

The New Vagrancy: The Evolution of Moral Policing in Anti-Homeless Policy

The Role of Morality in the Criminalization of Homelessness

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“A peaceful beggar poses no threat to society. The beggar has arguably only committed the offense of being needy. The message one or one hundred beggars sends to society can be disturbing. If some portion of society is offended, the answer is not in criminalizing these people ... but addressing the root cause of their existence. The root cause is not served by removing them from sight, however; society is then just able to pretend they do not exist a little longer.” -

Justice Robert W. Sweet

Abstract

Since the 1980s, the number of people experiencing homelessness in the United States has exploded. This is due to a number of structural factors including rising housing costs paired with stagnant wages, budget cuts in social services, gentrification of cities, and rising unemployment rates. Rather than addressing structural causes of this issue, the legal system in the United States takes on the strategy of criminalizing individuals affected by them. This thesis argues that individualistic emphasis on punishment is not new, and rather is rooted in moral policing from vagrancy statutes used to control unhoused populations in 14th century England. Based on historic continuities in legal strategies, I find that while the language of anti-homeless policy has evolved to punish acts rather than identity, it has kept its intent of policing unhoused people based on their moral divergence. Through a historical overview of anti-homeless policy including vagrancy statutes, settlement laws, and quality of life laws since the 1300s, this study shows that unhoused people continue to be policed based on their social identity which holds the stereotype of being morally divergent. I then pivot to discuss the legal implications of vagrancy laws that led governments to implement new anti-homeless policy that does not punish people for their status and instead controls where and when unhoused people can perform life sustaining acts. The study proceeds to give an account of contemporary anti-homeless policy, which was found to police people based on their identity and unbelongingness in public space. This historical and contemporary analysis is then connected to broader concepts such as the Protestant work ethic, individualism, and the construction of deviance to illustrate how anti-homeless policy is rooted in moral policing. The discussion then calls for new methods of integration for the unhoused such as transitional encampments and the removal of anti-homeless architecture, which can begin to shift public discourse away from the fixation on punishing individual unhoused people based on their perceived wrongdoing.

Key Words: homelessness, vagrancy, policing, morality

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Introduction

As the most prosperous nation in the world by levels of GDP and net worth, the United States is paradoxically home to over half a million people who sleep outside (WorldBank.org). In 2019, the United States had a homeless population of 567,715, according to the Point in Time Count by the Department of Housing and Urban Development (National Alliance to End Homelessness, 2020). To contextualize this, this means that 17 out of every 10,000 people experience being homeless in the United States at any given time. How, then, can the richest country in the world have such a high population of people who sleep outside? The answer is complex and dynamic, but can be partially boiled down to the fact that our response to most social problems is criminalization and punitivity. While I am often hesitant to compare our society with those of small, homogeneous European countries, it is important to note that many of them, such as Finland and Denmark, differ from the United States in that they address their social problems by addressing structural causes rather than punishing individuals affected by them. Alternatively, the culture of the United States, centered around policing and individualism, leans towards micro level solutions for macro level problems.

As a result, we have resorted to the criminalization of individuals who are affected by structural issues such as wealth inequality, lack of affordable housing, stagnant wages, and a broken social welfare system. Many interpersonal problems such as substance addiction, mental health challenges, interpersonal violence, and other traumas are rooted in these issues, yet they

are largely treated as individual shortcomings and instances of social deviance. Due to our innate individualism and fixation on the policing of others, we fail to address structural issues that cause further violence. These cultural ideologies have been constructed and evolved over hundreds of years, and have existed since long before the establishment of the United States. Today, we fail to see how generations of socialization have contributed to the way that we perceive and punish people who sleep outside. For us to begin to address this, we must deconstruct these ideological factors to make way for more collectivist and transformative ideologies and policies.

Today, there is ample scholarly literature around frameworks for analyzing the issue of homelessness. There have been discussions in academic research around the social control of homeless people as being an extension over the battle of public space and an extension of globalization, an evolved form of religious persecution, control of the labor force to ensure a productive economy, and more. While all of these points of analysis are valid and true, they all have one thing in common. All of these points of analysis have to do with the emergence of what I call moral policing, which refers to the tendency for individuals and social institutions to control people based on their adherence to social norms around morality. In our society where our cultural values have become engrained with those of our economic system, we cannot separate economic control from moral policing, which makes it necessary for us to study the intersection of these two. The social and legal punishment of the poor, and namely unhoused people, has complex ideological roots that seem to coalesce into inseparable cultural values and systems of social control which all stem from the societal need for moral policing. This thesis will address historical examples of how the policing of the homeless is rooted in moral control, and how our cultural values have helped to perpetuate it.

I argue that although the language of anti-homeless policy has shifted over time, the intent has remained to punish people for morally diverging from mainstream society. While competing notions of the causes of homelessness have occupied social scientists for decades, there has not been enough historical and cultural analysis around why the United States punishes unhoused people in the way that it does. Though the existence of homelessness has become so commonplace in our country, we are still studying the causes of the issue rather than analyzing the way that we handle it and how relevant power structures and discourses have been shaped over time. While causational studies are important if we are to address structural determinants of homelessness, it is also important for us to understand the cultural factors that have led to the socioeconomic status, public perception, and legal punishment of unhoused groups. The latter is the basis of the argument for this study.

In the United States, popular culture has largely constructed homelessness as a point to be made about what happens if you don't work hard enough in life. We often see ourselves as having more in common with billionaires than we do with unhoused people sitting on the corner, even though the chances of becoming homeless are 1 in 194 as compared to the 1 in 578,508 chance of becoming a billionaire in the United States (Feldstein, Fisher, and Baker, 2016, p.4). This is due, in part, by the fact that homelessness and the discourse attached to it has been around for hundreds of years longer than billionaires, and we as a society have had these years to form our perceptions, cultural values, and social norms around the homeless population. This study will highlight the cultural and societal factors that have led us to where we are now in anti-homeless policy, and will address how moral policing has shaped how we punish the homeless community today.

I argue that the punishment of unhoused people, though it has evolved in language and strategy over time, has always been rooted in moral policing. To do so, I conduct an in-depth historical analysis of anti homeless policy ranging from the periods of feudal England to the period of the Great Depression in the United States. For the data portion of this thesis, I use existing secondary sources to contextualize my argument and draw conclusions. The bulk of this thesis consists of a historical analysis which gives relevant context to vagrancy policy during each time period, including changing social conditions and resulting public perception, which is intertwined with the ways that laws are created. This section will move chronologically, focusing on the periods of feudal England, colonial New England, the Reconstruction Era and the period of industrialization, and the Great Depression. After completing a historical walkthrough of past anti-homeless policy, I shift my framing to give a brief overview of political causes of the current issue of homelessness. In this second section, I look at both policy decisions and economic factors of the 1950s-1980s which were a catalyst for the crisis of homelessness as we see it today. My purpose for discussing these historical factors is to show similarities between motivations and applications of laws throughout history, to solidify that they all have the intent to morally control groups that have been deemed to break social norms, such as people who do not have homes.

After addressing this political shift, I discuss the specific legal factors which pivoted the way that we punish unhoused people today, specifically shifting the language from punishing the status of unhoused people under vagrancy laws to the new anti homeless policy which is quality of life laws. After discussing these legal changes, the next section will consist of a summary of current types of anti-homeless policy used to criminalize people, including prohibitions on sleeping, camping, and sitting in public, restrictions on food sharing, and outright destruction and

removal of homeless camps. By comparing current anti-homeless policy with past statutes, I illustrate that, even though language has been subject to change through legal battles and changes in culture, the intent remains to punish homeless people simply for holding the identity of being homeless, which goes against moral norms that individuals are expected to follow so as to hold up the status quo.

Following this historical analysis, I then move to the discussion section, which illustrates relevant ideological concepts which contextualize both past and present anti-homeless policy. To illustrate my discussion, I draw upon relevant theoretical texts whose concepts are essential to my argument. This discussion will break down relevant concepts that have been salient to the formation of anti-homeless policy and perceptions such as constructing and controlling deviants, the individualisation of the lower class, and the coalescence of religion and economic ideologies. The thesis concludes with proposals for changes that we can make both individually and through policy and community solutions that may begin to challenge these deeply ingrained ideologies. To strengthen my argument that there are alternatives to the current situation of homelessness, I draw upon primary sources from established transitional encampments.

For the accessibility of this study, it is necessary for me to define a few terms that I will be using throughout. First, I will be discussing “anti-homeless policy”, or any policy measures that attempt to control the location or actions of unhoused people in a way that does not benefit them. While the vagrancy statutes and contemporary quality of life laws differ greatly in their language and scope, they are both forms of anti-homeless policy because they were put in place to control the location and conduct of unhoused people in a punitive manner. A second factor that is important for me to note is that, while my language varies through my explanation of different time periods, such as my use of the word “transient” in describing 19th century

homelessness as opposed to “unhoused individuals” when discussing the issue in current terms, these terms all address the same group of people. Language is malleable and dynamic, and my usage of outdated terms is simply to reflect the ways in which unhoused people were addressed at the time. While I use various terms to describe people who are legally punished for taking on the identity of being visibly poor and lacking a home, the terms are somewhat interchangeable.

Literature Review: Contextualizing Anti-Homeless Discourses

The crisis of homelessness at this point in history is a complex issue situated in historical social and legal punishment of the underclass, which has its roots in Western Christian ideologies that place responsibility on the individual. As the punishment of unhoused people has persisted through the rise and fall of industrialization and the implementation of neoliberal economic policies, we can conclude that this practice comes from something outside of the economic realm. Specifically, neither the condition of homelessness itself nor the criminalization and punishment of homeless individuals is solely a product of industrial capitalism, but is intertwined with religious and social tendencies which precede it. To understand the situation of homelessness in our both the current situation and the historical perspectives, we must first analyse the social constructions of deviance, discourse, class, and identity. Through the work of Emile Durkheim, Michel Foucault, Howard Becker, Michael Katz, and Max Weber, I will deconstruct these cultural phenomena and bring context to the crisis of homelessness as we see it today in terms of identity and social constructions of the underclass through social and legal frameworks.

As discussed later in this paper, anti-homeless policy originated as vagrancy laws, or a set of policies put in place to punish people who had the status of being unemployed, unhoused, or transient. For laws to punish vagrants to be taken seriously, they must be written after social

processes that deem vagrancy as an identity that is deviant from mainstream society. Because vagrancy was constructed as an identity, it is important to analyze how deviance as an identity is built and upheld in popular culture. There are a multitude of moving parts in this construction, and, through the work of classical and contemporary social theorists, I will break them down to contextualize the status of vagrancy as an identity to be punished, even in today's culture. The main proponents of the identity of deviancy that I will pull from are deviancy as a form of social control, deviancy as a means of punishment, and the pathologization of individuals as deviants to scapegoat them for their own experiences. Further, I will explore the religious influences that have led to these social constructions, and will argue that negative attitudes towards unhoused populations stem from the societal need for moral policing.

Poverty as Social Deviance: Theoretical Constructions of Deviance and Criminality

If we are to analyze the criminalization of homelessness, we must first explore the ways in which homeless individuals are constructed as deviants in their relationship to larger society. As I will show with my data, homeless people have historically been part of a population seen as undesirable to mainstream society and a productive economy. As people's identities are socially constructed as deviant, legal frameworks follow suit to control them and construct them as examples of people who do not follow moral and legal codes. Emile Durkheim seeks to answer the question "what is the relationship between society and the individual?" To begin to answer this question, Durkheim states that, in a society where all facets have a specific function, the construction of deviance works as a form of social control. According to Durkheim, the division of labor in society functions to promote social solidarity, in which a society functions smoothly when people are organized and functioning in their predetermined ways to keep it in order. The

role of law, Durkheim says, is to maintain forms of social solidarity which allows the smooth functioning of the political economy (1893, p. 222). When an individual or group breaks the status quo by diverging from these laws, they take on the identity of being a deviant. Though deviants break the status quo that is so important to maintaining hegemony, or the control of a dominant group over another such that we have in the United States, Durkheim contends that they are in fact needed for this same reason.

In a society that functions through hegemony, people who have been labeled as deviants serve as an example for what happens when the status quo is broken. When the rest of society is in solidarity with each other, they engage in a form of social punishment and shaming of the deviant. This social shaming paradoxically promotes social solidarity by “sustaining collective consciousness”, and preserving “moral consciousness” (Durkheim, 1893, p. 228-229). According to Durkheim, punishment of deviants is an integral part of preserving group morality and social solidarity. This theoretical framework is important to apply to the way that unhoused people are marginalized through popular discourse and punitive policies. Even today, unhoused people are seen as a sort of negative reference group for society, or an example of how individuals will end up if they don’t work hard enough in life. In this sense, unhoused people have been constructed as deviants to serve as props that we can point to saying “don’t end up like them.” In turn, this construction of deviance serves both to coerce unhoused people themselves and the general population into following social norms.

The social construction of deviance is wholly reliant on changing social conditions which influence public opinion. When social solidarity is broken down due to conflict between institutions and quickly changing societal conditions, Durkheim theorizes, society goes into a state of *anomie*. *Anomie*, as defined by Durkheim, is the condition of rapidly changing social

conditions that throw culture into a state of panic and social unrest (1893, p. 240). Kevin Funkhauser, in his essay, *Anomie of the State: Societal Response of Keeping Homelessness Hidden Through Urban Policies and Shelter Settings*, describes how Durkheim's concept of anomie in modern society has led governments to a state of disagreement on how to help unhoused populations. This disagreement, combined with increasing gentrification, has led to unhoused people being forced out of sight and away from populated areas (Funkhauser, 2015). This phenomenon, now legally called "quality of life laws", is one of the ways that unhoused people are further separated from the rest of society. The relevance of changing social conditions is important to take into account because they shape public ideology, which determines who is scapegoated for these events.

Michel Foucault, in his discussions of knowledge, power, and discourse, discusses deviancy specifically in the context of incarceration and surveillance. In his book *Discipline and Punish*, Foucault contends that prisons, which are put in place as a form of social control to control deviant populations, perpetuate abuses of power in the social body (Foucault, 2012). Further, prisons function to punish groups of deviants that have been defined and perpetuated by social discourses, which in turn maintains the status quo of social control. According to Foucault, prisons function in a way that emphasizes knowledge and surveillance of marginalized populations in order to predict their behavior and further construct their identity and archetype as a deviant. This, Foucault argues, is the basis of society that emphasizes modernity, or a state emphasizing organizational knowledge and punishment. The concept of knowledge and surveillance is important to contextualize how popular discourse shapes people into deviants whose behavior is predicted and controlled, both socially and legally.

Foucault states that there are three broad types of deviants that the state recognizes and perpetuates through popular discourse. The first is people who are more intellectually gifted than mainstream society, who have been perverted by their organizations, their “native predisposition”, or “pernicious logic” to engage in behaviors that go against the status quo. These people, according to Foucault, are punished by being constantly surveilled and kept in solitary confinement so that they are not a threat to mainstream society. The next archetype of deviant is one that is made up of “vicious, stupid, or passive convicts, who have been led to evil by indifference to either shame or honour, through cowardice, that is to say, laziness, and because of a lack of resistance to bad incitements” (Foucault, 1979, p. 53). Foucault’s solution to these kinds of deviants is not punitive punishment but rather education and compulsory work. The last type of deviant is one that is simply inept in all areas of life, who has been led to evil not by ill will, but by their incapacity to integrate into society. This archetype is arguably the most applicable to the way that popular discourse personifies unhoused people today and in recent history.

Another theorist that writes about the concept of deviance as applied to homelessness is Howard Becker. In his book *Outsiders: Studies in the Sociology of Deviance*, Becker writes about deviancy, similar to Foucault, in terms of types of deviance. Diverging from Foucault, Becker also describes how deviants are constructed based on who makes and enforces the rules in any given society. An important point that Becker makes is that rules and laws are often deduced from the values of a society, though they do not always come directly from them (Becker, 1963, p. 132). This means that the policies meant to punish people may be attributed to a societal phobia of homelessness and values that align with their punishment. For rules to be

enforced, Becker argues, there must be something that provokes their enforcement combined with values in a society.

First, someone must take initiative in punishing the “culprit”. Secondly, someone who wants the rule enforced must bring it to public attention and blow the whistle when they see it in their best interest. Becker also states the conditions under which someone decides to blow the whistle vary depending upon the complexity of the situation and the values that lead an individual or group to feel the need to have rules enforced (Becker, 1963, p. 122). These conditions, in the context of homelessness in the United States, have to do with the fear of unhoused people and the overarching theme of equality and individual responsibility. This theme of equality, which has proven to be problematic in a society which lacks an equitable playing field, has led to the subjugation of many groups of people based on ideas that everyone is equal and that everyone should be able to pull themselves out of situations of homelessness, which leaves the public with little to no pity for those who find themselves in that situation. In turn, this lack of pity, or “compassion fatigue”, leads lawmakers to construct rules that negatively affect those who have been deemed to have not worked hard enough in life.

Public Perception and Policing the Homeless: Discourse, Power, and Law

Foucault’s definition of discourse is also important to the analysis of homelessness and how ideologies and policies are intertwining forces that keep underprivileged groups in a state of oppression. According to Foucault, power, and therefore the power to punish homeless populations, is intertwined with knowledge. Power and knowledge cannot be separated from one another and are situated in society’s cultural practices and discourses. Discourse is defined as an institutionalized way of speaking or writing about reality that defines what can be intelligibly

thought and said about the world and what can not. Discourses are heavily shaped by cultural practices and ideologies, semantics, and shifts in power, and are interwoven with our laws and are the driving force of social change: as discourses shift, so do laws. Because deviants are constructed through social processes that involve power and social norms, an understanding of knowledge and discourse is imperative to understanding this phenomenon.

It is important to discuss the concept of discourse because it is relevant in understanding how the punitive treatment of unhoused people has been justified for centuries. The current public ideology that places the responsibility for one's position onto the individual has its roots in religion, which precedes the existence of capitalism. Though our current system clearly works in a way that necessitates poverty for the benefit of the upper class, the issue is even deeper than that. The discourses that we see today are not just ingrained in our economic system, but in our moral schemas. It is difficult to face the factors that allow for poverty to continue if the question is framed as individual morality and not pervasive systems of inequality.

It is imperative that I discuss discourse and law when analyzing how the law targets unhoused populations because numerous scholars contend that law is influenced by culture and morality. The culture of the United States is extremely individualistic, and the legal system is meant to punish individuals for their behaviors rather than address the root causes of what led to their actions. Because the legal system functions in a way that reflects the core values of our society, laws are less likely to change without a dramatic shift in public opinion. Specific laws used to punish unhoused people reflect cultural values around individualism and economic independence. Therefore, by studying the coalescence of morality and law, it is possible to analyze the deeply rooted prejudices towards certain groups that have manifested themselves in the law for centuries.

The Individualization of Poverty and the The Protestant Work Ethic

Moving forward, I will discuss how deviance as an identity in the United States has been built through ideas of meritocracy and individualism that are arguably inherent in free market societies. I will contextualize this through the work of Max Weber and connect it to the concept of the Protestant work ethic as perpetuated by capitalism. Weber's discussion on individualistic and meritocratic values go hand in hand with Becker's theory that rules are deduced from values, specifically the value of equality in the United States. Weber theorized that ideas of individualism and meritocracy that drive capitalism, and therefore oppression, are rooted in Christian ideas of work ethic and morality. This Protestant work ethic asserts the importance of hard work and asceticism, emphasizes individuality and the idea that those who work hard will get what they deserve in life (Weber, 1976). This also places an inherent moral elevation to those who succeed in life, assuming that they have worked for what they have all on their own. These ideas, which have become ingrained in our capitalistic society, have deep roots in religious doctrine that remain today.

The Protestant work ethic has its basis in the idea that, under Christianity, humans are put on this earth solely to serve God and that every individual has their own relationship with him. Because of this, they must work hard in this life in order to please him¹ and earn their entry into the favorable afterlife. In his work, *The Protestant Work Ethic and the Spirit of Capitalism*, Max Weber articulates this notion, explaining that Protestant ideology believed that "...God only helps those who help themselves" (Weber, 1958, p. 115). This idea in the ideology of the Protestant work ethic forms the discourse that, for people to reach exalted salvation, they must work as hard as they can and avoid all vices. Further, this places the individual's life circumstances in their

¹ "Him" in this context, is referring to the God that has been personified as male by Judeo-Christian theologies.

own control. The Protestant work ethic rides on the idea that, if people work hard and serve their God, they will be rewarded both in this life and the next.

The Protestant work ethic is integral to the function of capitalism and ideologies of meritocracy today. Capitalism in itself is an individualistic economic system which emphasizes free choice, unregulated markets, and individual responsibility. For centuries, this economic system has been interwoven with meritocratic ideas that if an individual is in a negative circumstance, they simply did not work hard enough or made decisions that led them to deserve the position that they are in. In a 1993 study of attitudes towards homeless people and the “Not In My Backyard” ideology (or NIMBYism), Frances B. Somerman (1993) states that a rejection and lack of sympathy for outgroups is often found in United States culture and has its roots in the country’s core values. In this same study, Somerman found that individuals who held traditionally Protestant values were more likely to hold more conservative political values, which historically do not align with assisting homeless populations (1993, p. 180). Respondents who scored high on this scale were also shown to have more anti-Black attitudes. Because African American people make up 40% of the homeless population while only representing about 13% of the general population, this finding is important. These studies illustrate how religion and economic values are ingrained in American discourse that discourages people and governments from assisting groups, such as unhoused populations that have come to be identified as deviant and undeserving of help. Through historical analysis of vagrancy laws in my data section, below, I will be further illustrating how vagrancy statutes and the later criminalization of poverty are deeply ingrained in the necessities of capitalism and its religious influences.

One of the implicit consequences of the Protestant Ethic ideology is the ideological construction of the deserving and undeserving poor, which has been wrought into a de-facto

framework for deciding who does and does not deserve assistance in society. The idea that some poor people are more deserving of benefits than others dates back to the Elizabethan Poor Laws, and has become intertwined with our ideologies and our systems of social insurance (Katz, 2013, p. 4). This applies to the services of welfare, housing assistance, shelters, and micro level help such as individual donations and basic acts of empathy. By dividing the poor into multiple classes by differentiating the resources available to them, society further separates them from one another and from the middle class, creating more of a divide and perpetuating their oppression. The identities of the most undeserving poor have shifted throughout history, at one point being dominated by poor single mothers and at others by apparent drunken vagrants. Though the focal points of the undeserving poor have shifted, the identity has always served to differentiate who deserves the least assistance in society and to further isolate people, as well as to implicitly set limits on our social obligation. This ideology and institutional framework has dire consequences on the experience of homelessness and has further entrenched people in poverty and the identity of criminality.

The classification of people into an underclass and an identity of undeserving has its roots in religious ideologies, and is essential to capitalistic ideas. According to Michael Katz, the cultural explanation of the existence of poverty before the twentieth century was intertwined with the biblical idea that poverty is always with us, and is a result of human impurity. As this idea began to dissipate with the progressive economic emergence of “the discovery of abundance,” the question arose of why poor people still existed if there were enough resources to go around (2013, p. 3). To explain this, poverty began to be conceptualized as both an issue of scarcity and individual merit of those experiencing it. Thus, the idea of the deserving and undeserving poor sprung from determining whether poor people were having their experience

based on scarcity or their own incorrect life choices. Though these two conceptual categories existed in the public eye, it has always been much easier to pathologize individuals than to look at systemic factors. Katz sums this up well, stating “With scarcity off the table, individual failings marked persons as all the more undeserving in a world of possibility where poverty was no longer inescapable” (Katz, 2013, p. 3) This disregard of systemic poverty in a society where poor people are essential to the success of the upper class has been named by Michael Katz as the *irony of optimism*, and has allowed groups of people to be categorized by their perceived inferiority that has led them to their position of poverty.

This *irony of optimism* and the individualization of poverty has allowed poor people to be pigeon-holed into an archetype that fits the description of someone deserving of poverty (Katz, 2013, p. 3). This archetype, I will argue, has been the basis of punishment for acts of vagrancy and homelessness, and has led to the continued stigmatization of those perceived as poor. From “vagabonds” in the fourteenth century to “bums” after the 1800s, there has always been an individual identity of deviance that has been associated with the poor. This has played a hand in turning public opinion and governmental priority away from helping the poor. The institutional and individual disregard for the experiences of the poor combined with social factors that perpetuate conditions of poverty has only caused the crisis of homelessness to explode over the past decade, and has dramatically increased since the 1980s. It seems that, as more and more people become entrenched in poverty and the rich get richer, the association between religion, individualism, and capitalism is revealing its true consequences while showing no signs of alleviation.

As shown, the construction of deviancy and the undeserving poor is theorized in multiple ways. Though scholars have differing opinions on why society has constructed individual

deviants, one fact remains salient: the individualization and pathologization of those with negative experiences in society serves to detract from larger systemic issues that perpetuate their experiences. The individualization of those experiencing poverty alleviates social institutions of their responsibility to address the issue, and further perpetuates the systemic poverty that is responsible for the housing crisis. Though social scientists have produced numerous works debunking the individual responsibility of poverty, it remains difficult to change public ideologies which are rooted in centuries-old religious ideas. As the capitalist machine with deeply ingrained Protestant Work Ethic ideals and the necessity for poverty trudges on, the question remains of how to change public perception to bring systemic causes of poverty to the forefront of the collective consciousness. As I develop my argument through my data findings, I will articulate the ways in which moral policing and social control has generally targeted homeless populations across history, and how that has been the result of changing social conditions and the inherent need for governmental institutions to police the most vulnerable members of society.

The Historical Construction and Evolution of Moral Policing Through Vagrancy Laws

While the Protestant work ethic and capitalist ideologies have shaped dynamics of policing and institutional responses to poverty, laws enacting the policing and control of vagrants far precede capitalism. Though societal control of poor people does have to do with controlling the labor force, it first existed as a sort of moral policing. As the market society and capitalism developed, this moral policing became embedded into the economic system, making the two paradigms inseparable. Laws to punish homeless individuals have existed for centuries, and

while they have taken on different languages and strategies, the intent has remained the same. This fact illustrates how moral policing has not made its way out of popular culture, and society writ large has continued to punish overtly poor and homeless people both legally and socially. Even so, the beginning of the criminalization of homelessness, which has in no way subsided, began in feudal England in the thirteenth century and has evolved into various forms of moral policing since then.

The Rise of Vagrancy Laws in the English Middle Ages

Contemporary anti-homeless policy today has its roots in vagrancy statutes dating as far back as the fourteenth century. The first anti-vagrancy statute that historians and legal scholars have recorded was passed in feudal England in 1349, though there were pre-existing legal statutes that led to a political climate that made this possible (Chambliss). The most notable of these was passed in 1274, which made it illegal to sleep in a religious establishment or any house that was not their own. Though this statute was not concerned with compulsory labor or transience like later vagrancy laws, it helped to create a social climate that discouraged people from traveling and staying anywhere except for their own home. The first concrete vagrancy law, the Ordinance of Laborers of 1349, formally made it a crime to give alms to anyone who was unemployed and was sound of the body and mind. In sum, it became illegal to give to beggars who had the ability to work but did not. The statute states,

Because that many valiant beggars, as long as they may live of begging, do refuse to labor, giving themselves to idleness and vice, and sometimes to theft and other abominations; it is ordained, that none, upon pain of imprisonment shall, under the colour of pity or alms, give anything to such which may labour, or presume to favor them

towards their desires; so that thereby they may be compelled to labour for their necessary living (Chambliss,1964, p. 68).

This statute in particular is important because it defines groups as having different levels of social status in society. It defines the identity of a beggar, or someone who is unemployed, as someone who is likely to engage in deviant behaviors such as theft and vice. It also presents idleness, or the state of not being productive, to be on the same level of moral impunity as theft and vice. This statute clearly elevates those who engage in labour as more valuable to society than those who don't, especially when those not working have the mental and physical ability to do so. This implies that feudal England placed deep moral importance on its citizens' engagement in labour.

This statute went even further in its definition of vagrants and its distinction who was and was not able to receive assistance from those who were employed and able bodied. Aside from making it illegal to give money or food to those who were unemployed or transient, the first vagrancy law also made it a crime to be unemployed. This part of the law states,

...every man and woman, of what condition he be, free of bond, able in body, and within the age of threescore years, not living in merchandize nor exercising any craft, nor having his own whereon to live, nor proper land whereon to occupy himself, if he in convenient service be required to serve, shall be bounded to serve him which shall him require... and if any refuse, he shall on conviction by two true men... be committed to gaol till he find surety to serve. And if any workman or servant, of what estate or condition he be, retained in any man's service, do depart from the said service without reasonable cause or licence, before the term agreed on, he shall have pain of imprisonment (Chambliss,1964, p. 68).

The section of the statute is significant in two ways. First, it states that it is illegal, if someone is able-bodied and free from slavery, not to submit to the opportunity of employment. This creates a clause of compulsory employment for all citizens of England, with the threat of imprisonment if they do not work. Further, it addresses those who are already in a position of slavery. Not only does this section make it illegal to refuse work or be unemployed, but it also ensures that those who are enslaved cannot leave their servitude without reasonable cause or before the agreed upon term has ended. This is the genesis of vagrancy statutes and sets the stage for the continued criminalization and social punishment of unemployment and poverty.

This statute was passed partially for the reason that the feudal economy of the time had a need for laborers. At the time that this law was written, England and the rest of Europe was at the height of the destruction of the Black Death, which killed an estimated 25-30 million people. With an estimated 50% of its population killed, England's labor force was decimated. As a result, the government desperately needed to pass legislation that would give a reserve of laborers to property owners and other elites. The fourteenth century was also a time of massive colonial expansion and crusades for England and the rest of Europe, which brought exorbitant wealth to the elites and further increased their need for laborers (Chambliss, 1964, p. 69).

Over the next few decades, the intended targets of vagrancy statutes in England remained wholly the same, though they were amended to make the punishment more severe. For example, an amendment in 1360 decreed that those in violation of said vagrancy statutes would be imprisoned for fifteen days. Punishment for vagrancy continued to get more heinous from here on out. In 1388, an amendment moved that violators would be put in stocks² and kept there until "he find surety to return to his service" (Chambliss, 1964, p. 70). The next increase in the punitivity of punishment was passed in 1495, in which violators were not only put in stocks, but

² Stocks were wooden bondage devices that held prisoners by their feet.

also deprived of food for three days and exiled afterward if they did not agree to engage in labor. Vagrancy statutes continued to function to punitively control the labor supply, and only grew worse in severity until they were reframed. Vagrancy laws were clearly heavily enforced and punished, and, according to one account, were “the most zealously enforced ordinances in Medieval English History” (Beier and Ocobock, 2008, p. 43).

In the early 1500s, vagrancy statutes shifted their focus to punish groups aside from those deemed to be lazy, transient, or unwilling to work. While the statutes kept their severity in punishment, they focused instead on people that the ruling class deemed to be associated with criminal activities. The first statute of this kind, passed in 1503, aimed at those deemed to be a threat to society because of their involvement in organized crime, states,

If any person, being whole and mighty in body, and able to labour, be taken in begging, or be vagrant and can give no reckoning to how he lawfully gets his living... and all other idle persons going about, some of them using divers and subtle crafty and unlawful games and plays, and some of them feigning themselves to have knowledge of... crafty sciences... shall be punished as provided (Chambliss, 1964, p. 71).

The statute, while increasing its scope of who was to be convicted, also increased punishment even more than it ever had been in the history of English Vagrancy Laws. The statute continues in its specific illustration of how exactly people in violation were to be punished. The 1503 statute continued,

...Had to the next market town, or other place where they shall think most convenient, and there to be tied to the end of a cart naked, and be beaten with whips throughout the same market town or other place, till his body be bloody by reason of such whipping (Chambliss, 1964, p. 71).

Continuing until far past the 1500s, vagrants were beaten, tortured by having their limbs cut off, or even sentenced to the death penalty. Clearly, the 1503 Vagrancy statute was created for repressive punishment of specific groups of people that fulfilled the identity of vagabonds, transients, or criminals. After laying out the specific measures to be taken against those in violation of the statute, the law outlines that those who offend for a second time are to be even more brutally tortured. The law goes as far as to call for offenders' ears to be cut off (Chambliss, 1964, p. 72).

While this statute shifts its focus to people who are perceived to be engaging in criminal and morally impure activities such as deceit and collusion, it still focuses on people not engaged in labor. It is arguable that, rather than shifting who vagrancy statutes were punishing, legislators were merely assigning further criminality to people who were previously simply unwilling to work. This passage, while giving a vague range of activities that can be punished, does not show specifically what exactly is being punished aside from perceived deceit. This serves as an example of how vagrants were partially constructed as deviants and menaces to society through the law, which may have further driven them into isolation and perhaps even more criminal activities. While the focal point of vagrancy statutes shifted from the unemployed vagabond to the perceived criminal, they continued to be enforced for centuries.

This statute is also significant because it is written in a way that was specific to punishing vagrants at the time. First, even though it all falls under one statute, it makes distinctions between behaviors that are to be punished, namely the crimes of being unemployed and the crimes of deceit and collusion that come with leading a "dishonest" lifestyle. Secondly, it includes categories of who is to be punished, which sets up for certain identities of people to be profiled and incriminated. Lastly, it meticulously outlines how exactly people in violation are to

be punished. This type of legislature was significant because it added a deep tone of criminality to the original statute aimed at those being unwilling to work and inflicted incredibly repressive punishment against them. Only five years after this statute was passed, shifting focus to those involved in criminal activities, did it expand the punishment to those who were punished for being vagrants and not being involved in crime. This helped to put vagrancy under the umbrella category of intense criminality, which made being unemployed synonymous with being a criminal. In this sense, vagrants went from being public nuisances to criminal deviants that were punished in the same way as those explicitly engaging in deceit and collusion. This is the beginning of the criminalization of homelessness.

Criminalization and punishment as a form of social control continued in this way, and is especially illustrated in the 1563 Statute of Artificers. According to A.L Beier and Paul Ocobock, as argued in their novel, *Cast Out: Vagrancy and Homelessness in the Global and Historical Perspective*, the 1563 Statute of Artificers was the most complex and thorough piece of legislation in Renaissance England. This piece of literature was significant because it not only outlined punishments for those not engaging in labor, but made it specifically compulsory for people to work during the agricultural year. Further, a clause of the legislation enacted that people who were unemployed were to be compelled by legal justices to engage in apprentice work for anyone who was able to take them in. This statute was directly connected with repression of the labor pool because, in one amendment, it proclaimed that anyone who left the service of their employer without a testimonial letter was to be imprisoned for twenty-one days and whipped (Beier and Ocobock, 2008, p. 46). In sum, this statute was a continuation of centuries of laws directly put in place to punish people for not working at a time when unemployment was explicitly deemed as morally incorrect.

With the 1572 Vagrancy Act, English Parliament expanded its repression to children of beggars. This act, passed in response to the repeal of the Slavery Act of 1547, mandated that any children between the ages of five and twelve could be forced into service “by any subject of this realm of honest calling” until the age of twenty-four for males and eighteen for females (Beier and Ocobock, 2008, p. 47). This piece of legislation cited the Statute of Laborers as its precedent, and persecution under the two pieces of legislation were very similar to one another. The connection here is significant, because while the original vagrancy statutes were put in place to punish people living out the experience of being unemployed by mainstream standards, the Vagrancy Act of 1572 extended this punishment to the children of people with that identity. This, in a way, ascribes a disadvantaged position to the children of vagrant people in addition what they were already experiencing. This shows that the moral policing of people based on their group identities and punishment as such have been under arbitrary control of the law for centuries.

Vagrancy statutes served a way to punish people of many identities that were deemed undesirable for the flow of the economy and for maintaining social hegemony. Though vagrancy statutes were originally to punish people who were unemployed, transient, or engaged in begging, they were enforced against a multitude of different groups of people such as the Roma people (Gypsies), fortune tellers, alcoholics, peddlers, and Irishmen (Adler, 1989, p. 213). Chambliss argues that this punishment of certain identities was a response to changing social and economic conditions, and was an umbrella of legislation enacted for social control.

Vagrancy statutes arose as a way to morally control people, though they were disguised as statutes put in place for the good of the economy. As Chambliss states, “The vagrancy laws were designed to alleviate a condition defined by the lawmakers as undesirable”

(Chambliss, 1964, p. 70). By targeting mildly suspicious vagrant individuals along with Roma people and those engaging in vice, English society managed to perfectly construct who would be blamed and punished for uneasy social conditions based on their identity. Changing social conditions bringing about the need for scapegoating and policing of disadvantaged populations is a theme that begins here and will continue throughout my research. When social conditions change too quickly, people and governments are often quick to target populations that they see as responsible. Unhoused and poor people are no exception.

Vagrancy in Colonial New England

Though the crisis of homelessness was nowhere near today's point of urgency during the years of early America, there are many records of governments controlling beggars and those that they deemed to be undeserving and morally divergent from the status quo. Early English settlement records, for example, are rife with references to "wandering" and "strolling" poor, which indicated that transient and vagrant people were largely on the radar of public scrutiny (DePastino, 2003, p. 5). To discipline these populations and to control the labor force and preserve moral hegemony of developing societies, many towns in early colonial America enacted harsh laws that illustrated the wandering poor as morally inept and a burden to economic growth. Though settlers colonized America under the guise of escaping England and its laws, it almost identically adopted some of its statutes in order to control its citizens.

The means of punishing people for being unemployed, transient, or perceived as drunk, as well as certain sanctions for poor relief in the Colonial States, was directly adopted from England's Vagrancy Statutes (Chambliss, 1964). For example, Rhode Island directly stated that its poor relief law was influenced by the Elizabethan Poor Law (Katz, 1996, p. 14). However,

although the language of these statutes was adopted, the focus of them was more explicitly for punishing people perceived as criminals or “undesirables” rather than the labor force. As I discussed in my review of Max Weber’s *The Protestant Ethic and the Spirit of Capitalism*, moral obligation and fulfillment was extremely important to the development of the United States and its economic system. In colonial America, vagrancy laws functioned even more so as a moral code than an economic one, though controlling the labor force was still important for economic growth. For example, in the seventeenth century, Boston municipal officials enacted one single statute to condemn anyone “without warrant, such as are overtaken with drink, swearing, Sabbath-breaking, lying, vagrant persons, nightwalkers, or any other that shall offend in any of these” (Rutman, 1989, p. 225). In this regard, all of these acts were of the same moral pestilence to society, and were punished in the same manner. With breaking the Sabbath being one of the categories of punishment next to drinking and being in a position of vagrancy, we can see how religion was intertwined with the law, and how the law constituted what was deemed punishable by those standards. By writing the punishment of undesirable characteristics into the law, this statute reinforced a culture of moral policing of the poor.

The draconian standard of punishment for vagrants and vagabonds in the United States was constructed as part of the dominant culture during the expansion of colonial America. Part of the justification for the punishment of vagrants and transient people, intertwined with their “moral pestilence”, was that they were a burden to established communities. Localities often drove out vagrants with statutes known as “warning out laws”, which allowed them to order newcomers to leave the settlement. Much like today, transients were seen as a hardship that could disrupt the flow of the economy of any given town by burdening residents and making it hard for them to carry out their duties (Ortiz, Dick, and Rankin, 2015, p. 3). These sanctions

functioned both to keep the moral cohesion of a town at bay and free of disruption and also to control who could and could not obtain jobs and allow for control of public space by authorities. Certain vagrants, ones who were deemed to be especially dangerous by religious moral standards, were often subjected to physical violence such as whipping, flogging, and cutting ears off, parallel to the punishments that were administered in England during the time of early vagrancy statutes (DePastino, 2003, p. 6).

Colonial towns during the periods both before and after the American Revolution utilized sanctions known as “Settlement Acts”, extended from vagrancy acts, to control transient populations. Settlement Acts, which provided to further displace people deemed as a disruption to social solidarity, were used “for the punishment of idle and disorderly persons, [and] for the support and maintenance of the poor” and were “necessary for a state to provide precautionary measures against the moral pestilence of paupers, vagabonds, and possibly convicts” (Ortiz, Dick, and Rankin, 2015, p. 4). These acts, which were provisions that required local governments to provide some sort of relief for poor *members* of a town while simultaneously allowing them to evict people who were not perceived as productive members of society, separated unfortunate citizens from transient and disorderly vagrants. By having the power to remove people from town in an arbitrary manner, these acts further contributed to the issue of homelessness by displacing people and leaving them with no resources. Additionally, by categorizing some poor people as unfortunate and in need of assistance and others as “moral pestilence”, these acts separated the poor people into classes of “deserving” and “undeserving” which have been historically rampant throughout American culture and still remain so today. By constructing categories of who was and was not deserving of government assistance, lawmakers fed into moral standards used to differentially punish people.

Because of the decentralized nature of the early American colonies, it is more difficult to summarize vagrancy laws of the time because they are not administered in a top down manner like they were in Europe. Even so, we can pull out common themes that various cities had in their punishments of vagrants and other people who fell under the relevant statutes. Growing colonization and governance in North America prompted control of the poor that almost directly mirrored that of England in the Middle Ages. This policing set the stage for the continued social control of those who broke the status quo, a category which the poor tend to do in an individualistic and meritocratic society such as the United States. This discourse also perpetuated dynamics of social control that we still see today, including the construction of the deserving and undeserving poor, scapegoating of minority populations, and the pathologization of poor individuals rather than attention to systems of inequality.

Pre-Depression Vagrancy and the “Hobo Migration”

In the late 1800s, there was a shift in language and discourse around the issue of homelessness. During the period between the 1860s and the 1940s, a phenomenon called the “Hobo Migration” began to grow, which forever changed the discourse around vagrancy and homelessness and shifted the cultural understanding of the issue. During this cultural reset, the identity of homelessness became more associated with working class and immigrant communities, rather than being reserved to a few deviant types of people. This was also the period where the term “homelessness” became part of the cultural vernacular (National Academies of Sciences, 2018). The primary causes of these shifts were intertwined with booming industrialization and expanding railroads of the Gilded Age, which drove people into cities and allowed for easier travel across the country while simultaneously striking fear and

anxiety into people of a quickly industrializing world and a divergence from comfortable agricultural life. This period, especially the 1870s, is integral to understanding the crisis of homelessness and its criminalization as we see it today, because it was the beginning of the industrialized capitalist society that we currently inhabit.

In the period between 1865 and 1880, the United States railroad system was rapidly growing. As the railroads expanded to compensate for growing cities and commerce, the industry provided many temporary jobs for people. These temporary jobs annually cycled in with (Beier and Ococock, 2008, p. 19). At this time, “vagrants” were largely people who bounced between job fields, using railroad systems to travel to wherever work was available. The expanding railroad system had a multifaceted effect, which provided more accessible national migration and employment opportunities for single working men. It also revolutionized the way that transient people moved, providing them with risky but somewhat economical means of hitching rides across the country. Transient people, who once walked between cities, were now able to migrate in mass numbers over hundreds of miles. This economic and cultural shift, while effective for cross-country travel, attracted people to short term jobs and travels that often left them displaced and lacking any stable income, which further perpetuated the issue of homelessness.

The Hobo Migration and the rise of vagrancy in the United States was also largely perpetuated by the Panic of 1873 and the economic recession that followed. During this time, unemployment rates rose to exceedingly high numbers, and the rate of homeless people in the country skyrocketed. In 1874, there were 98,263 homeless people recorded, which was more than three times the number recorded just two years prior (Kusmer, 2001). As public anxiety ensued, cities got more harsh on crime to compensate for public anxiety and provide a scapegoat for rocky social and economic conditions. Similarly with Middle Age England and Colonial

America, this cultural shift brought civil unrest and an institutional backlash to those deemed responsible for it. As industrialization brought more immigration to cities, people who were transient began to represent a sense of cultural clash. As transient people migrated from rural areas to urban ones, they came to be seen as a representation of the clash between these two facets of society (Beier and Ocobock, 2008). This was a continuation of the historical association between people who were vagrant and moral impurity and criminality. As vagrants, at this time beginning to be labeled as “homeless”, became more and more associated with crime and civil upheaval, they were legally and socially punished as such. As Todd DePastino argues in his book, *Citizen Hobo: How a Century of Homelessness Shaped America*, the way that vagrants were perceived, as drunken, lazy, disorganized menaces to society, suggests how middle class citizens projected their insecurities and anxieties of a quickly changing society onto those who were most adversely affected by it (DePastino, 2003, p. 4). Similarly to periods before, quickly changing social conditions brought about laws that intended to punish people who took on the identity that was deemed responsible.

As vagrants and vagabonds became more culturally visible, so did the derogatory language surrounding them. For example, a 1868 *New York Times* article, which first used the term “bummer” as a synonym for “vagrants”, defined transient people as “men who hate the discipline of life, detest marching in the ranks of workers, and hold industry in abomination” (*New York Times*, 1863, p. 3). From this point on, “bumming” became a verb used to describe the act of sleeping outside or the experience of not having a home. Further, in 1877, *The Democrat*, a Pennsylvania newspaper, deemed vagrant people to be “leeches, fastening themselves on the vitals of society, sucking its life blood from it, producing loathsome and festering sores that cannot be healed” (Kusmer, 2001). With this new and pervasive identity came more explicit

social punishment. Vagrants, in addition to African American people and those who were enslaved at the time, were often the scapegoat for random crimes. “If a barn is burnt, the first theory is some tramp set it on fire, when it was some of the drunken careless hoodlums of the community more careless than a tramp ever thought of being,” one vagrant interviewee relayed to former social reformer, John J. McCook (Kusmer, 2001, p. 41). Clearly, both public opinion and the arbitrary creation and enforcement of laws reflect who is the main target of scapegoating during times of social distress.

As public fear of homeless and transient folks rose, legal sanctions to criminalize them followed suit. The 1866 Act Providing for the Punishment of Vagrants is one that almost identically mirrors certain aforementioned vagrancy statutes in Middle Age England. This act, passed as a response to growing rates of vagrancy following the Civil War, forced anyone who appeared not to have a job into three months of employment. If the person attempted to escape or evade this labor, they were to be returned to their employer and be forced to work wearing balls and chains. Further, between 1874 and 1878, the number of vagrancy arrests in New York City increased by fifty percent (Kusmer, 2001, p. 69). The treatment of “tramps” became worse from here on out, as governments called for more mass arrests, workhouses, and chain gangs to tackle the problem (DePastino, 2003, p. 4). In July of 1877, for example, a group of vagrants was forcefully removed from Altoona, Pennsylvania by town citizens. Municipal police assisted with this attack, and placed forty vagrant people into stockyards³. A very similar incident to this occurred just one year later near Fulton, Kentucky (Kusmer, 2001, p. 75). The public sentiment towards transient and vagrant people, those who broke social norms, was legally upheld and largely enforced by the police and through public punishment.

³ A stockyard is a place where livestock are kept. This exemplifies how homeless people were, and are, largely dehumanized.

Transient people who used railways as transportation were also violently attacked and thrown off of trains, which often resulted in serious injury or death. To make this matter worse, the late 1800s saw a slew of court cases that stripped vagrants of their legal protections against these attacks. Those that violated these legal sanctions fell under the category of trespassing, and were able to be removed from the area that they were occupying for that reason. These court cases gave railway workers and operators the right to protect their workplace and property, and ridding them of transient people was one way of doing that (Kusmer, 2001, p. 73). Those who were punished in this manner often went unnoticed. “If a brakeman throws a tramp off a train and he is killed, you will generally read an item about an unknown tramp, while trying to steal a ride, having fallen between the wheels or something of that kind, but we know better,” one correspondent reported in 1883 (Kusmer, 2001, p. 73). As Kusmer puts it, “Dead men bring no lawsuits.” Railway operators having the freedom to punish railway riders however they like, combined with the forced removal and punishment of vagrant persons from established cities, only perpetuated the issue of transience and further entrenched people in poverty and geographic displacement while they were subjected to pervasive moral policing.

Vagrancy in the Great Depression Era

As the Great Depression struck the United States, the experience of vagrancy and homelessness became the defining factor of the crisis as more people than ever experienced homelessness (DePastino, 2004). According to Nels Anderson, a scholar of homelessness and poverty of the early 1900s, there were over 1.5 million people experiencing homelessness in the United States at one point in the Depression Era (Kusmer, 2001, p. 306). This brought a new conception of homelessness into the public consciousness, bringing panic as the identity of a

homeless person was no longer wholly fulfilled by apparent drunken, lazy, criminal vagrants (DePastino, 2004). This shift in perception is perfectly stated by Kenneth Kusmer, in his book, *Down and Out, on the Road: The Homeless in American History*, when he stated, “By the 1920s, most welfare professionals recognized the complex causes of homelessness and no longer stressed the old dichotomy between the worthy and the unworthy poor” (Kusmer, 2001, p. 171). For a brief moment in American History, attention was paid to macro level economic causes for homelessness because it began to affect the middle class and not just a few social deviants who had apparently earned their position. Even so, the homeless individual was still demonized by law enforcement and this period of economic downturn was not enough to erase years of social exclusion of the homeless.

During the Great Depression, the Hobo Migration saw a second wave where people began to utilize train cars for transportation to find work in the largest numbers since the 1890s (Kusmer, 2001). Though this was still illegal, and private railroad companies hired detectives to combat this method of travel, the numbers of transient people were too great for them to enforce the laws. According to Kenneth Kusmer, some Southern Pacific trains entering San Antonio would carry about 250 illegal riders on a busy night, a number far too large for any municipal authorities to challenge (Kusmer, 2001, p. 306). The new Hobo Migration, as opposed to that in the 1800s, was also spurred by the dire drought that swept the Plains States, known as the Dust Bowl. Wiping out crops and leaving farmers with no food, water, or livelihood, the Dust Bowl forced people to migrate west in search of sustainable land and jobs (Ortiz, Dick, and Rankin, 2015, p. 5). As more people than ever experienced homelessness, transience and vagrancy were much more widespread and were not reserved to the typical vagrant archetype that was seen in popular discourse before this time.

In addition to illegally traveling on railroads, more people than ever were forced into shelters at this time. Shelters all over the country were turning away many more people than they were able to accept, pushing people out onto the streets or onto railway cars. In the South, there were virtually no municipal shelters at all (Kusmer, 2001, p. 310). In the midst of lacking shelter space, some communities like Chicago began constructing vacant buildings as temporary shelters (DePastino, 2004, p. 201) Even so, many shelters continued with their strict policies, only allowing people to stay for a few days and on conditions of employment (DePastino, 2004). Many urban shelters, which were viciously underfunded, charged a ten to twenty-five cent bill for an overnight stay, which of course a large number of people were unable to pay. The lack of shelter space led unhoused people to construct their own makeshift communities, with single men primarily residing in skid row style camps while families gravitated towards more communal “shantytowns” (Kusmer, 2001, p. 305). Even as homelessness became more normalized as more and more people experienced it, authorities still put in extravagant effort to control public space and manage people living in poverty that were deemed undeserving of assistance.

The federal government’s lack of effort in helping those who were homeless during the Great Depression made it a national issue. In the summer of 1932, 25,000 war veterans who were experiencing homelessness formed a massive shantytown in the heart of Washington D.C. to make themselves visible to lawmakers (Levinson, 2004, p. 185). In response, federal troops exercised a mass eviction of the occupiers at gunpoint. This fueled public sentiment for the nation’s unhoused people and helped to bring it to national attention. In the words of David Levinson, this event “...outraged public opinion linked the draconian treatment of the marchers to President Hoover's meager relief policies” (Levinson, 2004, p. 185). This put pressure on the

federal government to address the needs of poor people during this time, as community shelters and municipal programs clearly were not fulfilling the need. In response, when the Franklin Roosevelt administration took over, Congress passed the very first federal legislation to assist the homeless, the Federal Transient Program (Levinson, 2004, p. 509).

While homelessness became a national issue and governments made efforts to address it, public sentiment and criminalization of unhoused people persisted. Beginning in the late 1920s, social workers, public officials, and police institutions joined together to attempt to control the rising rate of street begging (Kusmer, 2001). At this time, Settlement Acts and Vagrancy laws were still very much intact, and were used to control people on the streets that shelters did not accept. In fact, the number of removals under Settlement Acts increased in the 1930s (Kusmer, 2001, p. 307). Even as persecution increased, it was often too difficult for courts to determine the vagrants' original hometown, leaving them with no other choice but to let people go. Even so, transient people were still arrested and were often only paroled if they agreed to look for employment. Kusmer states, "In St. Louis, for example, beggars were paroled only if they were 'willing to accept the treatment' recommended by the caseworker. If they failed to follow the prescribed plan to reform their behavior, however, they would be returned to jail" (Kusmer, 2001, p. 199). This is an important example of how, even as being poor was becoming more commonplace during the Great Depression, officials still policed people who held the identity of being poor and transient.

Even as the United States was experiencing the largest economic downturn in history, poor and homeless people were criminalized and controlled. Through existing Settlement Acts, Vagrancy Laws, and laws regarding disorderly conduct, municipalities never ceased to persecute people simply for being poor and existing in public. This was, in part, a way to attempt to control

scapegoated populations during a time of great social disorder, and also to place individual responsibility on the poor to distract from systemic elements that contributed to their dismal situations. The social and legal control of people living in poverty has been commonplace in American society, both during colonial development and after urbanization. The fact that similar minority groups have been criminalized for over three hundred years in the United States illustrates how the punishment of poor people is, in fact, woven into the legal framework of our society.

As centuries passed and new economic systems emerged, the system of policing the homeless stayed the same. The archetype of those who were punished for vagrancy, though it shifted slightly, has always been someone who is deemed as lazy, morally impure, and slothful. In other words, the victim of vagrancy enforcement has always been one who is not considered a productive member of society. Whether it be connected to vice or life circumstances, the identity of those that are punished has always fallen into the category of morally pestilent. Whether they be “paupers”, “vagabonds”, or “bums”, the targets of punishment for vagrancy have always been those that were deemed individual threats to the functioning of society because of their individual life choices. Through the history of vagrancy, and still today, law making and enforcement institutions have ignored systemic factors that have led people to live vagrant ways of life, and have instead punished the individuals on account of their moral divergence.

Shifting the Focus: Structural Causes of Homelessness in the 1970s and 80s

The historical criminalization of homeless and vagrant people manifests itself today in both anti-homeless policy and the over-policing of homeless populations which further entrenches them into disparity. Anti-homeless policy today takes on the form of “quality of life”

laws, which is a catch-all term to encompass laws which restrict unhoused people's use of public space. These include prohibitions on loitering, begging, and sleeping in public space along with a wider array of statutes (University of Michigan, 2015). Starting in the 1960s and reaching a catalyst in the 1980s, political and social factors such as worsening unemployment, rising rent, and fiscally conservative social policies brought the crisis of homelessness to the level of urgency that we see today. At the same time, circuit and Supreme Court cases came about challenging the constitutionality of vagrancy laws. These two historical factors, an intermingling of economic, legal, and political struggles, changed the way that unhoused individuals are punished legally, although the intent for punishing the poor and morally deviant remains the same.

Though homelessness and poverty has existed in varying degrees for centuries, the 1980s marked the emergence of the modern crisis of homelessness that we see today. This can largely be attributed to a slew of conservative policies that accompanied stagnant wages, rising living costs, the deinstitutionalization of mental health, and gentrification of cities. In a sense, policies of the 1980s and onward undid the progress that had been made in areas of the job market and increased social assistance from the 1950s to the 70s. As the political economy of the United States grew more individualistic and resources to help the most vulnerable populations were slashed, the United States saw the highest number of homeless people since the Great Depression. We have yet to recover from this crisis, and homeless individuals, though they are not as brutally punished as they were at the genesis of American vagrancy laws, are still targeted by law enforcement for nothing but existing in public.

The modern era of homelessness can be partially attributed to stagnant wages and less job availability, which submerged the lower classes even more into a hopeless system of poverty and

indebtedness to unstable wage labor. As deindustrialization gave way to less stable jobs, manufacturing and other unskilled labor became much less available and the payouts that they offered stagnated. Further, there was a trend of reduced or stagnated wages as businesses increased their profit by reducing labor costs (Harrison and Bluestone, 1988, p. xii). As inflation and corporate cuts to labor costs contributed to stagnant wages, monthly incomes dropped too low to cover living costs (Elliot and Krivo, 1992, p. 115). As the labor market failed to provide living wages or stability, more people became forced to rely on assistance such as social security and food assistance. Not only did wages stagnate, but unemployment rose as a result of less stable manufacturing jobs and more of an emphasis on service industries. In 1983, the unemployment rate sat at about 9.5 percent (Elliot and Krivo, 1992, p. 115). Just as people were becoming more forced into relying on government assistance, the federal government slashed their budget for these services.

The time of the Reagan administration brought dramatic cuts to government assistance that left members of the lower class in an inescapable pit of poverty. The Reagan administration and other conservative politicians at the time saw the reason for rising poverty to be the welfare system and an unwillingness for poor people to work. By dramatically cutting funding to social programs, Reagan sought to implement a “workfare” state rather than a welfare one, seeking to stimulate the economy by encouraging people to work rather than rely on government assistance (Stricker, 2007, p. 194). Through this tactic, Reagan was able to exploit the common public perception that those who were poor were in their position because of individual laziness and negative attitudes towards work. This perpetuation of the “underclass” stereotype of indolence allowed the administration to get away with slashing social services on the grounds of restoring the economy through reduced federal spending. The welfare state, according to conservative

views at the time, was responsible for growing poverty in that it encouraged people not to work by allowing them to reap government benefits. This common viewpoint, a backlash ideology to previous liberal social policies, allowed administrations to justify cutting federal spending on social programs while the economy tanked.

Conservative theories of trickle down economics and the public stigma towards the underclass allowed for the government to perform detrimental cuts to social services and other public works. Between the years of 1981 and 1986, the Reagan Administration sought to cut federal funds for education, training, employment, and social services to a meager by \$44 billion or 5.7% (Danziger and Haveman, 1981, p. 14). These social service programs included AFDC and food stamps, federal guaranteed loan programs, job training programs, public legal assistance programs, and unemployment insurance. At the same time that the federal government drastically reduced social programs, they also cut all areas of the federal budget except for defense spending. Other facets of the budget that were reduced to make way for inflated military spending included transportation, community and regional development, and income security (Danziger and Haveman, 1981, p. 13). All of these cuts, for the supposed purpose of encouraging people to work, were implemented as housing costs were rising and people were being pushed out of work by stagnant wages.

One monumental piece of policy that contributed to the rise in homeless populations was the Social Security Act of 1980. This legislation, though it was adopted in the last year of Jimmy Carter's presidency before Reagan came into office, largely aligned with the discourse of "workfare, not welfare". This legislation's main purpose was to tighten the process that people had to go through to receive disability assistance and to encourage those who were receiving it to return to work. To decrease peoples' ability to access disability insurance, the Social Security

Act of 1980 enacted performance standards for the individual to qualify for disability and required the review of a percentage of state agency determinations before benefits could be paid out (Social Security Disability Amendments of 1980:Legislative History and Summary of Provisions, 1980, p.14). One clause of this legislation, specifically crafted to gear people towards working, capped disability earnings for families at 85% the estimated amount that they would be earning through work. It also established a withdrawal period where cash and medical support would be gradually lessened as the recipient earned more at their job, including deducting impairment related expenses⁴ from their earnings to determine if the individual is engaging in “substantial gainful activity” (Social Security Disability Amendments of 1980, p. Legislative History and Summary of Provisions, 1980, p.14). Not only are these policies extremely ableist, but also resulted in a dramatic rise in poverty rates and even worse economic and social conditions for those who relied on social assistance.

The stagnation of wages and job availability combined with rising living costs and decreased affordable housing availability catalyzed the homelessness issue in the United States. Being more likely to be renters, the poor were especially affected by the demolition of rental units combined with rising living costs. The decrease in availability of rental units drove their costs up quickly, while wages rose much more slowly. According to Marcia Elliott and Lauren T. Krivo in their article, “Structural Determinants of Homelessness in the United States”, the median monthly rent rose 192 percent between 1970 and 1983 while wages rose only 93 percent during this time (1992, p.115). With rent costs sharply increasing and wages failing to follow suit, people’s rent burden became much higher. In 1975, 3.7 million low income renters paid 50 percent of their income in rent. By 1983, that number rose to a staggering six million, or 22

⁴ Impairment related expenses are expenses that one incurs from purchases or payments related to anything directly related to your ability to work with your impairment (DisabilityBenefitsHelp.org).

percent of renters (Collin, 1992, p.30). Rising rent burden for people living in poverty meant that millions of people had to choose between paying for food, medical care, or other essential needs and paying their rent. Rising rent combined with the fact that homes were simply becoming less available to people meant that more people were pushed out onto the streets.

Budget cuts to social services included slashing funds to the Department of Housing and Urban Development, the department of the Executive Branch responsible for addressing housing needs. These responsibilities include overseeing the creation of shelters, contracting with builders to create subsidized low income housing, and putting forth programs to help vulnerable people search for housing. The slashes to these programs were dramatic, reducing the HUD budget from approximately \$32 billion in 1981 to \$7 billion in 1989 (Tucker, 1990, p.2). As can be expected, slashing the HUD budget brought detrimental effects to public housing availability and forced thousands of people onto the streets as they lost their affordable housing. Decreases in federal funding to public housing combined with gentrification of residential areas by private real estate companies brought a decrease of public housing availability and increasing wait lists, demolition of low income housing, and abandonment of residential buildings for the sake of building new luxury complexes (Elliot and Krivo, 1991).

Cuts to the HUD budget are just one facet of the housing crisis that grew in the 1980s and contributed to the issue of homelessness. Additionally, the decrease of affordable housing was fueled by gentrification and the development of luxury housing to create more profit for property management companies and landlords. Part of the reason why this led to a loss of affordable housing was that larger housing projects were built in place of smaller, affordable housing units. For example, between 1983 and 1987, the national average size of housing units increased. In 1983, 36% of housing units were under 800 square feet, while in 1987 only 31% of units were.

This growth in size drove up housing prices, making way for affluent middle class tenants and pushing the poor onto the streets (Collin, 1992, p.30). Not only did the size of the units increase, but many small ones were demolished or completely repurposed. Between 1973 and 1983, 4.5 million rental units were removed, and about half of those were previously occupied by low income households (Collin, 1992, p.30). Pervasive gentrification combined with decreased federal attention to public housing drastically perpetuated the housing crisis, taking away housing availability for vulnerable low income people and causing them to fall into homelessness.

This era of extreme punishment to those scapegoated in society was topped off by governments stripping assistance to some of the most vulnerable members of society, the mentally ill. In an attempt to bring freedom to those who had been previously institutionalized, which is ironic because mass incarceration of Black men was drastically rising at this time, the Reagan Administration deinstitutionalized mental health services. In 1980, there were a mere 137,000 people living in state psychiatric hospitals, compared to 535,000 in 1960 (Flynn, 1985, as cited in National Academies of Sciences et al., 2018). Psychiatric in-patient facilities are strict, regimented institutions that acclimate people to living under supervision and structure so as to ensure that they cannot be a danger to themselves or others. Because of these structured conditions, mental health facilities were unable to prepare people for reintegration back into society. As people lost their subsidized housing and assistance along with other social programs, they, especially those experiencing mental illness, struggled to find homes and diffused into the streets.

The deinstitutionalization process is complex because it was on the basis of both fiscal conservatism and neoliberal ideologies of civil rights. On the one hand, conservatives saw

in-patient care as a burden to the national budget, just as they did all other social programs. The solution for this was to allow less costly community based programs to fulfill the needs of patients rather than mental health institutions (Collin and Barry, 1987, p.412). This idea of community based programs was left vague and, of course, was not realistic in a time when all areas of public service were being dramatically slashed. As a result, the community programs that were intended to care for people who had been deinstitutionalized proved inadequate and caused many people who were too mentally ill to care for themselves to fall into homelessness (Elliot and Krivo, 1992, p.116). In this sense, fiscal conservatism and trickle down economics were disguised as an effort to enhance civil rights and individual liberties, which allowed for public approval of such devastating policies that contributed to a spike in the number of homeless people in the United States.

Fiscal concern for the costs of mental health institutions dovetailed with a somewhat new public concern for patients' rights. To policy makers and many constituents, institutionalization was deemed as an infringement to individual liberty. The new solution to this was to allow people to seek their own treatment and maintain it in a less restrictive way than before. As a result, courts developed new guidelines for treating mentally ill people that decreased restrictiveness of care, lessened compulsory commitment time, allowed potential patients to litigate their need for commitment beforehand, and even enabled some patients to refuse treatment (Grob, 1995, p.53). There are many historical examples that show that compulsory medical treatment can be violent, such as the Tuskegee Experiments, the case of Carrie Buck and millions of other poor and Black women, and the forced sterilization that is still happening today in ICE detention facilities. Even so, economic patterns have shown that the solution to this is not to simply leave people on their own with no re-integration, housing, or food services. This

drastic deinstitutionalization, while it was partially rooted in ideals of civil rights, had dramatic effects on the crisis of homelessness.

Of course, we know that the political conditions that led to a system of compulsory poverty for many do not exist in a vacuum. The conservative backlash and the aggressive cutting of social programs was the result of rapidly changing social conditions that made far-right arguments seem favorable. Punitive slashing of social programs combined with rising living costs, stagnant wages, and overall poverty were both the result of and the perpetuation of quickly changing social conditions that allowed for administrations to drastically cut programs that were put in place to help vulnerable populations. As poor people were scapegoated for social uncertainty, they were punished in a way that contributed to it. This period of economic downturn that catalyzed the crisis of homelessness in the United States and the way that poor people were especially punished for it shows that those who are deemed as morally and socially divergent in society often suffer the most during periods of unrest.

From Vagrancy to Loitering: A Shift in Anti-Homeless Language

While homelessness was shifting to the condition that we see it in today, so was the language surrounding it. In the 1970s and 80s, a slew of court cases came about challenging the constitutionality of vagrancy statutes. The main arguments that plaintiffs held in court when challenging vagrancy statutes were that they: 1) violated the Eighth Amendment Clause of cruel and unusual punishment by punishing someone's status 2) violated the Fourteenth Amendment Due Process Clause because they were vague and 3) failed to provide adequate standards for incrimination and led to discriminatory actions (Ortiz, Dick, and Rankin, 2015, p.16). It is a trend that in most court cases, vagrancy laws were found to have undermined some fundamental

right guaranteed by the constitution. This wave of court cases disallowing the punishment of vagrancy gave rise to a new language of anti-homeless policing that became much more insidious and difficult to prove in court. This new language, which punishes acts rather than status, is what I call “the new vagrancy”, because it still intends to punish the same people that would be criminalized under vagrancy statutes.

The most landmark case in the process of abolishing vagrancy laws was the 1972 Supreme Court Case *Papachristou v. City of Jacksonville*. This was a state court case that eventually made its way through Circuit appeals and to the Supreme Court, and was landmark in striking down vagrancy laws on account of vagueness. This case, brought about by a man arrested for simply existing in public space, struck down the Jacksonville Vagrancy Statute on account of vagueness because it “fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute” (Justista Law). This statute, hardly changed from those of the English Vagrancy Laws or those of Colonial America, criminalized, “...rogues and vagabonds, or dissolute persons who go about begging... persons wandering or strolling around from place to place without any lawful purpose or object, habitual loafers...” (Goluboff, 2010, p.1364). Justices in this case also ruled that the statute allowed for “arbitrary and erratic arrests and convictions” and places too much discretion onto the police. These two notions, given together, is known as the “Void-For-Vagueness Doctrine” and has been used to strike down many court cases that impose vague punishment of people for their status (Goluboff, 2010, p.1377). In sum, vagrancy laws such as the Jacksonville Vagrancy Statute were struck down in part because their vagueness allowed people to be punished at police’s discretion simply for having a certain status and without proper warning.

The abolishment of vagrancy laws was the birth of the current milieu of anti-homeless policy that we see today. Courts across the country at this time decided that punishing the status of an individual was vague, inhumane, and unconstitutional. The Supreme Court simply could not allow for the law to be written in a way that punished people for having an undesirable status if they had not broken any laws with their actions. Being arrested for wandering aimlessly through the street while taking on the visual identity of being poor proved to be the kind of explicit discrimination that legislation such as the Civil Rights Act of 1964 and the Equal Rights Amendment of 1972 were written to protect against. According to the justification that courts used to strike down these kinds of laws, including violation of the Void-For-Vagueness Statute, the punishment of a status was simply not something that could ever be held up in court if it was explicitly written into the law.

Even so, the abolishment of vagrancy laws did not end the policing of poor and vagrant people. It is arguable that this simply made conditions worse for homeless individuals because it prompted governments to write more *de facto* laws to control the homeless. Lawmakers have continued to pass laws that target homeless populations, but in a more insidious way. Rather than punishing the status of being homeless, legislators have focused their attention on the acts associated with being homeless. By focusing on specific actions, and usually addressing them through laws that prohibit certain acts being performed *in public*, legislators made it more difficult to prove that homeless individuals would be disproportionately targeted for performing these acts. Though legally punishing homeless individuals for their status in particular was abolished, the intent to punish them for being homeless remained the same. Now, homeless individuals are punished for the acts that they perform, which are inherently associated with their

status because they have no choice but to perform them. In that sense, the identity of being homeless is still being criminalized and utilized as a form of social control.

Now, anti-homeless policy functions by punishing specific acts and inhabitation of spaces rather than an identity itself. Still, life sustaining acts are associated with a certain identity, the identity of someone who has no choice but to perform these acts in public. Things like sleeping, sitting, or lying down in public are acts that are associated with homeless individuals because they often have no choice but to do so. When people are without a home, they must of course publicly perform acts that would normally be done in the comfort of one's own home. As Don Mitchell contends in his article, "Anti-Homeless Laws and Public Space: II. Further Constitutional Issues", "The crucial difference with homeless people is that their appearance in public is rarely 'voluntary', by any definition of that word" (Mitchell, 1998, p.100). Laws that punish public acts, when they are associated with no other than homeless people, in turn punish them for not having a home and existing in public space. These laws have been justified as being intended to keep orderly and pure public space, and to obtain "peaceful" public space for housed individuals to inhabit in their leisure.

Part of the acceptance of quality of life laws has to do with gentrification and the need to create a public environment that is compatible with growing capital. As cities have gotten less government assistance, they have had to rely on attracting consumers to keep their local economies functioning effectively (Fang, 2009, p.5). In turn, cities have buckled down on any factor that may detract from a community being a comfortable and "safe" place for consumers, including the existence of people who sleep outside. This illustration of homeless individuals as a concern for attractiveness and livability of cities has been named as "the annihilation of public space" by some scholars. Don Mitchell argues this by stating,

In city after city concerned with “livability,” with, in other words, making urban centers attractive to both footloose capital and to the footloose middle classes, politicians and managers of the new economy in the late 1980s and early 1990s have turned to what could be called “the annihilation of space by law (Mitchell, 1997, p.305).

As quality of life laws show, the existence of homeless individuals in public space has been deemed clearly incompatible with this sort of urban climate. With concern for generating consumer friendly and attractive cities to produce capital, governments have cracked down on homeless individuals who make themselves seen in public. Don Mitchell perfectly sums up how municipalities seek to rid themselves of homeless individuals entirely, arguing,

To the degree that laws can annihilate spaces for the homeless, they can annihilate the homeless themselves. When such anti-homeless laws cover all public space, then presumably the homeless will simply vanish (1997, p.310).

Quality of life laws, while they do not technically punish a status, criminalize specific acts the homeless people perform as a justification for removing them from public space. As people who do not have homes have no choice but to exist in public, punishing them for performing life sustaining acts in the public eye punishes their status of homelessness, therefore upholding centuries old punitivity towards vagrancy. In this way, the status of vagrancy is still policed and punished today as a form of social control.

Contemporary Anti-Homeless Policing: Quality of Life Laws and Hiding Poverty

Contemporary anti-homeless policing, rather than explicitly punishing someone for being unhoused, is centered around the removal of homeless individuals from public space through criminalizing activities associated with being unhoused. Proponents of contemporary policing

strategies and quality of life laws contend that “preservation of the neighborhood commons is essential to the vitality and well-being of American cities” (Jacobs, 1961, as cited in Livingston, 1997, p.558). The “preservation of the neighborhood commons” has come at the expense of unhoused populations, which are increasingly pushed out of public space by having their necessary actions criminalized. To preserve a Bourgeois public space that supposedly stimulates economic growth, municipal governments have placed restrictions on everything from sleeping in public to giving out food in public places. The new milieu of action-based policing of homelessness makes it much harder to prove that people are having their identity punished, though many civil rights and advocacy groups have filed lawsuits for this reason. Still, “Quality-of Life” laws have gained much popularity since the 1990s as municipal governments find them more effective in maintaining a middle class facade of public space.

Loitering Prohibitions

One act that unhoused individuals often have no choice but to perform in public but is largely criminalized is that of loitering. Since 2006, the number of loitering ordinances on the books has gone up by a dramatic 103% (National Law Center on Homelessness, 2019, p.13). Loitering, defined by the law, is the act of lingering in a public area without a purpose (Cornell School of Law Legal Information Institute, 2020). As with vagrancy laws, loitering statutes are often vague, leaving the discretion of who to criminalize and exclude from public space in the hands of police. Loitering statutes vary by city and state, and are often broken down into various categories to be punished. For example, California’s loitering statutes include restrictions on “loitering to commit a crime”, “failing to disperse”, “loitering for/with intent to commit prostitution”, and “loitering to solicit the purchase of alcohol” (Shouse California Law Group,

2020). All of these types of restrictions, while they outline certain behaviors that constitute loitering, are arbitrary in their application because they leave the discretion up to officers, who often target visibly poor individuals.

Though loitering ordinances remain varied in their language and application, they are still largely used as arbitrary ways to police homeless individuals who take up space in public. One example of loitering as anti-homeless policing is the fact that in Atlanta, Georgia, and Jacksonville, Florida, it was illegal in the 1990s for anyone to loiter in or cut across a parking lot. In 1993 in Atlanta, at least 226 people were arrested for “begging, criminal trespass, being disorderly while under the influence of alcohol, blocking a public way or loitering in a parking lot” (*Atlanta Journal and Constitution*, 1993; Mitchell, 1997, p.306). Signages prohibiting loitering, especially outside of businesses, are now so commonplace that the general public hardly notices them or their implications. It is also important to note that “loitering” is the only specific word surrounding vagrancy and homelessness that has been used continuously since the period of early English Vagrancy Statutes, and its use still has deep implications to the way that unhoused people are arbitrarily removed from public space and criminalized for their actions.

Anti-Panhandling Laws

Another way that cities criminalize the experience of homelessness is by placing ordinances on begging. By making it illegal to panhandle, cities have made an effort to reduce the prominence of unhoused individuals “disturbing the peace” and contributing to “disorder”⁵. Additionally, business owners often express that they worry that beggars will deter potential customers and therefore make them lose out on capital (Smith, 2005, p. 552). City anti-begging

⁵ “Disorder” has been defined by legal scholars as “the persistence of conditions or behavior that either ‘disturbs or threatens to disturb the public peace or that which involves face-to-face conflict among two or more persons’” (Wilson, 1968, as cited in Livingston, 1997).

ordinances have been gaining popularity since the 1990s as vagrancy laws were abolished and cities continued to grow into sites of “experience economy”. In a cross section study of fifty cities in 1999, 86 percent already had anti begging ordinances and 73 percent had anti sleeping laws (Fang, 2009, p. 4). Whether they be total restrictions or time-and-place ordinances, many cities have utilized anti-begging ordinances as a way to police unhoused individuals.

Anti-begging ordinances are common across the United States, though their constitutionality has largely been challenged in courts. Though many court cases, such as the Supreme Court case *Schaumburg v. Citizens for a Better Environment* (1980), ruled that begging is a protected expression of speech, many cities have strict ordinances about how and when people can beg (Smith, 2005, p. 551). Some places, such as Eugene, Oregon and Memphis, Tennessee, have required people to obtain permits for begging, which allows for the criminalization of those who do not have the resources to go through that process but continue to do so (Fang, 2009, p. 3). Many cities have either considered or followed through with utilizing these kinds of restrictions, including Santa Cruz and Berkeley, California, which are cities that are traditionally regarded as liberal (Mitchell, 1997, p. 307). Today, in both Berkeley and Cincinnati, Ohio, it is illegal for someone to panhandle to people getting into and out of their cars, in the vicinity of an automatic teller machine, or within six feet of any store front (Fang, 2009, p. 3). Even more strict than Cincinnati, Berkeley previously had provisions that made it illegal to solicit money from anyone sitting on a bench, using a pay phone, standing in line for a movie, or waiting for a bus. (Mac Donald, 1994). In even the most supposedly liberal and tolerant cities, provisions have been placed on homeless individuals who are seen as “spatial anomalies” or disturbances to the public experience of middle and upper class people (Fang, 2009, p. 4).

Time and Place Restrictions

Cities have also placed time constraints on when unhoused people can occupy public space. For example, the Berkeley begging ordinance mentioned above prohibited people from soliciting money from anyone past 8pm (Fang, 2009, p. 3). Similarly, the U.S Court of Appeals for the Ninth Circuit upheld a Seattle law that made it illegal for people to sit or sleep on sidewalks in certain areas between the hours of 7am and 9pm (Feldstein, Fisher, and Baker, 2016, p. 7). Some of these constraints coincide with anti-sleeping and anti-sitting laws as well. In Honolulu, Hawaii, it is illegal for anyone to sit or lie on public sidewalks between the hours of 5am to 11pm. Louisville, Kentucky has a statute which makes it illegal to sleep anywhere in public “during the hours of darkness” (National Law Center on Homelessness, 2019, p. 42). Whether laws against sleeping or begging prohibit practicing these activities during the day or night, they make public space off limits to individuals at certain times, allowing them to be criminalized and pushed out of public spaces. These laws are especially problematic when they prohibit certain activities during the day, as humans are naturally diurnal and not being able to sleep at night forces them to either sleep during the day or not at all.

Sleeping, Sitting, and Camping Restrictions

While loitering and anti-begging ordinances can be somewhat vague, city governments have placed more specific restrictions on where unhoused people can sleep, sit, and camp. Proponents of these laws state that it is important to enforce these laws because unhoused people sleeping or sitting in public can “obstruct public space” and detract from business (National Law Center on Homelessness, 2019, p. 42). However, researchers at the University of California,

Berkeley, have found that these sorts of bans had no effect on economic activity, and in fact were costly to enforce (Feldstein, Fisher, and Baker, 2016, p. 43). Still, daytime restrictions on sitting, standing, or resting in public places are the most common restrictions on homeless activity, showing up in 55% of the 187 California cities studied (National Law Center on Homelessness, 2019, p. 11).

According to a 2019 report by the National Law Center on Homelessness, there are 50% more city anti-sleeping ordinances than there was in 2006 (National Law Center on Homelessness, 2019, p. 12). This report also found that 7% of the cities surveyed had ordinances that made it illegal to sit or lie anywhere in public space. This is perhaps the most explicit means of policing the identity of homeless individuals, as they literally have no where but public spaces to get rest. City bans on sleeping anywhere in public have become a more common way of criminalizing life sustaining activities of unhoused individuals. Since 2016, the number of laws prohibiting sleeping anywhere in public have increased by 18% (National Law Center on Homelessness, 2019, p. 12). In one study by the University of California, Berkeley Law's Public Advocacy Clinic, researchers found that 57 of the 58 California cities they studied had bans on either sleeping, camping, or lodging in public places (Feldstein, Fisher, and Baker, 2016, p. 1). One of these cities is San Francisco, California, where police officers issued over 3,000 citations to people for sleeping, camping, sitting, or begging in public (Feldstein, Fisher, and Baker, 2016, p. 2). Ocala, Florida, named one of the worst cities for homelessness by the National Law Center on Homelessness, imposes a strict "Trespass and Unlawful Lodging Ordinance", which makes it illegal for unhoused individuals to sleep on private property or on public benches, sidewalks, public structures and in parks (WCJB Staff, 2019). Making it illegal for unhoused people to sleep

in public criminalizes acts that they have no choice but to do in public, effectively erasing them from public space and criminalizing their entire identity.

Food Sharing Restrictions

New anti-homeless policy does not only function by punishing unhoused individuals themselves. Many municipal governments have resorted to placing statutes and restrictions on sharing food in public places. In a study done by the National Law Center on Homelessness, researchers found that 9% of cities studied had restrictions on food sharing. These manifest in many different municipal tactics, policies, and ordinances, but nonetheless function to restrict individuals and groups from sharing food with unhoused people. Much of public opinion that allows for this to continue is the flawed idea that sharing food with unhoused people encourages them to remain homeless (National Law Center on Homelessness, 2019, p. 14). Food sharing restrictions vary in extremity, ranging from restrictions and administration of citations to arrests. On one hand, some cities require groups and individuals to obtain licenses for giving out free or very inexpensive food due to health codes and food serving standards. Though it is comprehensive to require group oriented gatherings to obtain licenses, many cities have used this restriction against individuals giving out food (National Law Center on Homelessness and The National Coalition for the Homeless, 2007, p. 7).

In some places, food sharing restrictions have resulted in intense criminalization for people sharing food with unhoused people. For example, in Orlando, Florida, police arrested a member of the group Food Not Bombs for violating a statute that prohibited sharing food with a group of more than 25 people. In another case in El Cajon, California, police cited twelve people, including a fourteen year old, for giving out food to unhoused people in a public park. All of

these people were charged with misdemeanors under a municipal code passed in 2017 to curb the spread of Hepatitis A, a virus spread through stool contamination. The twelve people cited, though they planned to pursue legal action, could face a \$1000 dollar fine and up to a year in jail (Tevrizian and Maynard, 2018). Further, in Dallas, Texas, a city which severely limits the distribution of food to homeless people, imposes a fine of up to \$2,000 and/or jail time of up to six months for violation of certain food sharing restrictions (National Law Center on Homelessness and The National Coalition for the Homeless, 2007, p. 11). While it is understandable that health code restrictions can be important to maintaining public health, they are often used in ways that prohibit people and organizations from giving food to unhoused people, a population that is highly food insecure.

Destruction and Removal

In addition to criminalizing life sustaining activities, many local governments have responded to the uptick in people living on the streets with destruction and punitivity. The destruction of homeless encampments and the confiscation of their belongings is simply a more severe way of removing unhoused individuals from public space due to the incompatibility of their identity with mainstream economic and cultural norms. It also stems from a sense of middle class entitlement to public space, which prompts the perceived need for revenge and “reclaiming” urban public spaces (Smith, 1998, p. 2). While quality of life laws exist to regulate public space and make it incompatible with homelessness, the destruction of unhoused communities and individuals’ belongings functions as a sign of desired eradication of homeless communities. Just as “warning out” laws functioned to make unhoused people unwelcome in colonial towns, contemporary encampment sweeps function in the same manner.

The justification for destroying the belongings of unhoused people is both political and economic in nature. Cities that have become centers for consumerism and aesthetics in an effort to attract their own capital have made efforts to remove homeless people to cultivate a particular illusion of upper class lifestyle (Fang, 2009, p. 5). As cities are more gentrified and geared towards attracting consumers and tourists, they become more aggressive with their removal of those deemed incompatible with this culture. This is in part due to the fact that the apparent reality of poverty is associated with crime, which is not attractive to those who maintain the status quo. This association creates a correlation between urbanization and criminalization of the homeless. As cities become more gentrified, unhoused individuals are criminalized at higher rates (Fang, 2009). As city developers emphasize aesthetics and capital, these changes come at the expense of the poor.

The dispersion of unhoused individuals is often attributed to cities' efforts to promote safety and livability. This ideology is exemplified well in the words of a Seattle City Attorney, Mark Sidran. In the words of Sidran, "The conditions on our streets are increasingly intolerable and directly threaten the safety of all our citizens and the economic viability of our downtown and neighborhood districts" (*Seattle Times*, Oct. 1, 1993, as cited by Mitchell, 1997, p. 312). Public fear of crime such as this exemplification has prompted aggressive retaliation against homeless communities, especially in urban areas. Los Angeles, home to the country's largest concentration of unhoused people, passed the Safer Cities Initiative (SCI) for this reason in 2006. The SCI, on the books, sought to reduce serious crimes by addressing physical conditions related to homelessness by clearing out and dispersing homeless encampments. This involved a much higher presence of policing, with a task force of 50 officers specifically assigned to patrol Skid-Row areas ((McNamara, Crawford, and Burns, 2013, p. 361). Other cities have adopted

these strategies of policing unhoused communities, attributing their actions to efforts for safety and law and order, though studies have failed to show a major decrease in crime since their implementation (McNamara, Crawford, and Burns, 2013, p. 371).

The justification of removing unhoused individuals and destroying their belongings is often written in concern for safety and liabilities in cities, but have overarching political ideologies of ownership and entitlement. Neil Smith writes about “revanchism”, or the blend of revenge and reaction towards oppressed peoples under the delusion that public space “belongs to” privileged classes, as a driving force in the destruction and removal of unhoused populations and their belongings (Smith, 1998, p. 1). This political ideology, combined with pushes by business owners to remove unhoused people that pose a deterrence to consumers, and changing social conditions, has allowed for the forced removal and destruction of unhoused people’s belongings in cities. According to scholars including the authors of “Policing the Homeless: Policy, Practice, and Perceptions,” former New York Mayor and current attorney to President Donald Trump Rudy Giuliani’s crackdown on crime and homelessness in the Anti-Crime Effort of 1994 ’s is the most extreme example of this (McNamara, Crawford, and Burns, 2013, p.361).

Giuliani’s Anti-Crime Effort of 1994 was similar to the more recent Safer Cities Initiative, but much more aggressive in nature. Giuliani’s philosophy largely blamed poor and unhoused individuals for rising crime and urban disorder, and saw the solution to be the removal of these people from public space. Giuliani’s Anti-Crime Effort of 1994, and the resulting *Police Strategy No. 5* focused on two goals: 1) Identifying and isolating the “enemies” of the well kept city, namely unhoused individuals, people who obviously used drugs, and perceived sex workers, and 2) to create a solution that affirmed the rights of the middle class to the enjoyment of the city (Smith, 1998, p.3). This involved a “zero tolerance” model of policing towards all petty

criminals and other perceived enemies of the city. This meant that once arrested, people would be vigorously prosecuted and then entered into a database used to track unhoused people and their offenses. Further, precinct commanders were given expanded powers to bypass legal and bureaucratic checks on their conduct (Smith, 1998, p.4).

The 1994 Anti-Crime effort included the same demolition of shanty towns and encampments that did and continues to occur around the country. Neil Smith exemplifies this expedited effort by stating,

Whereas most Manhattan neighborhoods hosted some kind of homeless shanty settlement in 1991, by a cold February morning six years later the Giuliani government could boast that it had demolished the "last shantytown" in Manhattan in the railway tunnels of the old Penn Central Railroad (1998, p.5).

Efforts of demolition such as this echoed in the efforts of local governments around the country. For example, between the years of 2005 and 2007, the local government of Fresno, a city that had the second largest number of homeless people in the nation in 2011, conducted over 50 sweeps of encampments (Speer, 2017, p.522). Of course, these sweeps simply prompted street communities to move to new locations, signaling the surface level nature of these sweeps and a lack of care for real solutions to homelessness. Another example is the police tactics used in San Francisco, a city possessing the highest population of homeless people in the state of California (Feldstein, Fisher, and Baker, 2016). In one study, 46% of respondents, people living on the streets in San Francisco, reported that they have had their belongings taken or destroyed by law enforcement at least once (Herring, Yarbrough, & Alatorre, 2015, p.140). Similarly, in an analysis of six months of emails of city officials in one news source, reporters found that municipalities often plan for up to 40 sweeps of homeless encampments per day (Tinoco, 2019).

In Santa Cruz, California, where this paper was written, the city government has just asked Governor Newsom for assistance in removing a very large encampment, continuing a pattern that has been playing out unsuccessfully for years.

There are far too many examples to list of local police forces sweeping mass homeless encampments and destroying their belongings, but this punitive tactic of removal from public space is happening in cities all over the country in an effort to keep the nationwide housing crisis out of public view. This is simply another extension of anti-homeless policy being used to exclude people from public space due to their supposed incompatibility with it due to their moral deviance. While it is now illegal to punish homelessness as a status, there is hardly anything more telling of the fact that homeless people are criminalized for their status than their bodies being removed and excluded from public space. Laws that do this are an obvious sign that governments do not seem to be interested in actually ending homelessness, but rather continuing the endless cycle of criminalization and displacement.

Discussion: Shifting the Narrative and Changing Policy

Ideological Factors of Anti-Homelessness and Moral Policing

Clearly, both the root causes and the perpetuations of homelessness are complex and dynamic in nature. While legal language has changed in a way that makes it illegal to punish someone for their status, public opinion still largely categorizes homelessness as a *status* rather than an *experience*, and the law perpetuates this by punishing people accordingly. In this way, class identity, namely homelessness, has been salient through the evolution of legal frameworks and social change. As has been shown through my argument, the evolving criminalization of homelessness is rooted in moral policing of their status. In this section, I will return to concepts

presented in my literature review, this time linking them with real world examples and contextualizing my data findings through relevant social concepts. Then, I will propose big picture individual and policy solutions that we can utilize to both unlearn our ways of thinking about unhoused people and do away with policies that directly harm them. Through this section, I will show how all of these concepts, those being deviance, individualization of poverty, and the Protestant work ethic, constitute strategies of moral policing that have been used to punish unhoused people based on their individual identity rather than addressing structural solutions to poverty.

While the law exists as a form of social control, popular discourse helps to perpetuate the cultural schemas that allow for this to happen. For example, in San Francisco, “Homeless Complaints” has been officially categorized as a 911 phone call group (Herring, Yarbrough, & Alatorre, 2015, p.136). Another more broad example is the common signage around businesses that make statements such as “restrooms are for paying customers only” or “no loitering”, which allow for businesses to exclude and incriminate homeless populations. While there needs to be a large shift in the way we talk about homelessness politically, there also needs to be a shift in public discourse surrounding the issue. In this section, I will dive deeper to contextualize the concepts that help to explain homeless people’s socioeconomic position and will make suggestions for how we as a society can begin to move away from ideas and policies that perpetuate it.

Michel Foucault states that knowledge and power are intertwined in that power creates knowledge and knowledge induces the effects of power (1980, p.52). If popular knowledge holds and perpetuates power, then the public ideology that unhoused people are nuisances that should be punished needs to be reframed in order for our power structures to follow. Clearly, this kind

of cultural thinking has been around for centuries, and has remained even through the re-writing of the law in a way that is more insidious. The incrimination and cultural fear of unhoused individuals that has perpetuated through the restructuring of public space, the criminalization of life sustaining activities, and the destruction of people's belongings are all aspects of punishment that stem from the public tendency for moral policing and punishment of deviants. This moral policing has involved the construction of the poor as deviant, pathologized individuals in society rather than products of a social system that both creates and perpetuates inequalities.

The continuing moral policing and social exclusion of unhoused people is a continuation of ideologies of an 'underclass' and individual responsibility for poverty. This class status, which is thought of not as a socioeconomic position but as the result of individual behaviors, has long been the trope of unhoused individuals. By individualizing poverty and blaming the poor's position on their own wrongdoing, governments and individuals avoid being held accountable for assisting them. When people are said to have earned their position because of their drug or alcohol use, laziness, or incompatibility with mainstream society, there is no incentive for institutions to assist them. Further, this morally justifies their criminalization and over policing by placing the individual responsibility on them. As has been exemplified through my Data Section, the individualization of poverty has long allowed for their policing based on their perceived moral impunity which leads them to their own misfortune.

Part of the discourse that allows for governments to act on the ideology of individualism and meritocracy is the cultural disregard of systemic constructions of class. While class is, in itself, a system of differential power, privilege, and wealth, it is also a framework for identification. Stephanie Lawler, a sociologist who focuses on constructions of class and identity, states, "This dynamic character of class is related to classed identities, so that class is understood,

not as an empty set of signifiers (employment, housing, etc.) waiting to be filled by interchangeable social actors, but as also something *we are*” (2005, p.797). Class has become an identifier, a system of creating dichotomies between deserving and undeserving and moral and immoral. In this way, class has been used as a way to construct the framework for who does not belong in public space. The identity of homelessness and the justification for criminalization of it has largely been constructed through class based frameworks that both individualize and pathologize victims of its inequalities. This is important to understand because while homelessness is a class position, it is treated more as the result of individual downfalls, thus ignoring systemic factors and allowing for the moral policing of individuals affected by the system.

It is through constructions of individual deviance in the context of systemic income inequality that unhoused people have historically been subjected to moral policing. For centuries, unhoused people have been associated with crime, vice, and moral impunity, rather than being seen as a class struggling with a shared structural location. There are numerous examples from early vagrancy statutes to contemporary loitering laws that suggest this. Take the example from Data Section 1, a vagrancy statute stating, “Because that many valiant beggars, as long as they may live off begging, do refuse to labor, giving themselves to idleness and vice, and sometimes to theft and other abominations...” (1964, p.68). This legal statute, written specifically with the intent of punishing people engaged in begging, accused the individuals in question of *choosing* to make a living by begging, engaging in idleness and vice, and “other abominations”. By ignoring systemic causes that force people into positions where they have to beg or cannot work, the law was able to individualize victims of inequality and allow for their moral policing through legal and social punishment.

By legally constructing class location as individual identity, societies have created a category of deviance which vagrants and unhoused people fulfill the expectations of. Deviancy is a category used to identify, control, and predict behavior of those in question. In his book, *Discipline and Punish*, Michel Foucault states, “The delinquent, the strange manifestation of an overall phenomenon of criminality, is to be found in quasi-natural classes, each endowed with its own characteristics and requiring a specific treatment...” (1975, p.220). In this way, homelessness embodies a set of characteristics that allow for prediction of behavior and assignment to specific treatments for their position. One example of this is the language of some current loitering laws, namely the California ordinance that makes it illegal to “loiter with the intent to commit a crime”, which assumes an individual’s intent simply by their positionality and appearance (Shouse California Law Group, 2020). This concept has also been demonstrated with community policing platforms such as Nextdoor, Ring, and other technology platforms that community members use to surveil people and groups in their space that they deem as “suspicious” or “unbelonging”. In turn, people who assume physical characteristics of a certain identity are part of a self fulfilling prophecy. They are expected to act in such a way, one that is criminal and untrustworthy, and so they are criminalized and further entrenched in the position that gives them this identity in lieu of structural contributions to their position.

Another more obvious example of how deviance is used to surveil unhoused populations is the Anti-Crime Effort of 1994 that I have described. As mentioned, this initiative sought to identify and isolate the “enemies” of the city and to create a solution that affirmed the middle class’s interests for the city. According to Rudy Giuliani, the former mayor of New York and a pioneer of the Anti-Crime Effort of 1994, the enemies of the city could be identified as “homeless people, panhandlers, prostitutes, squeegee cleaners, squatters, graffiti artists, reckless

bicyclists” (Smith, 1998, p.3). Using this identity grouping, Guiliani, the police, and proponents of law and order worked together to identify enemies of the functioning city and “take it back”. The most telling way to exemplify how this was an effort to surveil deviant populations is the aforementioned zero tolerance database policy. Once arrested, those persecuted would immediately be entered into a database which was quickly accessible by police officers and used to further police homeless individuals (Smith, 1998, p.4). According to Neil Smith, this movement arose to a sort of “moral obligation” as its propaganda spread. For instance, in New York city subways there were numerous signs that depicted demeaning images of unhoused people with the signage “Don’t give them your money!” (Smith, 1998, p.3). In this way, the personification of “urban decay” that was given to unhoused people signified crime and civil unrest, and unhoused people continued to carry the burden of having their livelihoods predicted as such.

Understanding how the position of homelessness as deviant was actually constructed requires a deeper understanding of how and why laws and informal social rules are created and enforced, and what purpose they serve in a functioning hegemonic society. In his book, *Outsiders: Studies in the Sociology of Deviance*, Howard S. Becker discusses the motivations and archetypes of individuals and power structures who construct the rules that individuals in question diverge from when they become deviants to be morally policed. He states, “Rules are the products of someone’s initiative and we can think of the people who exhibit such enterprise as *moral entrepreneurs*” (1963, p.147). In the case of anti-homeless policy, moral entrepreneurs would be considered anyone who partakes in the individualization of homeless classes and assisting the police in their persecution, lawmakers, and business owners. In other words, those who set the rules in any given society set the moral standards as well. Typically, Becker states,

moral entrepreneurs have some humanitarian overtones to their thinking, with the belief that if people do what they believe to be right, then individuals and communities will be better off. Therefore, those who do not follow rules created by moral entrepreneurs are seen as threats to larger society because they do not want to follow moral codes that supposedly benefit everyone. Further, Becker quotes Joseph Gusfield, who states, “Moral reformism of this type suggests the approach of a dominant class toward those less favorably situated in the economic and social structure” (1963, p.149). Because those in power often have the knowledge and tools to create social norms for the rest of society, rules have a paternalistic and oppressive nature that are created and upheld through the lens of the upper class. This power structure is apparent in the way that unhoused people have been negatively viewed throughout history based on their “moral impunity” and the ways in which they are policed based on their identity.

Ruling classes have created and upheld nearly the same deviant stereotypes of unhoused people for hundreds of years. From English Vagrancy Statutes to the construction of the United States as we know it today, unhoused people have been categorized as lazy, addicted, criminal, hopeless menaces to society. There are numerous examples of this from every historical period that I have covered in my research. Another example of this discourse is a quote by Henry Mayhew in *The Morning Chronicle* in 1850, which states, “...[the homeless represent] a stream of vice and disease-- a tide of iniquity and fever, continually flowing” (Beier and Ocobock, 2008, p.93). Comments such as these were and are commonplace in discussion of unhoused people, and reflects a larger societal disdain towards them. Another example of the undesirability of homeless individuals as written into law is the language in which they are addressed as. Various statutes during this time use words such as “ruffian”, “rogue”, “vagabond”, or other terms that have negative connotations (Chambliss, 1964). Because language is part of cultural perceptions,

and power is embedded in dominant ideologies, derogatory language surrounding unhoused individuals reinforced their undeserving and deviant position both in legal language and in public perception.

The negative language reinforced by early vagrancy statutes has continued through the construction of the United States and the evolution of homelessness to what we know it as today. For example, in New England in the late 1600s, there were complaints about the increase in “the sin of idleness” as more unhoused people populated the city (Kusmer, 2001, p.14). This kind of moral policing was written into the law in most towns during this time. For example, one law in Massachusetts in 1666 moved for the suppression of “rogues, vagabonds, common beggars and other lewd and disorderly persons” (Kusmer, 2001, p.20). It is important to note that the language that has persisted through the reconstruction of legal practices and the evolution of the United States’s socio-political spheres. The language surrounding unhoused people that has persisted has kept its undertone of moral chiding and paternalism that has plagued unhoused people’s identity for centuries.

Christianity and individualistic economic frameworks were intertwined to create the homeless deviant to society and the platform for moral policing. As discussed in my literature review, capitalism functions through inherently Protestant ideals of meritocracy, in that those who work the hardest and live the most pious lives fare the best outcomes. Likewise, those who do not work hard, or represent moral impunity, can be expected to not do well, and to be undeserving of any sort of help because they failed to work themselves into a better position. As discussed by Kevin Kusmer, “William Perkins, a leading Calvinist theologian, argued vehemently that ‘wandering beggars and rogues’ were not only a plague to civil society, but should ‘be taken as enemies of this ordinance of God,’” (2001, p.19). This statement is important

because it represents not only the position of the poor as a threat to mainstream economic functioning, but also to human morals as defined by God. Kusmer also points out that Israel Pemberton wrote in the eighteenth century that, “The principle of true religion... never disposes the mind to indolence or sloth”, denouncing the act of being idle or vagrant as being impure and antithetical to religious ideals (2001, p.19). While the United States has become more profit driven than religiously bound, attitudes such as these have persisted in different forms to allow for the moral policing of the poor and homeless.

Our society still largely values the qualities of work ethic and independence and praises those who are able to break class barriers without the help of others. While we don't have as many explicit religious overtones in our language today, the legacy of the Protestant work ethic still remains ingrained in our values. Of course, morality is an important part of what makes us human, and what drives much of social cohesion in society. Even so, moral policing and the imposition of specific values on groups of people often perpetuates their position in society. When institutions take it upon themselves to reinforce cultural values and morality, they become ingrained into our economic and political systems and make it nearly impossible for those who are perceived to deviate from these morals to attain assistance. For example, the implementation of Vagrancy Statutes in feudal England based on moral principles of work ethic set the stage for hundreds of years of class-based oppression toward the homeless. This moral policing based on work ethic and other attributes that individualize victims of systemic poverty has allowed for the continuation of class-based state violence and has made it much harder for unhoused people to reach a higher socioeconomic position because of their overt criminalization and mistreatment by the general public.

Negative attitudes that paint unhoused people as lazy, immoral, and hopeless have persisted with different language, but with the same intent. They have largely continued to be associated with crime, which has allowed for the continuation of their criminalization. For there to be substantive change around the issue of homelessness, there must be dramatic cultural shifts in the way that we view poverty, structural inequalities, and public space. In a study of hate crimes against homeless populations, Sandra Wachholz states,

They [the homeless] are part of an entrenched historical pattern in which privileged groups regulate space as a means to erect socially and politically constructed boundaries between people and reflect discriminatory ‘impulses toward exclusion, control, security, sameness, and predictability’ (2005, p.143).

That being said, we as a society must change the way that we think about public space, morality, and poverty itself if there is to be any substantive change surrounding the issue of homelessness. Don Mitchell (1998, p.103) states that as long as there is homelessness, there will be no legal remedies to it. As shown, the legal system has simply found new ways to punish unhoused people, showing that there are no legal solutions to this structural and ideological problem. For the change that is desperately needed to happen, there must be large shifts in structural components that contribute to poverty and ideological shifts that allow it to go untreated.

To conclude, the basis of the criminalization of homelessness is moral policing which operates under a system in which it is immoral not to work hard enough to become part of the middle or upper class. Morality has been used to justify compulsory labor laws, lack of assistance to the poor, criminalization of those in need, and so much more. While ideologies that perpetuate homelessness are intertwined with ideas of economic productivity and capitalism,

they precede the existence of capitalism itself. The moral policing of unhoused people is a phenomenon, intertwined with religion, that has simply worked its way into our existing political and economic structures and continues to pervasively impact our lives in ways that we are numb to. That being said, for criminalization policies to change, public perception must change first.

Policy Recommendations and Changing Public Discourse

Clearly, negative attitudes towards many marginalized groups have proven to be persistent. It is apparent, as many scholars have theorized, that social change cannot occur solely through the law. For the treatment and socioeconomic position of marginalized groups, namely the homeless, to change, there must be a dramatic shift in public perception. Sociological research that examines the structural causes of inequalities must make its way into popular discourse and the political sphere. As discussed, the individualization of poverty and its perception as being the result of individual wrong-doings rather than positionality within a system of inequalities counteracts any efforts to advocate for unhoused populations.

The first step towards liberation for any marginalized group is undoing the dehumanization that allowed for their oppression in the first place. Unhoused people are still often referred to as things that deem them as something less than human. Words such as “hobo”, “tweaker”, “bum”, and “junkie”, are still largely part of our cultural vernacular. When we use terms such as this, it psychologically justifies their mistreatment (Smith, 2016, p.416). Similar phenomena to this exist with all other oppressed populations. Words such as “alien”, or even referring to people by their ethnicity or differing identity rather than their personhood, such as saying “the Mexicans”, “the gays”, or whatever else, allows for the perpetuation of their mistreatment because it allows us not to think of them as less than human. It is common practice

for people to avoid eye contact with homeless people, or to ignore their existence all together. This is partially out of uncomfortability and fear and partially out of complacency, and it furthers the separation of unhoused people from the rest of society.

While there will never be micro level solutions to macro level problems, social change is driven by public opinion and small changes can spur grassroots movements. The first step in liberation for the homeless is simply treating and talking about them as if they are human beings who have been wronged by a system of inequalities. As individuals, we should do our best to invite unhoused people into “our” spaces by inviting conversation, treating them with compassion and respect, and helping directly where we can. By partially integrating the homeless into mainstream society through individual interactions, we can begin to ideologically stand against their oppression. Surely, we would not take kindly to a housed person being removed from public space and ignored by everyone that walks by them, and we should have the same philosophy when it comes to our unhoused neighbors.

As shown, quality of life laws are legal attempts to further segregate the homeless from the rest of society, causing a lack of interaction between unhoused and housed people. To begin to integrate ourselves with the unhoused, we should independently expose ourselves to them. This means walking down streets where unhoused people congregate rather than avoiding them, not keeping our distance when we encounter an unhoused person in public, and interacting with them inside of businesses and other public spaces. Still, this is the bare minimum of what we can do as individuals to integrate ourselves with unhoused people. To further our exposure, it is important for us to get involved with the communities themselves. This means volunteering with homeless services groups such as food providers and shelters, engaging in homeless advocacy efforts, and simply taking the time to understand what the needs of the community are through

these interactions. Our public perception will not change if our ideas of how unhoused people are go unchallenged, and we need to make ourselves uncomfortable and make individual changes in order to do so.

I recognize that much of what keeps the general population from interacting with unhoused people is fear and uncomfortability. I have had numerous people relay negative experiences with unhoused people to me, and those experiences should not be invalidated. I have had people tell me that they have had their cars broken into, had things stolen from them, and been verbally assaulted by unhoused people that they encounter. Social psychology theory suggests that, as group members, we form negative perceptions of subordinated groups when they become a threat to our resources and accepted practices (Bobo, 1983, p.1197, as cited in Quillian, 1995, p.588). While this psychological phenomenon is part of what helps us form and differentiate between groups, it can also be detrimental when applied to already marginalized groups, such as in anti-homeless propaganda or in individual prejudices. For example, the association of homelessness with criminality has shown to be simply false, as unhoused people are more often the victims of crime than the perpetrators (McNamara, 2008, p.38). Further, numerous studies have shown that poverty is what perpetuates crime, not the other way around. If we as a society take steps to alleviate the conditions of poverty that unhoused people face, then crime is likely to drop and thus so will negative interactions with unhoused people.

As discussed, the homeless are largely treated by the law as incompatible with public space built to attract consumers. Because unhoused people do not have anywhere private to go, they have no choice but to integrate into this space where they are unwelcome. Another way that we can begin the process of liberation for unhoused people is by integrating them with open arms into public spaces where they have no choice but to be. To begin, this means doing away with

quality of life laws that criminalize the existence of homeless individuals in public space. If unhoused people are to get the assistance and treatment that they deserve, they cannot constantly be worried about whether or not they will be prosecuted for being in public space. Laws that criminalize eating, sleeping, sitting, or camping in public spaces do exactly this, and must be abolished.

Another step to making cities less hostile spaces for unhoused people is to do away with hostile architecture as part of “defensible space”. Defensible space is a concept created by the architect Oscar Newman in an attempt to restructure public space to reduce crime. This restructuring of public space involves four components, those being territoriality, surveillance, image, and milieu (Donnelly, 2010, p.1). In sum, defensible space is aspects of urban design, or “hostile architecture”, which obstruct unhoused people’s ability to exist in public. Examples of these include things like segmented benches, spiked window sills, awning gaps, or barred or spiked corners. Architecture such as this sends the clear message that unhoused people are not welcome in public spaces and make an effort to eradicate all opportunities for them to exist in the public eye. The existence of defensible space signifies not only the criminalization of unhoused people, but their social exclusion from any and all public space. To begin to end the stigmatization and criminalization of unhoused people, we must do away with the very architecture that explicitly excludes them from use.

If we do away with quality of life laws, there will surely be pushback from urban planners focused on gentrification, business owners, and upper class consumers who are uncomfortable with seeing the results of the unequal system that they benefit from. Abolishing quality of life laws, of course, does not rid the world of homelessness. However, neither do any of the solutions that are currently being implemented. Things such as the Housing First model, a

federal program that emphasizes putting people in homes as the first step to ending homelessness, provides an assimilationist band aid solution to homelessness by putting select clients in isolated low income housing. The housing first model also begs the question of how to help people who have been impacted by mental illness, which is a large part of the homeless population, and may be needing treatment before they are stable enough to assimilate to the housed life. Furthermore, many unhoused people have expressed that they feel a sense of community with their unhoused neighbors, and the housing first model takes them out of the community that helped them through their struggles on the street (Speer, 2017, p.529). Just as quality of life laws and defensible space indicate battles over ownership of public space, the Housing First model indicates differential models of home and community. That being said, while housing is obviously an important component of ending homelessness, it is not the end-all-be-all solution.

While I am an advocate for providing housing, food, and mental health services for all humans, I believe that there are middle ground solutions that will allow people to transition from living on the streets to living comfortably in a home. My proposition suggests a change in zoning laws and quality of life laws to allow spaces for unhoused people to safely live. All cities that have a homeless population should rezone their spaces to allow for massive “safe zones” for unhoused people. This means creating a designated space where unhoused people are allowed to set up their camps and keep their belongings without worry of them being removed or destroyed by police officers. Ideally, this space should be close to mental health services and food distribution locations and not isolated from areas where there is high foot traffic. Further, while I believe that it should be the government’s responsibility to ensure that all humans do not starve, I recognize that this is not on the political agenda at this time. This means that it may be up to

local nonprofits to serve unhoused populations that do not have access to food assistance or other means of feeding themselves. While this may not be ideal, designating a place where unhoused people can congregate safely would make it easier for them to be served on a mass scale.

There are various examples of successful safe zones for unhoused people across the Pacific Northwest, which have come to be called “transitional encampments”. Most of these camps are and have been located in Portland, Seattle, and Eugene. One of these camps, the oldest and possibly most well known, is Dignity Village in Portland, Oregon, founded in 2000 (DignityVillage.org). This transitional encampment, housing 60 people per night and working as a segue to place people in permanent housing, is contracted with the city of Portland. Within this contract, operators of the camp agree to adhere to all city policies and cooperate with the Portland Police Bureau, the Portland Fire Bureau, and the Bureau of Maintenance. Additionally, members of the camp are required to adhere to basic community guidelines that help to create a community of mutual respect and dignity. One of the articles of incorporation for the camp, taken directly is as follows.

To create a social environment of non-violence, self-determination and cooperation that encourages economically distressed residents to pursue their life goals and aspirations, especially with regard to adequate housing and employment, with a sense of self-respect and dignity (dignityvillage.org/governance/articles-of-incorporation).

Dignity Village in Portland is just one of many transitional camps that have proven successful in their ability to create a space of community, safety, and dignity where people seeking shelter can be free from fear of criminalization or displacement. Because this operation has been functioning for over twenty years now, it is clear that they have been able to fulfill their

city contracts and operate in a way that is beneficial to both its residents and the larger community.

Another successful example of this concept of transitional encampments is in Eugene, Oregon. This program is known as the Eugene Rest Stop Program, which is a nonprofit managed overnight camp which allows up to 20 people experiencing homelessness to safely sleep in tents, cars, camper trailers, Conestoga huts, or tiny homes on permitted sites (Eugene's Rest Stop and Car Camping Programs Outreach Handbook, p.5). The camp also features staff on site who help to connect guests to services including housing programs (Eugene's Rest Stop and Car Camping Programs Outreach Handbook). This program has proven to be beneficial to its mission to end homelessness. In a survey for the Outreach Handbook for the program, residents of the camps reported that the camp "makes them feel safer, more confident, and more independent" (University of Oregon Community Service Center, 2015, p.ii) Further, many residents stated that staying at the rest stop had helped them to transition into permanent housing, although some stated that they still faced personal barriers to housing. In total, the rest stop has been able to help about 100 people transition into permanent housing as of 2015. (University of Oregon Community Service Center, 2015, p.ii) The success of this camp is an example of how legal, managed transitional encampments make people feel more respected, independent, and stable and help people feel safe and able to transition into permanent housing. If programs such as this were implemented on a larger scale, communities of people who sleep outside would be able to fear with less fear of criminalization and more resources available to them.

The implication of this proposition is the fact that it may further separate unhoused people from the rest of society by confining them to their designated spaces. This plan could be deemed as a continuation of the battle over public space, but it would also be seen as an

acceptance of the existence of people who do not have homes. As the end of homelessness seems to be nowhere in sight, we must work as a society to make our cities safer and more inviting for unhoused people. Another reason that the transitional encampment solution would be beneficial is that it would inherently bring people closer to being able to have a home because it would begin to fulfill their basic needs. Of course, it is incredibly difficult for people to find jobs, keep themselves and their spaces clean, and otherwise integrate into society if they are in constant fear of being persecuted for existing in public. Constructing managed transitional encampments on a larger scale would be a step in the right direction of acknowledging the existence of people who need assistance and who deserve to live free of fear of criminalization and with respect, dignity, and access to essential resources.

Of course, there are various conceptions of how to properly end homelessness, and no single solution is the end-all-be-all given our current economic and political system. While I have proposed some personal and policy changes that we could make to lessen the criminalization of homelessness, there will be no end to homelessness as long as we maintain a system which benefits from the policing of marginalized groups. For there to be a true end to homelessness in the United States, I believe that we must restructure our economic system into one that is equitable and does not rely solely on profit and privatization. Still, making small individual changes can lead governments to take political action because, as stated, public opinion can drive policy changes. By simply changing the ways in which we talk about and treat unhoused populations, we can incentivize governments to create policy which does not include the criminalization of unhoused people for their identity.

Conclusion

The data and argument which I have presented should make it clear that anti-homeless policy has always been intertwined with systems of moral policing that rely on an individualistic and meritocratic culture. Systems of policing which criminalize the existence of homelessness based on perceived individual failings relies on the fact that we have been socialized to surveil and criminalize those who break social norms. This system of surveillance which we have largely internalized relies on the societal construction of deviance based on moral divergence. This structure of morality that we police through our legal systems and individual actions has been constructed through Protestant work ethic ideals and preceding religious ideologies, and our free market economic system which relies on the exploitation of labor. The former has had an impact in justifying the latter, and has resulted in the internalization of age old religious ideals which ignore institutional systems of oppression.

While the ways in which we surveil and criminalize the unhoused population has changed in language, and is not explicitly connected to religious ideologies anymore, its intent has remained to punish members of the lower class. In a culture which emphasizes individual exceptionalism and personal responsibility, being homeless is seen as a personal failure and is indicative of some sort of wrongdoing. These perceived personal failings are seen as burdens to “upstanding and hardworking” citizens, and lead unhoused people to be categorized as people who weigh down the rest of society by slothishly living off of government assistance and the charity of others. This ideology is centuries old, stemming from the 1349 Ordinance of Laborers which made it illegal to give alms to the poor if they chose not to work. From this point on, the construction of unhoused people as unwilling to work and subject to punishment for this reason has persisted.

The persistence of the punishment of vagrants and unhoused people for centuries signals that, as long as the crisis of homelessness exists, no legal solution will alleviate their systemic oppression and criminalization. Even as current policy explicitly targets people based on their actions rather than their identity, it is still a systemic perpetuation of the notion that those who are unhoused are undeserving of amnesty or liberation. Changing the systems of punishment which criminalize victims of systemic inequalities rather than addressing the root causes of their misery requires mass ideological shifts. While policy has the ability to be implemented in a top-down approach, necessary ideological shifts will likely occur from the ground up. This requires a re-evaluation of our “inner-cop” and tendency to monitor the moral compass and actions of others.

The urgent need for large ideological shifts calls for the consideration of community-oriented solutions to homelessness. If we want to be members of a society that takes care of its neighbors, we must shift our thinking in ways that emphasize community care, adequate resources, and accountability. Rather than taking ownership over spaces that we deem to be “ours”, such as our residential neighborhoods and public space, we need to think of them as collective spaces designed for everyone. Rather than pushing unhoused people out of public space through quality of life laws, we should welcome their integration and accept that if people do not have private space to occupy, they are limited to existing in public. Rather than designing architecture explicitly meant to deter people from sleeping or sitting on it, we should consider solutions that would eliminate the need for people to do so. In sum, we need to shift our thinking from prioritizing individual ownership to emphasizing collective responsibility and care.

Implementing managed transitional encampments which emphasize the importance of fulfilling the needs of unhoused individuals and providing them with a sense of community and

dignity is one bottom up strategy that can begin to shift our ideological orientation. Transitional encampments have this effect because they require the support and cooperation of surrounding communities. Ideally, transitional encampments similar to those implemented in the Pacific Northwest would not just be consented to by surrounding communities, but would integrate them. The integration of transitional encampments and the housed community provides an opportunity for the two communities to come together on the basis of common goals, ideas, and strategies for furthering community oriented solutions. Transitional encampments are less about designating legal space to unhoused people and more about building community cohesion and emphasizing a sense of safety and belonging for all members of society regardless of their socioeconomic status.

For community oriented solutions to homelessness to be possible in the long term, we must shift our individual and collective thinking away from the need for punishment. Systems of punishment function through the control of one group over another. Community oriented solutions of accountability, rather, function through a partnership and mutual respect. As the case study of the Eugene Rest Stop Program illustrates, people function more effectively in society when they feel respected, dignified, and heard. This is why creating community engagement with and integration of unhoused people is so important to beginning to shift our systems of tackling homelessness. To begin the journey of abolishing the criminalization of homelessness, we must shift our societal dynamics away from the priorities of ownership and punishment.

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