FEEDING THE HOMELESS: THE CRIMINALIZATION OF A HUMANITARIAN ACT

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“What would you do if you came across someone on the street that had not had anything to eat for several days? Would you give that person some food? Well, the next time you get that impulse, you might want to check if it is still legal to feed the homeless where you live.”

Many cities across the United States have implemented food-sharing bans and restrictions that impose fines up to thousands of dollars and possible jail time. These laws on food sharing have made it difficult for people to help those in need. According to the United States Department of Housing and Urban Development, “there are more than 610,000 people experiencing homelessness on any given night in [the United States].” Giving food to these hundreds of thousands of homeless people is a humanitarian act that many Americans commit to every day. However, “[i]n recent years, cities across the nation have established a precedent of criminalizing homelessness and pushing the problem out of sight.” This has been done through the implementation of food-sharing bans, also known as “anti-feeding ordinances.” These bans are doing more harm than good by punishing and placing unnecessary burdens on people who are just “trying to make the system better.”

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4 Richard Ruis, In Houston It’s Illegal to Feed the Homeless and for the Homeless to Feed Themselves, DAILY KOS (Mar. 16, 2013, 11:50 AM), http://www.dailykos.com/story/2013/03/16/1194591/-In-Houston-It-s-Illegal-to-Feed-the-Homeless-and-for-the-Homeless-to-Feed-Themselves.
criminal. You can be fined for giving out bananas or told to drop a plate as if it was a weapon.

“It is now a crime to help the poor.” We have succeeded in the criminalization of a humanitarian act.

I. VIEWS ON THE HOMELESS

The politicians and consultants on homelessness are convinced that many stereotypes about the homeless population are true, and that mindset has contributed to many cities implementing food-sharing bans. Like these government officials, some people are still under the mistaken belief that the homeless will disappear if they are not fed, that feeding these individuals enables them to stay homeless, and that there are already too many meal programs that currently waste unused food. These beliefs are far from the truth.

A. The Homeless Will Disappear If They Are Not Fed

Tony Yaniz, a Florida City Commissioner, supported the idea of cutting back services of a local soup kitchen. He believed that the city was making it too “cozy” for the homeless and suggested that the city “not feed them anymore.” Similarly, a

8 Id.
9 NAT’L COAL. FOR THE HOMELESS, supra note 3, at 7.
10 Id.
12 Id.
policeman from Ohio likened the homeless population to wild animals by stating, “[i]f you want the bears to go away, don’t feed the bears.”\textsuperscript{13}

In reality, the homeless will not simply disappear if they are not fed; the problem is multi-dimensional. “There are many reasons why people are homeless, including the lack of affordable housing, lack of job opportunities, mental health and addiction, and physical disabilities.”\textsuperscript{14} If these problems are not addressed, homelessness will not disappear.

\textbf{B. Feeding the Homeless Keeps Them Homeless}

A Houston mayor stated that feeding the homeless “keep[s] them on the street longer.”\textsuperscript{15} She added, “making it easier for someone to stay on the streets is not humane.”\textsuperscript{16} A city councilman from San Antonio also stated that “if you feed people in parks, or on a street, or drive your car up and give fourteen meals out of the back of your car, all you are doing is growing homelessness.”\textsuperscript{17}

In Fort Lauderdale, Florida, a 90-year-old man was arrested twice because he was caught feeding the homeless people near his neighborhood.\textsuperscript{18} He is now facing jail time because of his actions.\textsuperscript{19} A city lobbyist of Fort Lauderdale supported the enactment of the anti-feeding ordinances by stating that “feeding people on the streets is sanctioning homelessness [and] whatever discourages feeding people on the streets is a positive

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\textsuperscript{13} NAT’L COAL. FOR THE HOMELESS, supra note 3, at 7.
\textsuperscript{14} Id.
\textsuperscript{15} O’Hara, supra note 6.
\textsuperscript{16} Id.
\textsuperscript{18} Yanklowitz, supra note 7.
\textsuperscript{19} Id.
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thing.”20 Because of many other people in Fort Lauderdale who agree with this statement, “the city has decided the best response to hunger and homelessness is to allocate money in their budget to bus the homeless out of town,” as if the homeless “are choosing a luxurious option [to stay homeless] as if there [sic] situation wasn’t riddled with suffering and hopelessness.”21

Feeding the homeless does not make the homeless stay homeless. For many homeless individuals, food-sharing programs are the only way they “will have access to healthy, safe food on a given day.”22 Staying homeless is not a choice; it’s something they try hard to overcome.23 It is not a simple task for them to find work that pays a reasonable amount and pay for a safe home, all while taking care of themselves.24

C. Meal Programs Waste Unused Food

In Seattle, Washington, a spokesperson from the Human Services Department stated that although the efforts of meal programs are appreciated, “[i]t creates a possible food waste issue, garbage, and in that case a rodent issue.”25 The simple existence of meal programs makes people believe that “there must be places for [the homeless] to eat three times a day, seven days a week.”26 This belief is significantly strengthened “when the general public witnesses individuals [and] groups sharing food with people experiencing homelessness in public areas.”27

20 Id.
21 Id.
22 NAT’L COAL. FOR THE HOMELESS, supra note 3, at 7.
23 Id.
24 Id.
25 Id.
26 Id.
27 Id.
However, meal programs do not waste food. “Nationwide, service providers are overwhelmed and often underresourced [sic].”28 There have also been federal cuts that have reduced many food programs’ budgets.29 Specifically, the Supplemental Nutrition Assistance Program (SNAP) had its budget cut “by at least $39 billion over 10 years.”30 This budget cut will cause a higher demand to be placed on the other programs that provide food to the homeless and hungry.31 These other food assistance programs “already have insufficient resources and will not be able to respond to [an] increased demand.”32

Without enough funding, food-sharing programs are not able to feed their regular amount of people; the “need for meal programs […] will only increase.”33 These budget cuts have caused many food-sharing programs “to reduce the quantity of food persons can receive at each […] visit or the amount of food offered per-meal.”34 Some have even “had to reduce the number of times a person or family [could get food] each month.”35 In the worst scenarios, some people had to be turned away “because of lack of resources.”36

These mistaken beliefs, judgmental stereotypes, and general complacency towards the homeless have caused cities all over the country to implement food-sharing bans, leading to the criminalization of a humanitarian act.

28 Id.
29 Id.
31 Id.
32 Id.
33 NAT’L COAL. FOR THE HOMELESS, supra note 3, at 7.
34 THE U.S. CONFERENCE OF MAYORS, supra note 30, at 11.
35 Id. at 11-12.
36 Id. at 12.
II. LAWS AGAINST THE HOMELESS

“At least 31 cities nationwide [have taken] strides to restrict or ban the act of food-sharing.”\textsuperscript{37} These food-sharing bans are usually classified in one of three ways. They can fall under the categories of public property restrictions, food safety regulations, or community actions to relocate food-sharing events.

A. Restrictions on the Use of Public Property

“[B]y placing restrictions on the use of public property […] individuals and organizations are generally required to obtain a permit, often for a fee, to share food with [the homeless] in a park or other public space.”\textsuperscript{38} The cities who have restricted the use of public property reasoned that the restrictions are necessary because the “groups that share food with people experiencing homelessness often block traffic or leave behind garbage.”\textsuperscript{39} So far, 14 cities have “recently introduced or passed laws that require organizations to acquire a permit to use public property.”\textsuperscript{40} For example, in Houston, Texas, the Feed a Friend organization was forced to end its daily tradition of feeding the homeless.\textsuperscript{41} Initially, the Houston police officers had the organization relocated to a different location, but the new location required the organization to have a permit in order

\textsuperscript{37} NAT’L COAL. FOR THE HOMELESS, supra note 3, at 4.
\textsuperscript{38} Id.
\textsuperscript{39} Id. at 8.
\textsuperscript{40} Id.
to continue feeding the homeless.42 However, “they were told that they probably would not be granted a permit […] even if they applied for one.”43

The cities of Fort Lauderdale, Florida and Houston, Texas, even mandate that written consent is needed before an organization is allowed to feed the homeless.44 The city of Costa Mesa, California, has even gone so far as to completely demolish a picnic shelter at a local park.45

These restrictions strip many homeless people from their abilities to have at least one meal for the day. If a food-sharing group is restricted to only be “allowed to share food in one location, homeless individuals who have disabilities or an inability to get to that one location, will be left without food.”46

B. Food Safety Regulations

Limitations have been placed on many “organizations’ abilities to share food with people experiencing homelessness [by requiring] groups to comply with stringent food-safety regulations.”47 It has been reasoned that these regulations were created to keep the safety and health of the homeless as a priority.48 The regulations are not meant to “stop [the] well-intentioned groups from feeding people.”49 They are meant “to provide food safety to those receiving the food […] and accountability to those providing the food.”50 Additionally, it has been reasoned that the food safety regulations are needed because the

42 Id.
43 Snyder, supra note 1.
44 NAT’L COAL. FOR THE HOMELESS, supra note 3, at 8-9.
45 Id. at 9.
46 Id.
47 Id. at 4.
49 Id.
50 Id.
homeless “are the most vulnerable to foodborne illness and also are the least likely to have access to health care.”\textsuperscript{51}

However, when the regulations are not met, the homeless are not fed. If they are not fed, they tend to look for food in garbage cans. “It’s a lot more sanitary for [people] to make a meal and take it to them than it is for them to dig through the dumpster.”\textsuperscript{52} Finding out whether a homeless person actually becomes sick from the food given to them is hard to determine. Specifically, it has never been reported that a homeless person has gotten sick from the food they’re given at family reunions, where many families share food with the local homeless people.\textsuperscript{53}

\textbf{C. Community Actions to Relocate Events/NIMBY}

Many business owners and homeowners have shown their support for food-sharing bans by commencing “community actions driven by the principle of ‘Not In My Back Yard (NIMBY)’.”\textsuperscript{54} These people believe that the homeless population has a negative effect on how they live their lives and conduct business. Business owners feel that having homeless people near their businesses discourages people from entering their restaurants or shops. Homeowners are worried about homeless people living in their neighborhoods. When the homeless are fed in one location, they begin to squat; they live in the bushes and crawl spaces of houses.\textsuperscript{55} What was a “‘well-intentioned’ […] effort

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\textsuperscript{51} Olson, \textit{supra} note 41.
\textsuperscript{52} Wood, \textit{supra} note 48.
\textsuperscript{54} NAT’L COAL. FOR THE HOMELESS, \textit{supra} note 3, at 4.
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has developed into a ‘free-for-all’ that has overwhelmed what is a residential neighborhood.”

In Ventura, California, the residents of Lemon Grove were upset over the efforts of a local church that was “feeding the homeless and helping them get back on their feet.” The residents claimed that ever since the church started to feed the homeless in the neighborhood, they have found “drugs, needles, and people passed out on their front lawns.” There have also been reports of burglaries in the neighborhood, and the residents feel this has recklessly endangered them, and “impacted the feeling of safety.”

Because of the efforts of this community to stop the church from “serving the homeless in [the] neighborhood and start somewhere else in a commercial zone,” the city has looked for alternate locations to feed the homeless. The city issued a statement saying that they are “sensitive to the neighborhood concerns.” The city also said it would work “collaboratively with the neighbors, property owners, and social-service agencies to find a balance of providing assistance to those in need with protecting [the] neighborhoods.” Like the residents of the neighborhood, the city agreed that the location where the homeless were being fed was not in the best interests of public safety.

However, if other residents of different neighborhoods voice their opinions like the Ventura neighborhood, many homeless people will not be provided with the meals, to

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56 Id.
58 Id.
59 Id.
60 Id.
61 Id.
62 Id.
63 Id.
which they have become accustomed. Many people of the homeless population are not able to travel to a different location in order to get food. Whether or not they get food depends on if the church or organization is in the same location.

III. Effects of the Laws

The anti-feeding ordinances have impacted both the homeless and those who feed them. They impose costly deposits and permits for those who abide by them while creating the risk of high fines and possible jail time for those who don’t. Many instances have been reported, but only a few have gone to trial. A lot of the reports have come from Florida and Texas, but major cities across the United States have banned people, churches, and organizations from feeding the homeless.

For example, in Fort Lauderdale, Florida, a 90-year-old man received a citation from the police when they found him “feeding the homeless at a public beach.”64 He has been feeding them every week for the past 23 years.65 He continued to feed the homeless despite the ordinance and has been cited more than once; he is facing up to 60 days in jail and a $500 fine for his violations.66

In Orlando, Florida, the city officials found that a church was in violation of the city’s “Large Group Feeding Ordinance.”67 The church did not have a building of its own, so the congregation “of approximately forty members, most of whom [were] homeless,” held its services at a public park.68 “The church [served] food to its members

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65 Id.
66 Id.
67 First Vagabonds Church of God v. City of Orlando, Fla., 610 F.3d 1274, 1280 (11th Cir. 2010).
68 Id.
as a part of its religious services.” The ordinance limited the amount of times they could use the park to only twice a year. Twelve members of an activist group associated with the church were arrested after feeding the homeless without a permit in protest of the ordinance.

In Daytona Beach, Florida, a couple received a fine of $746 and was permanently banned from a park. The couple, along with volunteers, had been feeding the homeless in the public park every week for over a year. Each person was “given multiple second degree misdemeanor citations [totaling] $2,238 for the group.”

In Houston, Texas, the Feed a Friend organization was forced to end its daily tradition of feeding the homeless. Initially, the Houston police officers had the organization relocated to a different location, but the new location required the organization to have a permit in order to continue feeding the homeless. However, “they were told that they probably would not be granted a permit […] even if they applied for one.”

The “do-gooders [who] give homeless people food” are not the only people affected by the food-sharing bans. In Los Angeles, California, the Greater West Hollywood Food Coalition (GWHFC) serves at least 200 meals to those in need every

69 Id.
70 Id. at 1281.
71 Snyder, supra note 1.
72 Scott Keyes, Florida Couple Fined $646 for Crime of Feeding Homeless People, THINKPROGRESS (May 12, 2014, 12:02 PM), http://thinkprogress.org/economy/2014/05/12/3436712/daytona-beach-feeding-homeless/.
73 Id.
74 Id.
75 Olson, supra note 41.
76 Id.
77 Snyder, supra note 1.
78 Keyes, supra note 55.
evening.\textsuperscript{79} The complaints of community members who have started community actions against food sharing have fallen “on [the] sympathetic ears [of] City Councilmembers,”\textsuperscript{80} and now a proposal to enforce food-sharing bans is being looked into.\textsuperscript{80} If an ordinance is enacted by the city, it could “mess it up for everyone,” because “GWHFC and other charities are critical for the homeless who rely on these meals to survive.”\textsuperscript{81} For many of the people who rely on GWHFC to distribute food, it is “their only way to eat.”\textsuperscript{82} “There are people [there] who really need [them].”\textsuperscript{83}

\section*{IV. Comments on the Law}

There have been both positive and negative views about the food-sharing bans. Those who are in favor of the food-sharing bans think that they will decrease crime rates, believing that homeless people can be a threat to public safety. For example, a business owner, whose restaurant is near a park, has had “homeless people relieving themselves in his parking lot, dumping trash, spitting at his windows, and demanding food.”\textsuperscript{84} This has had a negative impact on the operations and profits of his business since the park is now thought of as “unsafe” and “scary.”\textsuperscript{85}

Parents have also voiced their concerns on the topic. Some homeless people are being fed in the neighborhoods where they live and raise their children. They feel that

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\textsuperscript{79} Id.
\textsuperscript{80} Id.
\textsuperscript{81} Id.
\textsuperscript{82} Id.
\textsuperscript{83} Id.
\textsuperscript{85} Id.
\end{flushleft}
their once “nice, peaceful neighborhood” has become “an unsafe place to live.”\footnote{Silva, supra note 57.} Some feel that “there’s been a whole slew of things that [their] children shouldn’t be exposed to, […] putting them in reckless endangerment.”\footnote{Id.} Those who are in opposition of the food-sharing bans believe that the ordinances “are not intended to solve the problems of homelessness or hunger.”\footnote{Parr, supra note 84.} Instead, they believe that they have been implemented to make cities appear more attractive.\footnote{Id.} Officials have stated that having the homeless population in certain areas is “ruining efforts to beautify downtowns and neighborhoods.”\footnote{Snyder, supra note 1.} Some people who are against the food-sharing bans believe that they are a violation of their constitutional rights, violating both the First Amendment rights\footnote{NAT’L COAL. FOR THE HOMELESS, supra note 3, at 20.} and the “Right to Food.”\footnote{Id. at 22.}

\textbf{A. First Amendment Defense}

The Constitution of the United States gives us the freedoms of religion, speech, and assemblage.\footnote{U.S. CONST. amend. I.} Congress is therefore not allowed to pass laws that interfere with religious practices, expressions of speech, and peaceful assembly.\footnote{Id. at 22.}

In its case against the city of Orlando, First Vagabonds Church of God argued that the feeding ordinance violated the freedom of religion.\footnote{First Vagabonds Church of God, 610 F.3d at 1281.} The church did not have a building of its own, so the congregation “of approximately forty members, most of whom [were] homeless,” held its services at a public park.\footnote{Id. at 1280.} The church [served] food to its
members as part of its religious services."97 The Ordinance limited the amount of times they could use the park to only twice a year, after they were approved for a permit.98 By limiting the amount of times the congregation can have its service, “the Ordinance [forbids] the Church and its members from engaging in their religious exercise.”99

Similarly, a Dallas-area ministry challenged the city’s anti-feeding ordinance, saying it violated the Texas Religious Freedom Restoration Act.100 They argued that the “Christian faith require[d] them to share meals with the homeless […] and that the requirement [to] provide toilets, sinks, trained staff, and consent of the city keeps them from doing so.”101

There are nearly 12,000 homeless people in and around Las Vegas, Nevada.102 The city, like many others, has also adopted anti-sharing ordinances. However, the intent behind the city’s adoption of the ordinance clearly violates the freedom to assemble peacefully.103 The anti-sharing ordinance of Las Vegas was implemented to “discourage homeless people from congregating…[by] explicitly [making] it an offense to feed [the homeless].”104

B. Right to Food Defense

For years, many countries around the world have recognized the Right to Food as a human right, to which that their citizens are entitled.105 More recently, in 2009, the

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97 Id.
98 Id. at 1281.
99 Id. at 1292.
100 Snyder, supra note 1.
101 Id.
102 Id.
103 Id.
104 Id.
105 NAT’L COAL. FOR THE HOMELESS, supra note 3, at 20.
United States joined the “consensus on [the] resolution on the right to food.”106 The Obama administration made it an “objective to achieve a world where everyone has adequate access to food.”107

According to Olivier De Schutter, the UN Special Rapporteur on the Right to Food,108 the right to food does not only involve eating a meal; it also includes having an adequate amount of food and having unrestricted access to get it.109 “The right to food encompasses the concepts of availability, accessibility, and adequacy.”110 The right to food also recognizes “the right of everyone to an adequate standard of living, including adequate food, as well as a fundamental right to be free from hunger.”111

The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. […] The right to food is the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.112

The right to food imposes three obligations on the governments: “they must respect, protect, and fulfill the right to food.”113

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\begin{footnotes}
\item[107]Id.
\item[111]Id.
\item[112]Right, supra note 109.
\item[113]Cordes, supra note 110.
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To respect it, governments must not impede people’s existing access to food and productive resources. To protect it, governments must stop third parties from doing so. And to fulfil [sic] it, governments must work to strengthen people’s ability to grow or purchase food. […] These three types of obligations offer a framework for analyzing governments’ laws, policies, and actions.114

Food-sharing bans violate the Right to Food. The homeless are no longer able to have the unrestricted access to food that they would normally get. The bans also eliminate the regular and unrestricted access that the homeless have been able to enjoy. The food-sharing bans clearly set up restrictions that make it difficult, if not impossible, for the homeless to be fed. The homeless now have a life full of fear; they are “at a place in life where [they] can’t see past the next meal.”115

V. CONCLUSION

Giving food to these hundreds of thousands of homeless people is a humanitarian act that many Americans commit every day. Unfortunately, for the homeless and for the people, organizations, and ministries who feed the homeless, “cities across the nation have [adopted new pieces of legislation that are] criminalizing homelessness and pushing the problem out of sight.”116 This has been done through the implementation of food-sharing bans, also known as “anti-feeding ordinances.”117 These bans are doing more harm than good by punishing and placing unnecessary burdens on people who are just “trying to make the system better.”118

114 Id.
115 Nat’l Coal. for the Homeless, supra note 3, at 18.
116 Id. at 4.
117 Ruis, supra note 4.
118 Raleigh, supra note 5.
Because of the complaints made by people who believe that many incorrect stereotypes about the homeless population are true, politicians and consultants on homelessness have joined in on the support for food-sharing bans; these mindsets have contributed to many cities implementing food-sharing bans. These government officials and consultants on homelessness, along with many ordinary citizens, are still under the mistaken beliefs that the homeless will disappear if they are not fed, that feeding the homeless enables them to stay homeless, or that there are already too many meal programs that currently waste unused food. However, these beliefs are far from the truth.

Food-sharing bans and anti-feeding ordinances have been adopted by both small and major cities across the United States. These food-sharing bans are usually classified as public property restrictions, food safety regulations, or community actions to relocate food-sharing events. “[B]y placing restrictions on the use of public property […] individuals and organizations are generally required to obtain a permit, often for a fee, to share food with [the homeless] in a park or other public space.” Limitations have been placed on many “organizations’ abilities to share food with people experiencing homelessness [by requiring] groups to comply with stringent food-safety regulations.” It has been reasoned that these regulations were created keeping the safety and health of the homeless as a priority. Additionally, many business owners and homeowners have shown their support for food-sharing bans by commencing “community actions driven by

119 NAT’L COAL. FOR THE HOMELESS, supra note 3, at 7.
120 Id.
121 Id. at 4.
122 Id.
123 Wood, supra note 48.
the principle of ‘Not In My Back Yard (NIMBY)’.”\textsuperscript{124} These people believe that the homeless population has a negative effect on how they live their lives and raise their children and conduct business.

Those who are in favor of the food-sharing bans think that they will decrease crime rates, believing that homeless people can be a threat to public safety, if they are not already. Those who are in opposition of the food-sharing bans believe that the ordinances “are not intended to solve the problems of homelessness or hunger.”\textsuperscript{125} Instead, they believe that they have been implemented to make cities appear more attractive.\textsuperscript{126} Some people who are against the food-sharing bans believe that they are a violation of their constitutional rights. They believe the bans violate both the First Amendment rights\textsuperscript{127} and the “Right to Food.”\textsuperscript{128} Congress has passed food-sharing bans that interfere with religious practices, expressions of speech, and peaceful assembly.\textsuperscript{129} Additionally, the homeless are no longer able to have the unrestricted access to food that they would normally get. The bans also eliminate the regular and unrestricted access that the homeless have been able to enjoy. The food-sharing bans clearly set up restrictions that make it difficult, if not impossible, for the homeless to be fed.

The food-sharing bans that have been enforced in many cities across the United States have affected not only the lives of hundreds of thousands of homeless people, but the actions of many organizations, ministries, and people. Doing a good deed now gets you treated like a criminal. You can be fined for giving out bananas\textsuperscript{130} or told to drop a

\textsuperscript{124} NAT’L COAL. FOR THE HOMELESS, supra note 3, at 4.
\textsuperscript{125} Parr, supra note 84.
\textsuperscript{126} Id.
\textsuperscript{127} NAT’L COAL. FOR THE HOMELESS, supra note 3, at 20.
\textsuperscript{128} Id. at 22.
\textsuperscript{129} Id. at 20.
\textsuperscript{130} O’Hara, supra note 6.
plate as if it was a weapon.\textsuperscript{131} “It is now a crime to help the poor.”\textsuperscript{132} We have succeeded in the criminalization of a humanitarian act.

\textsuperscript{131} Yanklowitz, supra note 7.  
\textsuperscript{132} Id.