cannot be) satisfied

³⁵Jeremy Waldron, Liberal Rights: Collected Papers, 1981-1991 (New York: Cambridge University Press, 1993), 310.

³⁶Waldron, 313.

³⁷Waldron, 311.

elsewhere. In Waldron's words: "In short, the police may be called and he may be dragged away."³⁸ The following personal experience poignantly illustrates his point. A homeless man named Darcy who shined shoes for a living once stopped me on the street to explain his predicament. The source of his livelihood (his shoe shine box, polish, rags, etc.) was laid out on the street and he desperately needed to relieve himself. By packing up his elaborate set-up he would lose precious time during the week's busiest hour (Saturday night after the bars close). I suggested that he run to the bush across the street while I watch his stuff. He agreed, and returned thankfully. I was disturbed that such a simple act should be thanked so enthusiastically. Given his incredible discomfort, it was little to ask that I simply stand around for a few seconds. I got the sense that he was not accustomed to being treated so well. We have all been stuck in a situation where we needed to empty our bladders, but have not had the facilities nearby. What makes this situation so poignant was that to engage in this most basic and private of acts, Darcy had to engage in a social interaction with a stranger. Aside from the fact that this would be a great annoyance every time he needed to relieve himself, there is also the fact that he had to put himself in a situation where he was subservient to another person and their good will for a very basic task. Essentially, he was hopping up and down in extreme discomfort asking me for permission to urinate. His basic needs were met because of his successful social interaction. In order to use a restaurant's facilities he would likely have to go through a song and dance as well. Shaving of course would be more messy and complicated, and showering would be entirely dependent on charitably run facilities. Even the most basic aspects of Darcy's life are dependent upon successful social

³⁸Waldron, 311.

interchanges. There are few moments in his life where he can stand around without worrying about how people perceive him. His privacy is next to non-existent, confined to the bathroom stalls in the downtown mall and the late night underside of a bridge (so long as another homeless person has not sought refuge there on that night). He is constantly in the public eye under high stakes supervision.

Due to the dependency on the good will of others, homeless are particularly vulnerable to social judgement, and such judgements are often biased against them. These judgements and perceptions dictate the lives of homeless people in very important ways. As we know, many homeless people also depend upon the direct financial support of strangers. This can be done through panhandling, busking (entertaining people in exchange for money), squeegeeing (washing the car windows of passing motorists), prostitution (this is often used in exchange for shelter as well as for money)³⁹, and various other forms of solicitation -both legal and illegal. If public perception is extremely bad, fewer people will give their spare change to people of the street. Various factors will effect public perception, but as we will see, the homeless are often between a rock and a hard place in changing public perception in their favour.

The homeless are stuck in a Catch-22 in regards to gaining public support. When a homeless person is dressed in rags, smelling of car exhaust, cigarettes and body odour, I've heard people say that they ought to make themselves look more presentable in order to facilitate greater success at their panhandling: "If they cleaned themselves up, perhaps someone would even hire them!" You would think that dressing presentably would

³⁹In Scott's introduction to No Fixed Address it is noted that one of the difficulties in counting homeless women on any particular night is because they often exchange their bodies for temporary shelter.

heighten public opinion of the homeless person. Not so. In Frank McCourt's autobiographical novel, Angela's Ashes, a ludicrously poor woman pleading to the government for social assistance was chastised for having a less than ragged looking jacket. If she can afford to dress like that, then obviously she doesn't need other people's help! My friends came back from a trip to Mexico talking about the incredible number of people who were begging on the streets. They warned me that appearances are deceiving and that these people are actually quite well off: "One of the mothers was wearing a fur," they exclaimed. They declined to support this woman and her child because they felt she was deceitfully taking advantage of people's generosity. By attempting to dress in a dignified manner, this homeless woman decreased her chances of gaining support.

The economic climate of a locale seems to have very little effect on people's treatment of homeless individuals. In talking to people about homelessness, I have realized that economic factors work against the homeless no matter what. If times are tough, people are less willing and less able to spare change as they walk down the street. In addition, in times of extreme economic hardship, people may get extremely annoyed at even being asked to give up money. However, you would think that good economic times would bring a better attitude. This is not so from what I gather when talking to people in one of the most affluent cities in Canada -Calgary, Alberta. The attitude that I've heard expressed many times is that in such a great economy you are just lazy if you don't get up and get a job. The attitude that accompanies such a mind-set is disdain for all those people that line the streets who are "perfectly capable" of getting themselves some work. So, regardless of the economic climate, the homeless find themselves a target of public

scrutiny. Although these perceptions may not be totally unjustified it does hold that the homeless person's freedom from public scrutiny is next to non-existent.

Homeless people are often unwelcome in urban areas of extreme affluence. The police are quick to respond to the homeless person who panhandles outside the exclusive restaurant. The "important phone numbers list" handed to employees at a posh restaurant where I recently worked included the numbers of local cab companies, hotels, managers and fellow employees. Further to this was a number for "panhandler problems". If homeless people were seen outside of the restaurant (on a public street), employees were instructed to have them removed so as not to upset patrons entering the restaurant. Many affluent people, it seems, have little tolerance for homeless people occupying what they perceive to be "their" space, even if the place in question is designated public.

Deprivations: Important Goods Not Enjoyed by the Homeless

VIII. Introduction

The predicament of homeless people as described so far is intrinsically negative. The pains and constraints on freedom that homeless people suffer are conditions we would all prefer to avoid. Aside from being just plain 'bad in themselves', these conditions are worrisome in a more general way, because some important needs are difficult, and sometimes impossible, to fulfill while living as a homeless person. Furthermore, a condition of general happiness is not possible for most homeless people. Aside from the direct harms associated with being homeless, there are also a number of pleasures and needs that do not come easily -if at all- for these people.

IX. Philosophical Accounts of Conditions Needed for Satisfying a Good Human Life

Martha Nussbaum outlines a number of factors that contribute to a good or fulfilling human life. She calls these “functional capabilities,” because we are required *to be able to* fulfill these tasks in appropriate situations in order to live a life that does not seriously lack in humanness.⁴⁰

Her list is as follows:

Being able to live to the end of a complete human life, as far as it is possible; not dying prematurely, or before one’s life is so reduced as to be not worth living.

Being able to have good health; to be adequately nourished; to have adequate shelter; having opportunities for sexual satisfaction; being able to move about from place to place.

Being able to avoid unnecessary and non-useful pain, and to have pleasurable experiences.

Being able to use the five senses; being able to imagine, to think and reason.

Being able to have attachments to things and persons outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, grieve, to feel longing and gratitude.

Being able to form a conception of the good and to engage in critical reflection about the planning of one’s own life.

Being able to live for and to others, to recognize and show concern for other human beings, to engage in various forms of familial and social interaction.

Being able to live with concern for and in relation to animals, plants, and the world of nature.

Being able to laugh, to play, and to enjoy recreational activities.

Being able to live one’s own life and nobody else’s.

Being able to live one's own life in one's very own surroundings and context.⁴¹

Note that Nussbaum's list does not entail that we actually do any of these things per se. It is a list of the kinds of activities (and the conditions under which these activities are possible) that we need to be able to do. She is not claiming (as in 9) that we actually laugh, play and enjoy recreational activities all the time. The claim is that we need to have the freedom and ability to laugh in those instances where it is conducive to the furthering of our happiness. On the other hand, she is not claiming that we only have the unrealized potential to perform these tasks. Hence why she calls them "functional capabilities". At every moment we need to have the potential to do these things, and at certain moments we need to actually do them. The consequence of missing out on these important activities is that our life will lack the simple pleasures and comforts that are conducive to a very basic level of human well being.

Homeless people lack many of these capabilities. It would be foolish to say that all homeless people lose the ability to laugh freely when the time is appropriate. However, it is fair to say that even such a basic thing as laughter may not come easily. As we have seen with some of the homeless people discussed earlier, the *constant* stress of living on the street does not leave much, if any, room for the light-heartedness that is prerequisite for a good laugh. Likewise, homeless people do not absolutely lack the ability to nourish themselves (a homeless man to whom I recently gave a slice of pizza

⁴⁰Martha Nussbaum, "Aristotelian Social Democracy," in Liberalism and the Good, ed. R. Bruce Douglass, Gerald M. Mara and Henry S. Richardson (New York: Routledge, 1990), 225.

⁴¹Nussbaum, 225.

displayed an incredible ability to eat voraciously). However, in order to be fed adequately and to quell one's appetite homeless people often have to go to great lengths.

As Nussbaum points out, some of the items on the list are interdependent. For instance, humans must have some degree of mobility to become nourished (unlike sponges).⁴² Hence, the more one's mobility is impaired, the more difficult it is to nourish oneself. Homeless people therefore are deprived of various goods both directly and indirectly. Their lack of economic freedom contributes to barriers in mobility, and hence nourishment and so forth. This becomes a vicious circle, because some needs and goods are symmetrically interdependent. For instance, being mobile also requires a degree of nourishment (try walking across a city on an empty stomach). So, a lack of freedom of mobility can in turn contribute to an even greater reduction in that freedom.

Space constraints do not allow for a detailed discussion of every single way homeless people are limited in meeting the capabilities outlined by Nussbaum. Since many of the capabilities on Nussbaum's list are dependent upon free time, freedom of mobility, having a place of one's own, and a consistent social sphere, it can be seen how the homeless are seriously disadvantaged in developing and achieving the conditions for these capabilities.

Even more grave than the worry that homeless people are prevented from fulfilling the conditions for Nussbaum's functional capabilities is that homeless people are seriously disadvantaged when it comes to meeting very basic human needs. These are not simply preferences and ideal capabilities that together will be cause for a basic level of happiness, so much as the foundations for life itself. If someone's basic needs are not

met, it is not only a sign that they cannot achieve happiness, but that they are living a life of serious, often fatal, deprivation. Some philosophers, like Henry Shue, argue that the fulfillment of certain basic needs is prerequisite for the enjoyment of every other right. Shue's views are explored thoroughly in Chapter 4 in a discussion of subsistence rights. So, for now we will set his specific arguments aside.

Similar to Shue's "Basic Needs" is what David Braybrooke calls "The List of Matters of Need".⁴³ These are broken down into two sub groups: those that are related to physical functioning and those that are related to functioning as a social being.

The "Physical List" includes the following:

- 1) The need to have a life supporting relationship to the environment.
- 2) The need for food and water.
- 3) The need to excrete .
- 4) The need for exercise.
- 5) The need for periodic rest, including sleep.
- 6) The need (beyond what is covered under the preceding needs) for whatever is indispensable to preserving the body intact in important respects.

The "Social List" includes the following:

- 1) The need for companionship.
- 2) The need for education.
- 3) The need for social acceptance and recognition.
- 4) The need for sexual activity.
- 5) The need to be free from harassment, including not being continually frightened.
- 6) The need for recreation.⁴⁴

⁴²Nussbaum, 225.

⁴³David Braybrooke, Meeting Needs (New Jersey: Princeton University Press, 1987), 36.

Some of these needs and capabilities are controversial and require argument. The need for sexual activity for instance will only apply to certain segments of the population (infants for instance would be excluded), and some would argue that certain individuals have no need whatsoever for such a thing, or at least that the need is very weak. The general problem of distinguishing between genuine needs and mere desires is one that these philosophers are well aware of, and that we cannot discuss here.

The major difference between these two lists is a matter of degree. Nussbaum's list includes many factors that are prerequisite to a very basic level of human existence, but she does not stop there. Her list is a robust account of what is needed to make a human life worthwhile. Braybrooke's list serves a different purpose. He sticks to more basic factors that are requisite for human existence itself. Nussbaum would argue that a life that only contained the elements in the "List of Matters of Needs" would be a life that was rather deprived. A life that contained all of Nussbaum's functional capabilities on the other hand would probably be fulfilling. If someone were to not live up to all Nussbaum's standards we should not be as concerned as we ought to be if someone were to not live up to the 'bare bones' standards set out by Braybrooke. In the first case, one's life would be less than ideal, in the second case one's life might be in serious jeopardy.

Similar to Nussbaum's functional capabilities, the needs outlined by Braybrooke are somewhat interdependent. The need for food and water can only be fulfilled if the need to have a life supporting relationship to the environment is fulfilled, and vice versa. The physical list outlines needs that are crucial to survival. If any of the physical needs are not met, a person will inevitably perish. The only need that may not be required for

⁴⁴Braybrooke, 36.

survival is the need to exercise. People on life support for instance are technically alive, without need for any exercise whatsoever. However, this one detail need not concern us, because a lack of exercise is not something homeless people are especially susceptible to.

Unlike some functional capabilities (e.g. being able to live in relation to animals, etc.) needs are much more foundationally important. Though functional capabilities are a very basic part of human life, needs –especially the physical ones listed above- are even more basic. Human life itself is unsustainable without all of the physical needs being met. Deprivations of functional capabilities diminish the quality of one's life, whereas absolute deprivation of any one physical need destroys all possibility of any quality of life. Absolute deprivations of needs are the most serious, foundational deprivations that a human can possibly suffer.

We should exercise some caution when getting into the business of prioritizing specific needs. Just because a need is more foundational in one sense does not mean that it must be *absolutely* fulfilled before all other needs. Humans can manage quite well with having certain important needs only going partially fulfilled. An individual can have her nutritional needs not entirely fulfilled while having met all her other needs, and be better off than if her nutritional needs were perfectly fulfilled and her other needs remained unmet. A person's plight is not ameliorated in any substantial way if they are given more food when they are suffering primarily from loneliness or depression. So, though there is some value to realizing which needs are the most foundational for specific purposes, that should not be our only concern.

When extravagant, seemingly less important needs go unfulfilled, a devastating spiral effect can ensue, contributing towards obviously foundational needs being neglected. If depression goes untreated for instance, dire economic consequences may arise. An excerpt from Susan Scott's No Fixed Address illustrates this point. This is a brief excerpt from the story of Mercel Laboucane, a resident of the Calgary Drop-In Centre:

Six months after his wife died, Mercel Laboucane rose early one morning, went to the corner store, bought the paper, made breakfast for two, and was halfway up the stairs, tray in hand, before he realized Elizabeth Lynn wasn't waiting for him in bed.

"I sat down and cried for the first time. It's strange how the mind plays with you," he says, wiping a few tears from his eyes five years after he buried his childhood sweetheart.⁴⁵

Mercel's understandable grief led to a degree of depression and eventually alcoholism which turned his life upside down. Because of his emotional difficulties, he made decisions that eventually landed him on the street. His need for companionship (a need that some may argue is a mere desire) eventually led to the neglect of some foundational needs (his need for shelter and economic security).

The interdependence of needs and functional capabilities raises some serious concerns in relation to homelessness. One factor such as a lack of shelter can have an immense effect on other areas of well being. Other seemingly unimportant needs going

unmet can yield bad, unpredictable results. This will have a negative effect on one's ability to lead an optimal human life, and in the worse case scenario on the ability to live at all. Since homeless people suffer from a myriad of unmet needs and functional capabilities, this should be a concern not only because of the present effect, but also because of the potential consequences down the road.

X. Conclusions

The predicament of homeless people should be a deep concern. An appropriate initial reaction to the stories, statistics and anecdotes presented in this chapter is one of worry. Upon further reflection we can see that homelessness is something that should concern us at a deeper level than simply that it looks and sounds like a really awful situation. The deeper problem is that freedom, well-being, and the fulfillment of some very basic needs are unacceptably out of reach for the average person on the street. Homelessness raises some real moral concerns. This will be argued more elaborately in chapters 3 and 4.

I hope I have provided enough evidence to show that being homeless is a predicament that is sufficiently bad to raise some serious moral concerns. In the chapters to follow, I will build an argument that shows that there are particular types of moral obligations to remedy and prevent this serious problem. The following chapter will explore individual duties towards the homeless and the chapter after that will explore duties and the various types of social assistance that should be provided.

⁴⁵Scott, 75.

Chapter 3: Positive Duties and the Duty to Rescue

I. Introduction

Until now I have offered evidence that homelessness is a problem that warrants significant attention *of some sort*, that the hardships homeless people face in their day to day lives are severe, and that the persistently painful plight of homeless people is something that should concern us. From here, it seems only natural to ask what we owe the homeless. What duty does the average person have towards the homeless person? Is there a duty to aid the homeless, or are such actions supererogatory? The following chapters addresses these questions by examining common approaches to these problems.

The purpose of this chapter and this thesis is to show that there are some very good arguments for claims against one another in certain situations, particularly in relation to the homeless. A common justification for helping those who are vulnerable is a duty to rescue. This approach will be examined in this chapter as well as the general claim that it makes sense to speak of some positive rights in certain situations, and that they generate relatively stringent duties.

II. The “Demanding Too Much” Objection

There has to be some limit to the moral demands that we place on anyone. People should have some freedom to live their lives according to their wishes. When formulating a moral system we should keep this in mind. Otherwise, we risk creating a moral system that demands too much sacrifice from agents. Of course, any moral system makes

demands, but these should be kept in check so that they do not get in the way of people's well being.

If we are to argue that individuals owe something to one another (as is the case when we ascribe moral duties), we must be very careful to outline the specific circumstances where this is so. Sweeping generalizations are very difficult to justify in regards to making demands on agents. For instance, it will not suffice to say that people always have a duty to rescue. An agent's abilities, the danger that they might be exposing themselves to, and the sacrifice that they must make to perform a rescue should all be taken into account. It is much safer to stick to very specific, detailed circumstances in order to ascertain whether duties exist or not. A logical implication of a duty is that it demands something of those who have the duty. A duty is something one is morally required to respect even at the cost of some personal interest. If a demand is truly pressing (as moral demands are) then it should have weight over most other considerations.

In this paper, I intend to begin with situations that are very grave and where little or nothing is demanded of an agent. Even though positive duties *can* lead to very high demands, the focus from here will be on less demanding duties, where little effort or sacrifice is required of an agent. It will be shown how worries about demandingness are not relevant just to positive duties.

Differences and Similarities Between Positive and Negative Duties

III. Introduction

Positive duties are rejected by some critics who believe that accepting them entails high demands (in terms of either risk, sacrifice or action) on agents. These same critics hold that negative duties can be accepted rather easily. The general line of reasoning is that fulfilling positive duties takes some effort and therefore risks being too demanding, whereas negative duties can generally be fulfilled without any, or with very little, effort and are therefore less demanding on agents. In regards to homelessness, it would be argued by such critics that we have a duty to step over a homeless man if he is lying face down on the street, but that there is not a duty -properly speaking- to offer him aid or even check to see if he is breathing.

I will argue that positive duties can actually be very easy to fulfil and that negative duties -in some situations- risk being as demanding (both in terms of personal risk and sacrifice) as positive duties.

IV. Similarities Between Positive and Negative Duties

There is some expectation of behaviour by individuals that is entailed by any duty. Living up to these expectations can often be very easy. The duty of non-interference for instance is very easy to honour. Every day when I walk down a public street I can fulfil this duty with very little personal risk, sacrifice or action. Positive duties, on the other hand, require direct and specific actions. The duty of rescue, for instance, always requires some action of a particular sort from an agent.

Positive duties can sometimes be very easy to fulfil. Joel Feinberg offers examples of some failures to live up to the duty to aid in Great Britain, the U.S., Canada and Australia. These are excellent examples of positive duties that would require little sacrifice, risk or even action to fulfil. All these cases went through the court system and were left unpunished:

...malicious failures to warn a blind person of an open sewer hole, to lift the head of a sleeping drunk out of a puddle of water, to throw a rope from a bridge to a drowning swimmer, to rescue or even report the discovery of a small child wandering lost in the wood...¹

All of these failures to honour very easily discharged positive duties led to very bad consequences. Of all these situations, the blind man and the child in the woods are the most glaring examples of easily discharged positive duties going unfulfilled. In the case of the blind man, the onlooker needed to do nothing more than yell. Reporting a lost child in the woods would involve little effort as well, and it is arguable that simply holding the child by the hand or carrying the child to help would exhaust the hiker's minimum moral duty. Though some positive duties, if accepted unconditionally, *can be* very onerous, risky, or require great personal sacrifice to fulfil, some positive duties ask almost nothing of an agent in terms of risk, sacrifice or even action.

My position is that the significant differences between positive and negative duties are a matter of degree rather than kind. Fulfilling any duty, whether positive or

¹Joel Feinberg, "The Moral and Legal Responsibility of the Bad Samaritan" Criminal Justice Ethics (Winter/Spring, 1984): 57.

negative, involves some actual or potential limitation on one's freedom. The choices one has in going about one's business are limited by *all types* of duties. Duties exist in all social situations, and as such, one's freedom to do absolutely anything one wants at all times is morally limited. In situations where a duty arises because of someone else's right, whether the right is positive or negative, fulfilling these duties will involve some obvious limitation to one's freedom. As H.L.A. Hart argues, the characteristic function of those expressions "I have a right to...", "you have no right to...", "what right have you to...?", etc. is that they are all claims to interferences on freedoms.² Honouring duties that arise from such rights will involve some limitation to one's freedom, whether these duties be positive or negative. In the case of both negative and positive duties, there is some demand on an agent, either in terms of act or omission.³

The *degree* to which one's freedom is limited is a more accurate statement of the difference between a positive and negative duty. Discharging a negative duty usually involves abstaining from only a handful of harmful activities, whereas one's choices to do exactly as one wants are limited to a greater degree by positive duties. My negative duty to avoid harming a homeless person on the street will involve abstaining from a small number of actions (kicking him, yelling at him, etc.) and will leave open many options as to how I go about living my life. Discharging my positive duty to aid a homeless man who is lying face down in a puddle, on the other hand, will involve temporarily abstaining from a large number of activities (in other words, I am no longer free to do those things right this instant, e.g. getting groceries, continuing on my way to

²H.L.A. Hart, "Are There Any Natural Rights?" in Theories of Rights, ed. Jeremy Waldron (Toronto: Oxford University Press, 1984), 88.

work, etc.) and require a certain few actions (such as calling 911, checking to see if he is breathing, etc.). As we will see, depending on the situation, positive and negative duties -which differ from each other only by the degree- can sometimes entail equally high demands. Therefore, we must look at factors other than the type of duty in question in order to ascertain whether a duty is unreasonably demanding. This leaves open the possibility for an investigation into some positive duties that -when discharged- will ameliorate the plight of many homeless people.

V. The Demandingness of Positive and Negative Duties

Though positive duties risk making unreasonably high demands on agents, the same can be said of negative duties in some situations. The same factors (e.g. danger, potential loss, actual loss, risk, etc.) that make us wary of accepting some positive duties wholeheartedly exist equally for certain negative duties. For instance, it can be a lot to ask of someone to not interfere with others in a society where resources are extremely scarce. In a community setting where there is barely enough water and food to go around for everyone, it will require careful restrictions to one's dietary and other practices to avoid doing harm to others. There will be quite a number of things that one would have to avoid doing, and one's freedom would be therefore severely limited. In this case fulfilling certain negative duties would be more onerous (considering the amount of pain and self restraint one would be required to exercise) than fulfilling certain positive duties (like the duty of easy rescue).

³That is, positive duties demand that we act in a particular manner, and negative duties demand that we omit actions of a particular kind.

Since positive duties can sometimes demand very little and negative duties can sometimes be very demanding, we should not make the mistake of assuming that some positive duties should always be rejected or that some negative duties can always be accepted. This leaves open the possibility of carefully examining some important positive duties that are very relevant to helping the homeless and taking a preliminary step towards justifying solutions to the problems presented in chapter two.

The Duty to Rescue

VI. Duty to Rescue

There are clearly circumstances where failing to do what is expected of us is not acceptable. For instance, in contracts or promise-keeping, agents have created obligations for themselves (Shelly Kagan calls these “triggering acts”)⁴. We have an obligation to carry out acts we have promised or contracted to do, because we have so promised. Failure to do this is, in moral regards, unacceptable. Other acts, like helping a drowning person, are obligatory because of the problem they help solve, regardless of previous commitments, promises, contracts and special relationships. Some situations, especially ones that are very dire, warrant action. The badness of some situations and the potentially bad consequences of certain situations that can be ameliorated generate various types of duties, depending on the circumstances (e.g. duty to aid, duty to rescue, duty to save). As will be argued in a later section, the duty of rescue is a duty that stands out as minimally demanding. Fulfilling such a duty is generally not onerous, and requires little or no sacrifice from agents.

In heeding the worries that duties can be too demanding, the distinction is often made between the duty to rescue and the duty of easy rescue. The duty of *easy* rescue presents us with uncontroversial cases where there is little risk or loss to the potential rescuer. For the sake of consistency, the easy proviso could be added to every duty. Just as we can talk less controversially about a duty of easy rescue than a duty to rescue, our proviso could apply to any duty, including negative duties. *Any* duty entailing an act that is too difficult, risky, or that requires too much sacrifice to fulfil should be considered controversial –whether positive or negative. With this in mind, we can either add the easy proviso when referring to all types of duties, or omit the easy proviso when talking about the duty to rescue, given that this proviso applies to all duties and is not specially relevant in regards to the duty to rescue. For the sake of brevity I will employ the latter strategy, and leave out the easy proviso when speaking of all duties. This does not mean that the easy proviso is being ignored. On the contrary, the easy proviso should be heeded in every discussion of every duty, except in rare circumstances.⁵ As we will see also, rescue by its very nature is not as demanding as one might initially think. Discharging a duty to rescue will be less onerous than many other similar types of duties, and it is therefore not unreasonable to omit the ‘easy’ proviso in regards to rescue as we already do in regards to every other duty.

If I walk into a situation where a homeless man is helplessly lying face down in a shallow pool, I am obligated to perform a specific type of action. The graveness of the man’s present situation, the potentially fatal consequences of being left in that situation

⁴Shelly Kagan, Normative Ethics (Boulder: Westview, 1998), 169

and other factors⁶ generate a duty to aid for those who are in a position to help.⁷ The argument for such a duty would conclude that I had a duty to at least ascertain the man's plight: Is he drunk? Has he been assaulted? Is he breathing? Will he be in danger if left alone? If his situation is grave, further action should be taken: calling 911, rolling him onto his side, requesting assistance from others, etc. *Something* should be done by passers-by to help this man who is in no condition to help himself. By doing nothing, people who are in a position to solve this serious problem have failed at a moral level. Joel Feinberg states this case very explicitly in arguing against those who deny that there is a duty to rescue.

Jeffrie G. Murphy (to select one of the many possible examples) writes:

"I can be highly morally lacking even in cases where I violate no one's rights. For example, I am sitting in a lounge chair next to a swimming pool. A child (not mine) is drowning in the pool a few inches from where I am sitting. I notice him and realize that all I would have to do to save him is put down my drink, reach down, grab him by the trunks, and pull him out (he is so light I could do it with one hand without even getting out of my seat). *If I do not save him I violate no rights (strangers do not have a right to be saved by me)* but would still reveal myself as a piece of moral slime properly to be shunned by all decent people."⁸

These remarks are very puzzling to me, for the more natural view, I would think, is that the child in Murphy's example has a moral claim against the lounge, that in ignoring it the lounge violates the child's right to be saved, that the child's

⁵Professional duties like that of a fire-fighter, lifeguard or police officer are generally not subject to the easy proviso, even in regards to rescue.

⁶Time constraint considerations are often relevant to emergency situations. For instance, the man may have been assaulted and the assailant could be apprehended if action is taken now, but not ten minutes from now.

⁷There are other necessary conditions for a duty to rescue. The potential rescuer must be someone who has the ability and opportunity to help, and without whose help the peril cannot be alleviated. Also, there must not be too great a risk or loss involved in aiding, or else the duty will be dissipated.

⁸Jeffrie G. Murphy, "Blackmail: A Preliminary Inquiry" *The Monist* 168, no. 6 (1980): 63.

parents therefore not only have justification for reviling the lounge, for assigning him low moral grades, and for shunning him; they also have a legitimate personal grievance against him, both on their child's behalf and on their own.⁹

Feinberg argues that the most natural and uncontrived assessment of the situation is that the man's omission to reach out and grab the child was a failure *to fulfil his duty* and a violation *of the right* the child had to be saved. The man, according to Feinberg, did not just fail to engage in a supererogatory act or an act of beneficence. The man is a bad character (as Murphy himself agrees) as well as a moral failure, guilty of a serious offence.

Feinberg's appraisal of the situation is intuitively plausible. Everyone would seem to agree that the poolside lounge is morally bankrupt for ignoring the drowning child, based at least on common intuitions and emotions. These intuitions and emotions pose a real problem for those who want to deny that the man had a duty to rescue the child. To explain these feelings, those who object to a duty of rescue concede that the man is "real scum", "very bad", "a moral failure", etc. without offering any account as to why the man failed morally, while still denying that the man had any real pressing duty to save the child and that the child had any right to be saved. Feinberg offers an account that explains these intuitions and emotions, as well as a moral assessment of the man that would seem most plausible to most people (i.e. he is bad), by clarifying that there really was a rights/duty relationship that was ignored. Everyone in the same situation as the child has the right -at the very least- to not be ignored. The man clearly had a duty to do *something*

in regards to rescuing the child. The following sections will unpack exactly what is owed to such people. First though some minor objections should be considered.

VII. Objections Against Duties to Rescue

A victim's claim to an onlooker's action is not based on a potential benefit, but rather the avoidance of a great harm. Joel Feinberg argues that the duty to aid is not based on a duty to benefit another individual, but rather a duty to prevent avoidable harms to others.¹⁰ Some philosophers disagree with this appraisal, and cite the benefit aspects of a rescue in objection to the duty of rescue.¹¹ The general objection is that no one ought to have a benefit type claim on another's action. One way of responding to this is to deny that we can properly speak of being rescued as having a benefit conferred upon oneself.¹² However, this is not a strategy that is either necessary or truthful. Someone does benefit from being rescued. They are obviously way better off being rescued than being left to die or suffer the consequences of their situation. However, it does not follow that because someone does benefit from my aid that this is the primary source of my duty towards them. Similarly, while someone may benefit from me keeping promises, benefits incurred are not the source of the duty to keep promises. The accurate narrative of justification for the duty to rescue is that a benefit can be incurred *and* -most importantly- a harm is avoided. It is the harm avoided in a rescue situation that is the relevant guiding factor. So a duty to rescue will not find its justification within principles of benefit conferral, but

⁹Feinberg, 58.

¹⁰Feinberg, 58.

¹¹For instance, in a discussion concerning the duty to rescue (Kagan, 58) frames the problem by asking if there is ever a duty of beneficence (i.e. a general duty to promote the good).

¹²Feinberg employs this strategy in responding to critics of the duty to aid (Feinberg, 58).

rather within the rubric of preventing avoidable harms. Though rescues often confer benefits upon victims, categorizing the duty to rescue under a duty of beneficence is misleading.

Situations where aid can be offered bring about a variety of obligations with many different strengths. At the far end of the scale, there are situations where offering aid is impossible and no duty is generated. Just down the scale, aiding may involve a massive sacrifice (like jumping on a grenade). It is uncontroversial that barring any special obligations or triggering acts, this is an act of heroism. As we move further down the demandingness scale, a duty to aid will become more likely. Once we get to the point where virtually nothing is demanded of an agent in terms of action, risk or sacrifice, the duty becomes one that is quite pressing. This brings us to the next section which breaks down the duty to aid into a few important categories, mainly the duty to rescue versus the duty to save.

VIII. What is a Rescue?

All situations where a rescue is warranted have something important in common. Some persons or group of people are in a situation that is potentially harmful or life threatening. Generally, as time goes by, the situation of these people will not ameliorate, and will often become worse. There is an impending nature to most rescue situations which warrants that action be taken as soon as possible. In the case of a person flailing about in the water, the obvious impending danger is drowning. The immediacy of such a situation is very great, because the actual environment that they are now immersed in will be the cause of their demise or injury if something is not done.

Other rescues will involve a situation where the danger is not presently at hand, but will be -unavoidably- in a short period of time. In the case of some fishermen whose boat motor has quit on the edge of a hurricane, the impending danger is that the hurricane itself will touch down on their boat. Such a rescue situation need not be dangerous in itself, but time in this case is of the essence. The crew of the fishing vessel may be quite comfortable and safe *for the time being*. However, it is the impending nature of the environment around them that warrants consideration for a rescue attempt. Even if the hurricane may dissipate or change course, a rescue attempt is warranted because of the *likelihood* that the fishing vessel will be in peril.

Sometimes a rescue attempt is warranted because the likelihood of injury or death increases with the amount of time victims are exposed to the circumstances that they are in. There may be some urgency to rescue hostages held at bay by a bank robber, simply because the amount of time they are exposed to such a stressful and dangerous situation increases the odds of injury and death. Though nothing may have gone wrong up until now for the hostages, the longer they are in their captor's hands, the more *likely* it is that something will go wrong.

Another condition for a rescue is that the bad situation is extinguished by the removal of the party from the threat. Pulling a child out of water, or towing a broken down boat out of hurricane's path or rescuing someone from a deserted island are all examples of rescues. However, there are some instances where someone may be saved from harm or death where a rescue has not occurred. I once quickly grabbed a fallen rock that had dislodged above me before it hurtled down toward some hikers below the cliff that I was climbing. In everyday language it would be said that I saved them, but not that

I rescued them. The notion of rescue seems to be reserved for those situations where the person in danger is removed from harm's way, but is not usually used where the source of the potential harm is removed.¹³ This brings us to an initial distinction (between being saved and being rescued) that we will talk about in greater detail later.

Occasionally rescues will be needed to restore unacceptable losses (e.g. freedom). In the case of the hostages, one might argue that a rescue is warranted because they are now in a situation where some unacceptably high loss of freedom is experienced. If we change the situation slightly, so that the hostages are no longer in any danger (the FBI knows that the hostage taker's gun is filled with blanks and yet the hostages are not privy to this information), we might argue that we have reason relative to the hostages' well being to perform a rescue. Some might argue that the real reason we want the FBI to storm the building is to restore justice or to give the perpetrator his just deserts. Though criminal justice considerations are relevant to this situation, the present level of stress that the victims are experiencing as well their helplessness and loss of freedom warrant that a rescue should occur.¹⁴

This brings us to the final and most salient aspect of a rescue situation. That is the helplessness of victims. Rescue candidates are generally in a situation where they are helpless to save themselves. Rescue implies one person or group of people helping another who needs help. Though an individual can save themselves, they cannot rescue themselves. Of course, there are situations where someone could save themselves, and a rescue occurs anyway (for instance, a sinking ship where someone almost swims to

¹³Of course, as with many concepts in ethics, there will be some grey areas.

shore, but they are scooped out of the water by the Coast Guard). There are situations where someone might be better off saving themselves than being rescued (a person jumping from a burning building into water rather than waiting for a helicopter to fly up and save them). In other words, there is overlap between when a rescue should occur and when someone can or should be saved but not rescued. The helplessness and subsequent vulnerability of victims is an important feature of rescue candidates, which will be quite relevant to future discussions.

Once it has been established that someone or some group of people are candidates for rescue, it makes sense to ask what a rescue entails. This will depend upon what type of act needs to be performed in order to facilitate a *successful* rescue. There are many aspects of a rescue that are not often thought about, because they are so intuitively obvious. In a real life rescue situation, a drowning person must be pulled out of the water initially. However, this by no means is what is entailed in *saving* the person altogether. They must be taken away from the present danger for a rescue to be successful. Being pulled out of the water might save them from drowning, but the person has not been fully brought out of harm's way until all the potential life threatening consequences have been extinguished. The cold of the water must be dealt with. In most climates, they must be dried off to avoid hypothermia. Lung damage sustained during the incident must be dealt with, or they may fill with the body's own fluids, causing pulmonary edema and drowning the victim from within.¹⁵ Obviously they must be brought to land that does not

¹⁴It is useful to note as well that though the plight of the hostages can be described in terms of losses of freedom, etc. these losses are themselves harms. So, even if we concede that the primary motivation for rescue is the restoration of freedom, this necessarily entails removing a harm.

¹⁵Peter Stark, Last Breath: Cautionary Tales From the Limits of Human Endurance (Toronto: Random House, 2001), 41.

slope back down into the water, where there is risk that they may slip in again. There are many details of what must happen for this person to be rescued. Being saved may involve steps beyond the simple rescue. It may turn out that they are rescued, but not saved. The initial steps of bringing the helpless victim out of harm's way will extinguish a duty to rescue, whereas saving someone will involve successfully extinguishing all life threatening consequences. The duty to save will be discussed at much greater length in the next chapter. For now though it is useful to remember that saving and rescuing differ at least in the degree of action that is required for one or the other.

Someone may be rescued from one degree of harm, but not at all saved from all the other levels of harm that could befall them. If I were to reach over and grab the child from the pool as in Feinberg's example, I may have rescued them and saved their life. However, by simply placing them on the side of the pool and continuing to sip my Pina Colada, their psychological well being may be at stake given the traumatic event that occurred. In order to facilitate full healing from this injurious situation, the child would probably need to be consoled and comforted. As was briefly stated before, in order to be fully saved (that is, in order to survive the effects of the situation), the child may need prompt medical attention in order to expel water from her lungs that may have been inhaled. So, even in this simple example, the rescue and saving processes are complex, and involve more than simply taking the child out of the water.

When considering whether a duty to rescue should be a real pressing moral (and perhaps even legal) duty, one should consider the minimal requirements for rescue itself. Rescue as opposed to saving, properly speaking, essentially involves the removal of the individual from the harmful situation. Bringing a victim to the point where she can help

herself is the primary goal of a rescue. Saving someone implies successfully eliminating all harm from a situation. A rescue attempt might involve throwing a life preserver to a drowning person, or waking up someone who is passed out because of over inebriation. The further actions of comforting the swimmer, or treating the alcoholism of the inebriated individual goes beyond a duty to rescue. These are actions that more resemble saving the individual or aiding them in a more general sense. Rescue generally involves only the very important -but minimally demanding- task of bringing someone who cannot help themselves to a point where they can¹⁶, or -barring the ability of the agent to provide help- bringing in a third party who can perform all of the relevant rescue tasks.

The question of whether there should be a duty to save is one that goes beyond the scope of justification for a duty to rescue.¹⁷ In a later chapter, justification will be offered for a social duty to save the homeless. As we will see, this is a very different type of justification than what has been offered for the duty to rescue.

IX. Why the Homeless are Often Candidates for a Duty to Rescue

The duty to rescue is very relevant to the homeless. Since homeless people spend so much time in public view they are in direct contact with strangers at almost all times. If an accident befalls a homeless person they will often be amongst other people. Since

¹⁶There will be some special circumstances where an individual will have to be brought under the care of others in order to be rescued. This is true of those who are unable to help themselves, regardless of any amount of aid (e.g. infants, severely injured or paralyzed people).

¹⁷Feinberg (58) warns us not to confuse the minimally decent Samaritan who calls for help, with the Good Samaritan who bandages, clothes, feeds, and comforts the victim, with the morally blameworthy passer-by who does nothing. The reactions of these three onlookers represent three general categories of moral evaluation: moral failure, fulfilling minimal moral requirements, and supererogation.

many homeless people are faced with day to day difficulties that most of us do not have to deal with, they tend to be quite resourceful. Therefore, rescuing them involves nothing more than getting them back on their feet. Unlike your typical pedestrian, the average homeless person will know where to go to gain shelter or emergency medical assistance, no matter where they find themselves in a city. Since they are accustomed to living with very little, they will also not have as many expectations for comfort. Calming a homeless person (something that is imperative to do for victims in traumatic situations) will be much easier than the average Joe. The homeless make good candidates for rescue and are often in situations where the duty of rescue will present itself, and often need little more than a small amount of assistance to be rescued.

If we accept that there is a duty to rescue, it is redundant to ask whether there is a duty to help the homeless man who is lying face down on the street. However, what specific action minimally dissolves this duty is another question. Given what has been said about rescue and saving, the duty to rescue would not require a comprehensive set of actions aimed at getting the person back into the work force. The homeless man lying face down is a rescue candidate because of the specific, dire, and dangerous impending situation that he now finds himself in. Analogous to a drowning person who needs primarily to be brought safely to shore, rescue -relative to this situation- involves getting the homeless man to a state where there is no immediate risk of slipping back into this dangerous situation. If he is breathing, he could be slowly rolled over onto his side and talked to. If he is conscious, but maybe just a bit drunk, perhaps he needs nothing more than to be shown to a more sheltered area where he can sleep it off away from the dangers of the street. Possibly, medical attention may be needed. If this is the case,

calling an ambulance and awaiting its arrival would suffice to fulfil the minimum duty of rescue. If it is cold outside, the homeless man needs to be sheltered. Leaving him in the cold could be equivalent to a death sentence, especially if he is drunk.¹⁸ If this is true, then calling for medical or other assistance might be enough to get the man to safety. These very basic actions fulfil the minimal requirements for a duty to rescue.

Many homeless people are candidates for rescue, especially those who are suffering from conditions related to exposure to the elements. Many conditions they suffer are caused directly because of their environment. Often, their plight can be improved drastically and great harms can be avoided by simply getting them out of the harsh environment that they are in, or other types of aid can be offered that will serve the same purpose. One very cold night I was walking between watering holes with my friends in Calgary. A homeless man stopped us in our tracks, asking for money. There was an air of desperation in his panhandling approach, and it seemed as if he was experiencing some discomfort. Upon quick observation, it became obvious that he was in some pain. The source of his pain was quite evident: his gloveless outstretched fists were completely exposed to the harsh night air. He had yet to display any of the symptoms of frostbite, but his skin was obviously beginning to chafe in the cold dry air. There was a moral decision to be made. His present situation would become much worse if his hands remained uncovered. Calling 911 would be a waste of time, because he didn't need medical attention. He pointed Northward (the general direction of the Calgary Drop In Centre) when asked if he had a place to stay. So, I gave him my gloves. Shocked, he

¹⁸I recently learned of a man from Susan Scott's book who died of exposure after drinking a bottle of perfume. The alcohol in the perfume made him comfortable enough to brave the deadly Calgary cold.

immediately put them on and offered enthusiastic thanks. With renewed vigour, he turned away clapping his hands to get the blood circulating, and crossed the street.

This was a case where the resources were at hand to rescue someone from potentially debilitating physical harm. It was a rescue situation in the sense of the immediacy of the situation and also in the sense that the man did not have the resources available to solve what could turn into a very ugly situation.

Much more could have been done that night for the homeless man, beyond just giving him gloves. He may suffer from alcoholism, depression, or chronic anxiety, all of which require serious expert intervention. His lack of permanent shelter is something else that could be addressed, as well as his lack of economic resources contributing to insufficient food and clothing, and so on. These would go beyond the scope of rescue from his present emergency situation into the area of saving him from his overall plight as a homeless person. The minimal moral requirement for any individual passer-by includes rescue, but not saving. It certainly was my responsibility (and anyone else's who noticed) to alleviate the very immediate danger presented by his exposed hands, but not necessarily to alleviate every problem that he faced that night. This is not to imply that homeless people should not be saved from their plight, but it does imply that doing so goes beyond what is required of individuals and is often beyond what individuals are capable of in terms of skills and resources. It is reasonable to say that the homeless are in some senses very powerless to ameliorate what is an unacceptably dire situation. In this sense they are often perfect candidates for a duty of rescue.

X. Is There a Duty to Save the Homeless?

Given that the homeless live in conditions that are unacceptably painful and harmful amidst a relatively affluent North American populace, should there be a further duty to save altogether? The details of homelessness offered in Chapter 2 present us with a dilemma. It is truly horrible to be homeless, and it is an issue that we need to pay attention to. Yet, this is such a huge, overwhelmingly complex situation involving levels and levels of pain, degradation, losses of freedom, and unacceptable deprivations, that it seems insurmountable. The problem of homelessness in general, and the problem of *saving* even one homeless person is too much to ask of any individual. This is by no means a situation that resembles an individual's duty to bring aid to a drowning victim. To be saved, even a single homeless person needs a host of problems addressed. These include psychological and physical problems discussed in Chapter 2, as well as economic needs that are often the basis for these problems. Even if an individual wished to save a homeless person and get them on their way to a full recovery, and to help them reintegrate into economic society, he or she may not possess the expertise or the resources to succeed. As was discussed in Chapter 2, addiction and other forms of psychological problems (some as complex as schizophrenia) afflict many homeless people. Such problems are beyond the scope of most individuals' abilities and resources. The problem of homelessness is indeed so complex that no individual could possibly bear

the brunt of the burden. Raising moral expectations that are impossible to fulfil is certainly unreasonable.¹⁹

The question remains: If there is an obligation to assist the homeless beyond the duty of rescue where does it lie? The short answer to this question is that the obligation to save the homeless is one that is social, rather than individual, in nature and it is a duty that requires further justification than we have offered so far. This issue will be discussed in detail in Chapter 4.

XI. Conclusion

Many homeless people are candidates for rescue at the very least, because of their helpless state and their dire everyday situations. Insofar as an individual encounters a person in distress on the street, there is a duty of rescue to at least provide immediate relief for whatever situation they might be facing. Our argument so far only speaks to a portion of the homeless problem. If every passer-by who witnessed a homeless person in serious distress fulfilled their duty to rescue, the homeless problem by no means would be eradicated altogether. There would still be countless numbers of homeless people who would be suffering avoidable harms and deprivations. To deal with the countless problems outside of the emergency situations spoken of thus far, much more than individual duties need to be explored. Preventative measures to keep people off the street, and comprehensive social programs are still required to alleviate the suffering that homeless people face. The next chapter explores social obligations towards the homeless and justifications for social assistance outside of what has already been discussed.

In a later chapter I will offer a more specific account of the types of actions our society can perform and the institutions that ought to be enacted in order to help the homeless as well as changes that should be instituted to our existing institutions.

¹⁹The familiar motto 'ought implies can' is applicable to this problem.

Chapter 4: The Homeless' Right to Social Assistance

I. Introduction

This chapter argues that the homeless have a right to subsistence and that the duty to save is entailed by this right in a specific way. First though, it is important to have some conception of what accepting a right entails in theory and in practice. A preliminary discussion of rights highlighting Shue's and Waldron's works is first presented. Then, a guide provided by Shue as to what relative priority we should place on respecting basic needs and the right to subsistence is offered. Some common objections to the adoption of social programs for the homeless based on the acceptance of the aforementioned rights are outlined, and a response is offered.

Institutionalizing Rights and Duties

II. A Preliminary Discussion of Rights¹

There are many rights that can be honoured with little or no sacrifice to agents. This is most obviously true of negative rights. If I meet many people on the street on my way to work, honouring their negative right to non-harm may involve nothing more than continuing to walk to work. However, there will be many instances where many people's goods and actions are required to honour the rights of others. Even some of the most uncontroversial rights -in order to be respected- require goods from everyone in a society.

¹There are a few good reasons to avoid speaking of rights and duties when talking about obligations, meeting needs, and actions that meet minimum moral standards. However, rights-type talk is good shorthand for the larger, more complex issue of what we owe to one another based on an individual's situation and capacities. So, though rights language may be notoriously and irrevocably ambiguous, I will use this language for the sake of brevity and simplicity.

Similarly, some duties -in order to be fulfilled- require many actions at many levels.

Jeremy Waldron objects to the oversimplification of rights talk in terms of just positive and negative rights, arguing that respecting even the most seemingly simple right involves a fair degree of cooperation, organization and collaboration. According to Waldron, every right brings about a co-relative wave of duties that can only be fulfilled through sets of acts and omissions, and these bring about subsequent waves of duties.² As he elaborates: “The right not to be tortured generates a duty not to torture people, but it also generates a duty to investigate complaints of torture, a duty to pay one’s share for the political and administrative set-ups that might be necessary to prevent torture, and so on.”³ Waldron’s approach is one that is very practical in nature. The ascription of a right to an individual only makes sense if it is taken seriously enough by society to be honoured and protected. If I truly have a right to not be harmed arbitrarily, then the duties that fall out of this right will involve many layers of cooperation in society. Not only will people who come in contact with me everyday be required to refrain from harming me, there also will need to be a set of rules in place to protect me. Furthermore, in order to prevent some individuals from exploiting me and harming me in a myriad of ways for their own benefit, we will need some sorts of regulatory mechanisms (a police force for instance), in order to honour this right to non-interference.

Just as rights bring about successive waves of duties, they can also bring about successive waves of moral failures if not respected. If the drowning boy from Feinberg’s example sank to the bottom of the pool, the poolside lounge would have violated the

²Jeremy Waldron, Liberal Rights: Collected Papers, 1981-1991 (Cambridge: Cambridge University Press, 1993), 25.

child's right to aid. If another person came onto the scene and found out the child had been at the bottom of the pool for three hours and decided to leave him there while he sipped a cocktail, it would be another violation of the child's right to the sanctity of his body. A few months later, the pool cleaner would be guilty of the same offence if he simply pushed the body aside while cleaning the leaves out of the pool. Later if the police found out about the situation and decided to not investigate or press charges, the child's right to fair treatment within the criminal justice system would be violated. The string of wrongdoing would continue until the situation had properly been dealt with. To deal with the situation appropriately after all these violations, one would have to take the police, the pool cleaner, the second witness and the poolside lounge all to task for various reasons related to not treating the boy appropriately. When rights are not respected and their correlative duties are not carried out, the rights do not simply vanish. Often, reparations will be in order. This will be discussed further in a later section.

Henry Shue elaborates on the importance of actualizing rights. He argues that a right should not be nominally ascribed without establishing practical strategies to respect and protect it. He criticizes the U.S. National Policy Panel for the United Nations on this basis. Their way of fudging the issue of rights is by acknowledging that basic human needs are a right, but only insofar as the resources are available.⁴ There is no mention of any priority or intention to fulfil these needs, so the problem is left unsolved. Shue's criticism of this type of treatment of rights and duties is that there is no promise and no commitment towards any effort aimed at honouring these rights, and hence we end up

³Waldron, 25.

⁴Shue, 182.

using the resources available only at the end ‘of business as usual’⁵, which often turn out -conveniently- to be nothing. So, various governments and individuals concede basic human rights in theory, but not in practice: “...disputes are avoided by conceding the right in theory, and costs are avoided by denying the right in practice.”⁶

This type of abstraction is dangerous and crippling to helping the homeless. By invoking the “only when it is not too costly” proviso, policy makers admit that the homeless’ plight is one that *deserves* attention, but only when it is convenient to do so. Then, no active commitment is made to the actualization or institutionalization of the rights in question. The commitment to the rights remains totally theoretical and nominal. The final consequence is that nothing is done for the people who are having rights denied that everyone admits should be honoured. Whether this is the aim of policy makers or whether it is due to a lack of willingness to put theory into practice, this is a serious problem for those whose basic needs are not met.

In the next section it is argued that this type of failure in general, and the failure to provide adequate amenities to the homeless specifically, is a full blown violation of at least one very important right. Keeping in mind what has been said, it will be seen that honouring these rights involves not only good intentions, but also a fair degree of active collaboration, planning and cooperation.⁷

⁵Shue, 182.

⁶Shue, 9.

⁷It should also be noted that this is relative to the availability of the necessary resources. Shue, and certainly this author as well, do not want to argue that subsistence resources should be taken from those whose basic needs have not been met. Nor is it argued that resources should be re-distributed when this will only shift the problem from one person to another. All talk of resource distribution will be relative to the possibility of such distribution occurring without any risk of violating the subsistence rights of anyone.

III. The Right to Subsistence

As we discussed in Chapter 3, there are certain duties that are relatively uncontroversial: the duty of non-interference for instance. This duty is correlated with a right that fits with every person's reasonable expectation that they should not suffer needlessly at the hands of others. We might be tempted to classify this as a negative right, but this is not completely accurate. As was discussed in the previous section, the actualization of an individual's right to security of person does not merely involve everyone refraining from causing them harm, but a whole host of social institutions as well (a police force, etc.) to actually provide this guarantee. Keeping this in mind, Shue expands the notion of basic personal security to also include "minimal economic security"⁸, which he claims should be equally as uncontroversial in theory because of its foundational role in people's well being.

An important part of this minimal economic security is the right to subsistence, which includes the right to unpolluted air, unpolluted water, adequate food, adequate clothing, adequate shelter, and minimal preventive health care.⁹ He does not go into any detail in unpacking these concepts, except to say what he does not wish to infer at the extreme ends of the spectrum: that every baby with a need for open-heart surgery has a right to have it, or an 'adequate' diet consists in enough food for a 35 year life riddled with fever and parasites.¹⁰ The work of unpacking what "adequate" means is left to the applied ethicists using empirical data (much like what has been done in the previous few chapters).

⁸Shue, (1980), 23.

⁹Shue, (1980), 23.

According to Shue, some resources are so important that they warrant some sort of moral guarantee: not just the guaranteed freedom to go out and get the resource if one is missing it,¹¹ but the actual guarantee that the resource will be provided if all else fails.¹² What ought to be sacrificed in order to institutionalize such guarantees is an issue that will be discussed in a later section. His justification for such guarantees is briefly outlined below.

In arguing for basic rights, Henry Shue picks an odd, but noteworthy, starting point. He cites Nietzsche –the famous nihilism apologist- as providing the groundwork for accepting basic rights. Shue’s way of dealing with Nietzschean type reasoning is to accept it. He claims that, as Nietzsche himself accepts, rules are meant to protect the weak from the strong:

...one of the chief purposes of morality in general, and certainly of conceptions of rights, and of basic rights above all, is indeed to provide some minimal protection against at least some of the more devastating and more common of life’s threats, which include loss of security and loss of subsistence. Basic rights are a restraint upon economic and political forces that would otherwise be too strong to be resisted... Basic rights are an attempt to give the powerless a veto over some of the forces that would otherwise harm them the most.¹³

¹⁰Shue, (1980), 23.

¹¹Which at this point does not even exist given our laws that prevent such actions.

¹²Again, the right to security of person is a right that our social institutions acknowledge as being so foundationally important. Not only do I have the right to defend myself if attacked, a police force supported by tax revenues will come and actively protect me if need be.

¹³Shue, (1980), 18.

There are economic rights that people may or may not have which go beyond a right to subsistence, and Shue admits that it is possible that individuals may have nothing more than a subsistence right. His major point is that people have *at least* a right to subsistence.¹⁴ The grounding for this right is that having a basic level of subsistence is essential for the enjoyment of all other rights, and that the right to subsistence is more important than rights (like the right to security of person) that we already accept. The right to security of person is often seen as one of the most foundational and uncontroversial rights. We have a right to not be harmed needlessly by others on the basis that certain avoidable harms are intolerable and every person should have their reasonable expectation fulfilled that they are not harmed needlessly. The right to subsistence is comparable to the right to security of person in this respect (i.e. one should have their reasonable expectation fulfilled that they not suffer harm needlessly). The extent to which someone can be harmed if their subsistence needs are not met is also a relevant factor to justifying this right. Without a right to security of person as with subsistence rights, there would be no moral claim against very serious bodily harm. The result from a lack of subsistence can be death, just like the result of a severe physical assault. Someone who has suffered brain damage from an infection-induced fever cannot hope to enjoy the rights that require a fully functioning brain, just as someone cannot enjoy them if they suffer brain injury in an attack. Someone who lacks subsistence in an absolute way will not even be as capable as someone who suffers a physical assault who can defend themselves or flee. Those who lack subsistence are -in some ways- worse off than those whose rights to security have been violated. Hence, subsistence rights can be

seen -on the basis of the many negative consequences entailed when not respected- as at least as foundational and important as a right to security of person.¹⁵

It may be easier to honour everyone's right to security of person than everyone's right to subsistence in some cases. For instance, when resources are very scarce, the required material elements for honouring a right to subsistence might be lacking, whereas people's rights to security of person could still be honoured relatively easily. This worry of course is not applicable in any obvious way to North America and other affluent societies in the world, but it certainly would exist for poorer places or societies that were suffering from war, international trade embargoes, famine, or other difficult circumstances. This brings us to an issue regarding what it is permissible to sacrifice in order to honour rights. This is discussed in section VI of this chapter. However, it is important to note at this juncture that any right -to be fulfilled in practice- will require certain background conditions.¹⁶

If we accept Shue's argument, then we have even more reason to be worried about the plight of the homeless. Even though many homeless people are offered some shelter, some food, some clothing and so on (by charities, passers-by, etc.), they are not offered any *guarantee* of such important amenities. Shue would argue that this points to a serious moral failing because analogous to the right to security of person, the right to subsistence should be among the top priorities of any social system. It is not sufficient if

¹⁴Shue, (1980), 23.

¹⁵Shue, (1980), 24-25. Shue actually takes the extra step and argues that the right to subsistence is more foundational than any other right. For our present purposes it is only required that we accept that this right is *at least* as important as the right to security of person (a right that we presumably already accept).

¹⁶For an interesting discussion on the relevant conditions for any right to be put into practice, see James Rachels, "Why Animals Have a Right to Liberty", Animal Rights and Human Obligations 2nd Edition, ed. Tom Regan and Peter Singer (New Jersey: Prentice Hall, 1989).

only some people in a society happen to gain shelter, food, and other important amenities. According to Shue's argument, homelessness would be seen as symptomatic of North American society's failure to honour, protect and uphold one of the most foundational rights.

IV. The Duty to Save

Shue's argument provides us with the needed justification for a social duty to save. As was discussed earlier, the duty to save, over and above the duty to rescue, is unreasonably demanding for most individuals. Though individuals often have the resources to rescue people from dire situations, saving them goes beyond what most people are capable of. This poses a problem, because if we agree that homelessness is an unacceptably bad situation, then we will want someone to be responsible for solving this problem. As we will see, if the right to subsistence is accepted then with only a few more moves it should be apparent that there is a social duty to save the homeless that falls out of this right.

The first issue with a duty to save is that it is a social duty. Since saving (i.e. fully bringing someone out of harm's way) often involves great time, energy, and often specific expertise, this is a duty that individuals will rarely be able to fulfil on their own. In cases where saving someone involves little effort or only a very specific action (e.g. the instance of stopping a falling rock before it hits some hikers), there will be an individual duty to save (i.e. saving someone vis-a-vis the falling rock). Saving a homeless person (vis-a-vis homelessness in general) however will rarely involve such simple action. Generally, a whole host of actions by many individuals will be required to curtail

the harms that befall homeless people. Psychiatrists, physicians, contractors, relief workers, etc. may all be required to save any particular homeless person. The duty to save any particular homeless person cannot fall squarely on the shoulders of one individual or even on a small number of people, because it will generally be impossible in these cases for the duty to be honoured. If there is any duty to speak of, it only makes sense to speak of a social duty in those cases where it is impossible for individuals to save the homeless. It does not follow however that because it is impossible for an individual to perform the relevant saving tasks that there is necessarily a social duty to save the homeless. For us to justify the establishment of social institutions designed to save the homeless as well as the moral requirement to support these institutions, there will have to be further argument.

We can accept that there is generally a social duty to save by citing an already widely held moral belief concerning rights: if someone has a right and a loss is entailed by that right not being respected, the parties responsible for the violation of the right have a duty to compensate the injured party for their loss. In some cases this is impossible (as when someone's right to life is violated by a murderer), but where it is possible this should be relatively uncontroversial. As was argued earlier, the failure to fulfill a duty can often have a snowball effect, creating successive waves of moral failures and bad consequences. Until a rights violation is dealt with appropriately, the right has not been properly respected. In the case of the homeless and the right to subsistence, those who are capable have a collective duty to provide these subsistence amenities. If subsistence amenities are not provided for a period of time, the consequences of this failure are the responsibility of those who should have provided them. If we accept the right to

subsistence, then it follows that when a homeless man develops frostbite from a lack of shelter in a society that was able to provide this for him and did not, society's responsibility now includes treating the frostbite as well as providing the shelter. The frostbite is due to the moral failing of those who were responsible for the protection, enactment, and execution of an important right. Because one or a few elements of a right to subsistence went unfulfilled, greater problems arose.¹⁷

So, aside from the duty to provide subsistence amenities in the future, the right to subsistence also generates a duty to save those who are suffering from not having this right honoured and respected. Many homeless people suffer primarily and avoidably from a lack of subsistence resources. If these resources are something everyone has a right to, then it is a violation of their right to not have these things provided. Aiding the homeless therefore involves providing for them what has always been owed, as well as repairing the damage caused by the loss.

So far it has been argued that there is a duty to save, *at least* in those circumstances where the right to subsistence has not been honoured. This does not mean that there is a duty to save only in such situations. The final section of this chapter will explore the possibility of the duty to save for those whose rights have not been violated or ignored.

¹⁷There are many ways that such rights can be honoured and put into practice. Given that the right to subsistence is a social responsibility, those who help the homeless could be remunerated more fairly than they are presently by the larger tax base. Just because one does not help in an active direct sense does not mean that one cannot help in a financial sense, or in other ways. Exactly how the homeless can be helped and the social duty to subsistence can be honoured will be discussed in greater detail later.

Institutionalizing the Rights of the Homeless

V. A Guide to Re-Distributing Resources to Help the Homeless

If a right to subsistence is had by all in a society, then there will be a correlative duty to protect, uphold and generally honour this right. As far as homelessness goes, this will involve three issues: 1) providing subsistence amenities to those who are lacking them, 2) repairing damage caused by their absence, and 3) ensuring that they are provided in the future. The first two issues are most obviously treated by our discussions of rescuing and saving. By accepting a general duty to rescue, a right to subsistence, and a social duty to save it follows that we ought to provide subsistence amenities for those who are lacking them, and also repair the damage that is caused by their absence. The justifications offered so far however are not the most obvious way of treating the third issue: that is, ensuring that amenities are guaranteed down the road. Practical strategies aimed at fulfilling this goal will be explored in the final chapter. Aside from this discussion, one more important point should be mentioned regarding the enactment of subsistence rights.

Aside from directly providing aid through actions like rescuing and saving, the right to subsistence can be fulfilled in other ways. One obvious manner of doing so which should be kept in mind is providing a means of resource distribution that is fair. Some might argue that homelessness is caused -at least in part- by an unfair distribution of resources, and the most efficient and cost effective manner of dealing with the problem is to simply ensure that resources are shared less disproportionately than they are currently. This is an important point to keep in mind, but does not make unnecessary the discussions about rescuing and saving. Even if we lived in a society that was fairer in its

allocations of goods, the duty to save and rescue would still exist in those situations where people's important needs are not realized. I do not want to imply that rescuing and saving, or the right to subsistence are the only issues that are relevant to homelessness, or that the strategy that I have employed so far is one that should win out over other strategies of meeting needs. The strategy that has been employed so far is most relevant to cases where resource distribution fails to meet the important needs of a segment of the population. Where distribution fails, time, energy and resources must be re-distributed until all the important needs of every individual is met. There will be some obvious human costs here that should be kept in check. Keeping this in mind, Henry Shue offers a rough guide as to what can be permissibly sacrificed in order to meet basic needs.

VI. Shue's Priority Principle

Though it may be true that the plight of the average homeless person is one that warrants actions when there is little or no loss to an agent, it is another matter altogether if a loss to many agents is required to help the homeless generally. If we are to argue that the majority of citizens in a given society should pay more taxes to create shelters, then we need to offer justification further to that of the *easy* rescue situation discussion that has occurred thus far. Easy rescue can be most easily accepted and justified on the basis that there is little and often no loss to one, or only a few agent(s) for performing a great deed. However, to go a few steps further and claim that rescue should occur, even if some loss to many agents is prerequisite, we must provide some stronger justification. We must be careful not to be unreasonably, excessively or dogmatically demanding. We should have at least a rough guide as to what types of re-distributive tradeoffs are acceptable.

Henry Shue offers guidelines as to what should and should not be sacrificed in order to honour various rights. Only three types of “transfers” are required according to Shue, while three are forbidden and ten are permissible.¹⁸ I will concentrate for the sake of brevity and relevance on those three that are required, those three that are prohibited, and one noteworthy exchange related to supererogation.

In a nutshell, Shue argues that it is required that preference satisfaction, cultural enrichment, and non-basic rights must be sacrificed where that is needed in order to meet the basic rights of others.¹⁹ Shue refers to this as his ‘priority principle’. His model can be applied to individual good Samaritan type cases as we discussed in chapter 3, as well as to large scale public policy formulation type cases, but his focus is more directed towards the latter type of problem. Individual duties towards others are covered by his priority principle, but with one important proviso. Shue does not commit us to a theory of futility. If, by sacrificing various non-basic rights, cultural enrichments and preferences nothing is gained, even if our intentions are to restore the basic rights of others, then the priority requirement does not exist.²⁰ This proviso comes up in light of the issue of what it is fair to sacrifice for individuals if no one else is making sacrifices. He warns against the danger of conflating two issues. The first is whether it is unfair to expect that people do their duty even when there will be negligible results (Shue says yes), and the second is whether it is fair to expect that people do their duty even when other people do not do their duty (Shue argues that this is not unfair, and that it is akin to punishing criminals who are caught even when there are many criminals out there who are not punished). All

¹⁸Shue, (1996), 114.

things being equal, it is indeed unfair to expect that someone give up even their preferences if this will only do a tiny bit of good towards solving a large *social* problem, while everyone else sits back and gives up nothing. If other factors come into the equation (like my proximity to a very bad situation and a subsequent privileged ability to solve that problem), then it is fair that I give up resources that others should not be required to sacrifice, though they ought to sacrifice them if they happened to be in the same position as me.

The one noteworthy sacrifice that is permissible for Shue that perhaps should be forbidden is the transfer of someone's basic rights for someone else's basic rights. The reason Shue leaves this open is for the possibility of altruism and heroism. Like much of Shue's strategy throughout his book, I think this is relative to the proviso of success. It is not clear whether Shue agrees that someone should be permitted to give up his or her basic rights for the remote *possibility* of honouring someone else's.²¹

The other transfers that Shue worries about are three prohibitions. There is a prohibition on sacrifices of basic rights for non-basic rights, cultural enrichments, and preference satisfaction. He does not elaborate deeply on these points, but it is clear that he is guarding against a degree of unacceptably low self esteem where someone gives up the foundational elements of their well being for other less important factors.

When getting into discussions of distributing social goods, it is essential to have some idea as to what trade-offs are acceptable. Shue's priority principle is a reasonable

¹⁹Subsistence rights being one example of a basic right. Though there are others, this is the only basic right that need concern us for the present discussion on homelessness.

²⁰Shue, (1996), 212.

²¹Arranging acts and policies for the successful enactment of the substance of rights is something that Shue explores in chapter 1, "Security and Subsistence" of Basic Rights, (1996), p. 17.

guide, which reinforces the importance of basic rights over other important human goods. Though this gets us one step closer to being able to carefully and critically engage in the formulation of social assistance programs for the homeless, there are still some objections that ought to be dealt with before pressing on. The next section will outline some important and common objections to creating social assistance programs generally, as well as objections that are commonly aimed against social assistance programs for the homeless.

VII. Some Objections to Creating Social Programs for the Homeless

It has been argued so far that the bad plight of the homeless generates an individual duty of easy rescue in some situations, as well as a general social duty to provide assistance. There may be some limits however to these duties which are brought to light by a common objection. We have argued that the social duty to save the homeless is based upon compensating those whose right to subsistence has been ignored or not adequately honoured. The reason the homeless deserve to be helped is because the harms, deprivations and difficulties that they now suffer are due -at least in part- to society's negligence. What of those homeless people however who are not suffering because of society's negligence? What of those who are suffering because of their own mistakes, lack of will, and so on?

Some argue that the duty to aid should be limited by personal responsibility. Someone should live by their own choices and if they are in a particularly bad circumstance by their own devices, they ought to get *themselves* out of it. We should allow people to live by their choices, and people should be required to suffer the

consequences of their actions. We will call this the ‘just deserts’ objection for obvious reasons.

One strategy in dealing with this objection is to cite existent social programs that help those who are foolhardy, lazy, etc. and who are in their plight because of their own doing. In Canada we have helicopters ready to fly into the mountains and rescue every single reported accident victim, regardless of the idiocy that may have landed them in the situation in the first place. These rescues often come at great risk to the rescuers and at great cost to taxpayers. Given that we have such social assistance programs in place, it would be consistent to create other social assistance programs for the homeless regardless of recipients’ will to help themselves and regardless of whether their situation is their own doing, even if this all comes at great expense to the public. This line of reasoning is useful for pointing out the inconsistency of foregoing social assistance programs for the homeless while accepting all present social assistance programs. However, it is plausible that some existing social assistance programs *are* a waste of time, energy and resources because of the reasons offered above. So it is probably true that the ‘just deserts’ objection is applicable to any social program in theory.

However, it is doubtful that the ‘just deserts’ objection applies to the situation of most homeless people.²² The primary problem for the homeless is not a lack of will to change their situation nor a foolhardy insistence to engage in harmful situations, but rather a lack of resources. There may be a few homeless persons who are granted all the resources they need and do not take advantage of them and so find themselves in a

²²Drug addiction and other forms of mental illness where rational choice are impaired or non-existent are not covered by such an objection. Non rational agents cannot be held liable for their inability to help

particularly bad situation, but research on homelessness overwhelmingly points to a group of people who are experiencing a plight that is undeserved and beyond their control. The time and resources are not presently available to determine how many homeless people are in their present plight because of their own doing and how many are there because of circumstances beyond their control. Evidence suggests that there are few homeless people who have not done everything in their power to avoid being on the street. The majority of the anecdotes are ones of serious bad luck, tragedy, abuse, or unfortunate mistakes compounding into destitution.²³

Homeless people in actual fact do go to great lengths to ameliorate their own situation, but are often hampered by barriers in the system. Canada's infrastructure is such that those who are the most vulnerable to harm are often the least able to get care. Because of the homeless person's especially economically deprived situation, she cannot afford the care that those with money and status can gain in Canada quite easily. An article by Susan Scott recounts the many difficulties that homeless people face in Calgary in gaining very basic medical assistance. Because of his deteriorated mental and physical health and the poverty that 'Rottweiler' faces, getting a doctor is no easy task. Prescriptions can only be filled if an advocacy group such as The Mustard Seed Mission steps in and offers financial assistance.²⁴ In other words, given our present health care infrastructure, poor (and especially homeless) people are not even able to avoid the

themselves or their tendency to engage in harmful situations. The many moral issues surrounding aid for these people goes beyond the scope of this paper and so will have to be set aside.

²³Incidentally, I think the most reasonable narrative as to the main cause of homelessness is that some people lack the resources to compete in a competitive free market housing system and therefore end up on the street. This issue goes beyond the scope of this paper.

²⁴Susan Scott graciously sent me an unedited draft of an article that she published in a local public health magazine.

medical deterioration that is avoided quite easily by the those with resources. Serious barriers exist in our society for homeless people to save themselves from physical and mental deterioration. Even those who put all their effort and resources towards avoiding getting more sick are blocked because of barriers that exist in the system.

This causes a major problem for even the most well intentioned Samaritan. If the system itself is more difficult for the average homeless person to navigate, then helping any homeless person may prove to be futile more often than not. Even if I managed to drag a homeless person into a medical establishment, the chances of them returning to the dire situation that I found them in might be quite high. Even if they are treated for their present conditions, according to Scott, they are often sent back into the streets “on mega drugs with no bus fare”²⁵. If we accept that there truly is a right to subsistence, such situations are a moral failure. Not only have we failed to provide important resources for many homeless people, we have created a system that frustrates the attempts of these people to improve their lot.

Though it is a reasonable expectation that people should help themselves, this remains a solely theoretical concern for the homeless. By arguing that we have an obligation to aid the homeless, one might object that this could entail doing absolutely everything possible to improve their lives and bring about maximal health and well being. By arguing that individuals or society has a duty to aid, the onus is taken away from those who require the aid and placed squarely on the shoulders of those who are in a position to help. There are several replies to this general type of worry vis a vis the homeless. First of all, aiding in the sense that has been discussed previously does not entail maximizing

well being. The harm based approach of this thesis aims at reducing harms, but not necessarily at making people's lives as fulfilling as possible. As we have discussed, the aid that homeless people need the most is shelter, food vouchers, and medical attention. Making resources available is much more what aiding the homeless involves, and usually *requires* the participation of recipients.²⁶ Of course if a homeless person were to not avail themselves of the resources that were freely available, these should not be forced upon them.²⁷ The fact that someone's behaviour is harmful to themselves does not give us reason to intervene in their life decisions. The homeless should be free to choose which resources they want to take advantage of, and which ones they decline. So, there is a duty to provide subsistence resources to the homeless, but no requirement for the homeless to take up what is provided.

As was stated in the first few sentences of this section, the duty to aid and offer social assistance is limited by the personal responsibility and actions of the recipients. One practical requirement for social programs aimed at alleviating homelessness is that the recipients participate. There are many social programs for the homeless out there already that depend quite heavily on active participation and taking some responsibility for one's own well being (e.g. soup kitchens, shelters, emergency clinics, and so on). Any further social assistance programs that might be offered would also depend heavily on the active, responsible participation of recipients. The problem as it stands today is not that

²⁵Scott, 2.

²⁶Given what has been said, we should not have expectations that are unreasonably high for individuals who are in need of help. Appropriate and adequate aid must be offered to homeless people. If someone refuses to eat, we should not for instance think that we have done our part by handing them a food voucher. The deeper problem at hand (depression, anorexia or hopelessness in this case) needs to be addressed for us to extinguish any moral duties.

homeless people are unwilling to participate in social programs, but that there simply are not enough programs to address all the important concerns discussed in this thesis.

Another concern related to the just deserts objection is that some bad, and comparatively well off, people may take advantage of programs that are meant to help those who are needy. There may be panhandlers for instance who take advantage of people's generosity, or users of soup kitchens who can afford food and have adequate shelter and resources available to them. They might intentionally put on a show in order to seem hard done by in order to garner money from sympathetic people.²⁸ Nevertheless, this should not be a concern that gets in the way of helping homeless people who genuinely need support, even at the risk of helping those who are not in dire need. Many of our social systems exist with the explicit acceptance that those who do not require benefits in any pressing way are granted them regardless.²⁹ The fact that some arguably bad people are given a chance to take wrongful advantage of a system is not reason enough to give up on the implementation of a social program that is required to help a large and needy segment of the population. For instance, if a corrupt government diverts foreign aid to line its coffers in lieu of helping its country's poor, that is inadequate reason to do *nothing* to help that country's poor. This fact only provides reason to be more careful about how funds are allocated. It makes more sense to police social

²⁷ Again, in cases of mental illness there is a host of issues that can be raised, which we do not have the time presently to explore.

²⁸ There are young people for instance who line the streets of Vancouver and other beautiful Canadian cities in the summer time. They often come from middle class families and go to the streets to hang out rather than get jobs.

²⁹ Beef, dairy and other consumer based subsidies are good examples of social programs that work equally in favour of the unneedy as they do for the dependent.

programs than to give up on them altogether for fear that some advantages will be had by the undeserving.

A final response to the just deserts objection is that it is based on a morally suspect attitude. If a homeless person (Lucy) is suffering her plight because of her own laziness, and not because of any failure in society to provide equitable treatment to all citizens, the fact still remains that she is suffering. If the resources are available to help her, then it is at least permissible that she gets some assistance. Barring her from having her suffering alleviated on the basis of her own irresponsibility seems absurd. The fact that people like Lucy might have their suffering alleviated along with all the people who deserve to have their suffering alleviated simply does not seem to be a bad thing on its own.

The most serious limiting factor to the implementation of a social program to help the homeless in Canada has much more to do with the availability of resources and the prioritization of homelessness as a problem that is worth solving, and less to do with the participation of recipients. The just deserts objection, and objections that centre on recipients' inadequate or wrongful participation in social assistance programs may be worries that exist in theory. These worries however do not offer adequate reason to give up on social assistance programs to prevent and repair homelessness altogether. Such social assistance programs however should respect the autonomy of homeless people. Though their suffering does warrant some participation by society to ameliorate the plight of the homeless, it does not license us to insist on any uptake of the provisions that are offered.

VIII. Conclusion

Though it is important to establish that there is a duty to rescue vis-a-vis the homeless, this only speaks to a portion of the homeless' unacceptable plight. Our focus in the previous chapter was on individual duties that were not too onerous. With the introduction of the right to subsistence and the subsequent social duty to save, we can now speak to a much greater portion of the homeless problem. Keeping in mind several important conditions for accepting a right³⁰, Waldron and Shue set the groundwork for justifying the creation of institutions aimed at providing subsistence amenities for the homeless. Given that there will inevitably be costs to agents with the creation of such institutions, Shue offers a rough guide as to what should be sacrificed in order to fulfill the basic needs of those -like the homeless- who are suffering from various difficulties and deprivations.

A noteworthy point in the preceding discussion is that the duty to meet subsistence rights has been framed in terms of the duty to provide subsistence amenities or resources, and has not been framed in terms of a duty to secure some basic level of well being in homeless persons. The latter would be difficult to determine and seems likely to bypass important considerations of respecting the choices of the homeless. It is important, in order for this duty to be fulfilled, for us to be sure that not only are the resources available, but that it is really possible, and possible without difficulty, for the homeless to take advantage of these resources (they must have proper access to them, etc.), but that's different from making any judgments about whether a certain level of

³⁰That is, ascribing a right means upholding, protecting and setting aside the requisite resources for its establishment.

well being is realized by the use of these resources. In other words, homeless people should be free and able to acquire important subsistence resources, but should not be morally required to take advantage of the resources that are offered.

There are objections to creating and maintaining social programs for the homeless, which revolve around personal responsibility. It is not clear how relevant any of these objections are in regards to homelessness. Homeless people seem to be in their situation because of bad luck, horrible social circumstances and the like. It does not seem to be the case that there is an epidemic of homeless people participating wrongfully or inadequately in existing social programs. Many of the problems exist because of existing barriers rather than wrongful or inadequate participation. In fact, the social programs that are needed for homeless people generally *require* participation. Furthermore, there is no good reason to think that homeless people will not do their fair share to ameliorate their own circumstances. Many of our social programs exist at great cost regardless of the irresponsible actions that landed the participants in their plight. Objections like the ones outlined above are based on an attitude that is morally suspect. Lastly, it seems to not be a bad thing on its own if many people are helped even when they do not ‘deserve’ aid to the same extent as others, especially when being helped means avoiding great harms.

The next chapter will first outline the types of social assistance programs that need to be developed to honour the rights and discharge the duties that have been mentioned. Then, specific recommendations will be made as to changes in our current existing infrastructure as well as the adoption of new, creative ways of tackling some of the problems related to homelessness.

Chapter 5: Strategies and Proposals for Helping the Homeless

Housing and related problems have been cruelly over-simplified; there is more involved than the substitution of a clean box for a dirty one.

Gerald Daly, Homeless: Policies, Strategies, and Lives on the Street

I. Introduction

If Waldron and Shue are right about the importance of not only acknowledging rights, but of also instituting them with practical strategies, then -in heeding their arguments- a thesis such as this should provide some actual, practical strategies for realizing the rights that have been mentioned. Proving that the homeless have a right to subsistence does little on its own towards improving the lot of the homeless. The question of how these rights are to be actualized still needs to be explored.

This thesis provides reason for some individual changes (e.g. changes in attitude towards homeless people), and legislative changes (e.g. the creation of new social programs) in our society. What is still left undone in completing the argument for homeless rights is showing that it is not impossible to honour these rights. This chapter - among other things- will provide some general and specific suggestion as to how the right to subsistence can be, at least partially, honoured.¹

¹Unfortunately, space constraints will not allow for a full exploration of the many social changes that should occur.

II. Reparation, Prevention and Subsistence

As was discussed in the previous chapter, the right to subsistence can generate a whole host of duties. Among these is a duty to provide subsistence to those who are lacking such resources, and a duty to provide aid to those who are presently suffering from deprivation and damage related to a lack of subsistence in the past. Volumes could be written on all the various ways subsistence can or should be offered to those who are needy. Because of obvious space constraints I will concentrate on only a few ways of breaking down the problem of providing subsistence for the homeless at an institutional level. Roughly, these are provisionary, preventative and reparative measures.

Homeless people have suffered from many physical and psychological harms, a few of which have been discussed in previous chapters. Even if basic amenities such as food, clothing and shelter are offered, the damage that has been done to homeless people also needs to be addressed by changes in legislation, changes in attitudes towards the homeless, and social programs further to those that are already offered. Aside from simply providing subsistence amenities, the harms caused by a lack of these also need to be addressed. Of course there will be times when providing subsistence amenities will also alleviate the harms that we have discussed in earlier chapters. In many situations, further assistance will be required over and above just making amenities available. If a homeless person suffers from frostbite, bringing them to shelter will only help solve part of the problem. The frostbite itself will also have to be treated as well as related infections. This is also true of the psychological effects of being homeless. Not only is there a need for subsistence, but there is also a need for the psychological damage caused by deprivations and difficulties to be treated. For instance, beyond being provided with

subsistence amenities, a homeless person might need counselling for various forms of stress related mental illnesses. Reparative measures such as these should be implemented in respecting the right to subsistence of the homeless.

Another form of assistance that should be offered to the homeless is of a preventative nature. Again, providing subsistence often does the task of preventing harms, but sometimes further steps can be taken to prevent harms. Women's emergency shelters are a great example of a social program that provides needed subsistence while fulfilling a preventative role. A woman who has suffered abuse and decides to leave home will have immediate need for subsistence resources. Also, to prevent the situation from re-occurring there will be counselling resources available. Such women are offered not only basic subsistence, but also the means (through counselling) to avoid going back to the same -or similar- abusive situations. Homeless subsistence programs (e.g. shelters) should have mechanisms built in that help prevent people from returning to avoidably bad situations. A vaccination program is another example of a preventative social program. Vaccines are provided, not because anyone has contracted a virus, but because of the possibility that one or many people might. The idea here is that -given a certain circumstance- (e.g. spousal abuse, eviction, invasion by a foreign virus, mental illness), there are services to prevent individuals from sinking to an unacceptably low level (homelessness, death), experiencing certain unacceptable degrees of degradation and harm, or returning to a harmful situation. Various measures should be built into any system that aims at helping the homeless for preventing recidivism and for preventing those from becoming homeless who may be headed in that direction.

Providing subsistence has been one of the focal points of the previous chapters and is an important part of helping the homeless. Providing subsistence often plays both a reparative and preventative role. For instance, food banks offer a subsistence amenity that attempts to ensure that people's daily nutritional needs are met. This plays the preventative role of helping an individual avoid malnutrition and it also plays the reparative role of treating those who already suffer from malnutrition. In regards to life and death situations, a reparative assistance program will do everything in its power to get someone to the point of being able to survive, and only when there is some risk of them dying, whereas subsistence welfare will be offered in order to ensure that no one gets to an unacceptably low point in the first place.

The reason these general categories of aid are mentioned, is to address the problems of past, present, as well as potential future harms with reparation, provision, and prevention. Homelessness is not a problem that is solved by simply addressing present day worries and throwing money and basic amenities at the problem. It is important to address the damage caused from exposure to the harms of homelessness as well as preventing future harms from occurring.

III. Practical Solutions for Various Problems Related to Homelessness

Several changes to our existing infrastructure would be very helpful to solving problems that homeless people face. Again, volumes could be written about the changes that could occur in existing institutions, but I will concentrate on only two ideas that come to mind in light of the research that has been done for this thesis.

One issue that could be tackled by the involvement of government and various private bodies is that of providing nutrition. Currently, all restaurants derive profits from selling food items. Most homeless people depend upon someone else preparing their food, because of an obvious lack of kitchen amenities. Most homeless people cannot afford to eat at restaurants, and are often banned from even entering them.² Food banks and soup kitchens derive no money from the people that are offered food. Therefore they are dependent upon the generosity of donors from society at large, and from continuing government grants. Furthermore, since they are often entirely run by volunteers, there is an instability in the labour force. Every Christmas there are desperate pleas from soup kitchens and food banks for much needed donations. Consequently, this financial instability and lack of resources translates to an inconsistent, inadequate or unstable food source for the homeless. I see a possible solution that combines certain aspects of restaurants and soup kitchens: government subsidized, not-for-profit restaurants.

Currently in Canada there is a program called “Meals on Wheels” that distributes food to those who are unable -for reasons such as disability or age- to provide a hot nutritious meal for themselves. Each recipient pays \$4.25 to help subsidize the cost of the meal. A meal includes soup, a main course such as chicken, a starch such as potato or rice, dessert and a fresh piece of fruit.³ The program operates with a small grant from the Provincial Government, donations, volunteer time, and various forms of fundraising. The obvious problem for homeless people who want to access such a program is that an

²I witnessed several homeless people being ejected from various restaurants in Calgary. One was a well-known left-leaning vegetarian café. I have taken up a seat on several occasions in this same restaurant without buying anything in order to get a quick respite from the cold without being ejected.

³Shirley Anne Gorman (Client Co-ordinator, Meals on Wheels), interview by author, Telephone conversation, Ottawa, Ontario, 31 May 2002.

address is required for dropping off the meals and picking up the reusable dinnerware. Given all this, there is room for a program that provides meals to needy people who do not have a permanent address but who can afford a nominal fee for each meal. Meals could be designed by nutritionists whose primary aim is to create nutritionally complete fare. Like soup kitchens, such meals would be available to anyone including people who may not be homeless but who may have difficulty providing themselves with a square meal. The downside of such a program is that such “restaurants” would compete with the business of other fast food type establishments. The upside for these establishments is that there would be a decrease in loitering by people who simply need a warm place to sit during the day.⁴ An objection to such programs is that those who are vulnerable and in great need would be required to pay money out of their own pockets for a basic amenity. This concern should definitely be researched very thoroughly before going ahead with such a program, but so far there is no reason to think that homeless people cannot come up with a few dollars a day. The greatest concern as far as asking homeless people for money would be that even a small amount of money a day could quite significantly tap into the savings of a homeless person who is attempting to get first and last month’s rent together (again, these potential problems would all have to be well researched before the implementation of such a program). By combining the self sufficiency of a restaurant and the social aims of non-profit organizations such as soup kitchens, there is potential for a long term, sustainable solution to an important, subsistence related problem

⁴Several fast food restaurants in downtown Calgary host a number of homeless people, much to the chagrin of the owners and managers.

Another related social program would be heavily subsidized housing. The same potential objections vis a vis costs to the homeless would also have to be researched, but the potential for such programs could be quite great. The general idea here, like the subsidized restaurant, is to use public funds for start up costs and for users to pay -at least in part- for the upkeep. The amount the user would pay would be proportionate to the costs of running such facilities. Compared to subsidized restaurants, there are fiscal advantages and disadvantages. The downside would be the huge initial costs of such facilities. A restaurant that can service thousands of people a month would be considerably less expensive to build than a housing complex for the same number of people. The upside however would be that the overhead would likely be much less. The cost to the user would probably be relatively small, as amenities such as heat, hydro, repairs, management, security etc. -once divided amongst many people in a single dwelling complex- would not amount to a prohibitively high amount. Again, costs to those who have extremely limited financial resources are certainly a factor that would have to be evaluated before going ahead with such a program.

Aside from the obvious advantages of escaping the harsh elements and the dangers of the street, the benefits of such a program would be very great. People who previously had no permanent shelter would have the benefit of an address where employers, family, friends and social services could contact them for various reasons. Simply having a place to store one's belongings would be a welcome escape from the constant worry of losing important worldly possessions. Having a living space might also offer a source of increased self-respect. There could be many advantages to such a

program. It would go a long way to alleviating many of the difficulties and deprivations discussed in Chapter 2.

Such a program is a far cry from current welfare type services where a cheque is written to individuals with full knowledge that the money will not cover basic costs. Provincial welfare services are currently not designed to take economies of scale into account. So, a recipient in Toronto gets the same as someone in Kitchener-Waterloo where rent is considerably less.⁵ If money is handed out to people in order to go towards covering basic living costs, by all means the money allocated should be sufficient to cover basic needs. Budgetary concerns are relevant to some extent in distributing resources, because obviously there are not infinite funds to go around. However, if a social program exists for the purpose of covering sustenance costs, it is absurd for that program to distribute amounts that are not based on the actual costs of surviving. The same goes for such legislation as minimum wage. A wage minimum is an arbitrary amount unless it is set to cover basic needs for the region in question. Again, people in Toronto will need more than those who live in many other Canadian cities. Incorporating real factors like economies of scale (how much does it cost –on average- to cover basic needs?), climatic factors (will someone need a raincoat or a parka to survive?), vacancy rates (will someone have to live in a hotel or other temporary shelter before actually finding a vacant apartment?), the adequacy and availability of transportation (is there a viable public transit system or will an individual be forced to take a taxi?), and so on. These are all factors that change someone's financial circumstances drastically from city

⁵"Kay" (Ontario Ministry of Social Services Case Worker), interview by author, Telephone conversation, Ottawa, Ontario, 21 June 2002.

to city and -in some cases- from neighbourhood to neighbourhood. All existing programs should take such factors into account in order to concentrate on the factors that have concerned us for this thesis. The simple question that should be asked is: “What, exactly, does it take to meet needs X, Y, and Z in region A, B, or C?”. If a social program exists for a purpose, the appropriate funds should be allocated so that the purpose is fulfilled -both in theory and in practice. At every level, from minimum wage standards that reflect economies of scale, to the amount of a welfare cheque for a given region in a city, the economics of actual needs fulfilment should be examined closely. Such considerations will go a long way to solving the problems that have been raised by Waldron, Shue and others in this thesis.

IV. Conclusion

The homeless suffer from difficulties and deprivations that should concern us. The daily harms they face and the potential harms that will befall them generate various duties, such as the duty to rescue (especially once it is understood how minimally demanding rescue actually is). Objections to such duties are based on the common misconception that the justification for such duties is based primarily upon beneficence rather than the avoidance of grave -often life threatening- harms. A concern for the avoidance of harm will also generate further justification for the right to subsistence, as outlined by Shue. The right to subsistence is based on similar justification as other rights that we take for granted, such as the right to security of person. What makes the right to subsistence arguably more important than this right is that it intends to protect the most essential elements of our existence. By accepting that we all have a right to subsistence -

both in theory, but most importantly in practice- it follows that there is a duty to save the homeless, because their presently bad situation is based on the past violation or failure to respect the right to subsistence, particularly in regards to shelter. Saving the homeless, and negating the harms that have been of concern is not a task that simply involves provisionary measures. To be consistent with the harm-based approach of this thesis, preventative and reparative measures should also be taken in order to address all the problems that are related to homelessness.

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