

CRITIQUE AND COMMENT

UNDERSTANDING AND RESPONDING TO BEGGING

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[This article examines the 'problem' of begging and the public interest and value in responding to that problem. Informed by the nature, extent and causes of begging and the interests, values and views of people who beg, it discusses a range of legal and public policy initiatives, both domestic and international, designed to respond to begging. The article concludes that begging is a complex and multifaceted problem that is most often caused by multiple and interrelated individual and structural deprivations. There are clear associations between begging, homelessness, poverty, mental illness and drug dependency and inadequate access to housing, income support and health care services. If the public interest in responding to the 'problem' of begging is to be addressed, street-level public policy responses and interventions that are flexible, responsive, individualised and holistic need to be joined up and implemented with legal and structural socioeconomic reforms in the areas of housing, health, income support and social inclusion.]

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I INTRODUCTION

Although begging has recently become a ‘hot topic’ for public debate and media commentary,¹ it has received relatively little attention as a subject of legal, public or social policy research, analysis or design. This is perhaps surprising, given that the occurrence, persistence and incidence of begging itself represents a failure of public and social policy.²

Part II of this article discusses what is meant by ‘begging’, the ways in which begging constitutes a ‘problem’, and the common public interest in responding to that problem, with particular reference to the Victorian and Melburnian context. Part II also discusses what is meant by ‘public interest’ and ‘public value’, and introduces a human rights framework to facilitate the definition and application of these terms to the design and delivery of policy responses to the problem of begging.

Recognising the importance of consultative, participatory, evidence-based policy analysis and development, Part III of the article surveys relevant literature and summarises the findings of recent small-scale primary research conducted to understand the nature, extent and causes of begging. It examines the demographic profile of people who beg, the reasons for which people beg and the ways in which people beg.

Part IV discusses the interests, values and views on begging of those who beg. It reports on the impacts and effects of begging on people who beg, and the views of such people with respect to current and alternative public policy responses to begging.

Part V of the article discusses a range of public policy initiatives, including international initiatives, designed to respond to begging. Each initiative is analysed in the context of its public value and interest, its responsiveness to the research findings as to the nature, extent and causes of begging, and its likely impact and success having regard to the views, values and needs of people who beg.

The article concludes that, in order to respond to the complex, multiple and joined-up needs of which begging is a manifestation, public policy responses need to be similarly complex, multifaceted and joined up, while remaining concrete, targeted, efficient and capable of implementation and operationalisation.

II THE PROBLEM OF BEGGING

Begging, or gathering alms, can be defined as the solicitation of a voluntary unilateral gift — most often money — in a public place.³ This definition of

¹ See, eg, Geoff Wilkinson, ‘Outrage at Plan to Allow Begging’, *Herald Sun* (Melbourne), 16 February 2005, 3; Farrah Tomazin and Jewel Topsfield, ‘Doyle Wants Beggars off Streets in Time for Games’, *The Age* (Melbourne), 17 February 2005, 3.

² See generally Hartley Dean, ‘Introduction’ in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 1, 1.

³ Hartley Dean and Keir Gale, ‘Begging and the Contradictions of Citizenship’ in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 13, 14.

begging encompasses various begging categories or ‘techniques’, including ‘passive begging’ (that is, sitting or standing in one place with a sign and/or a receptacle entreating donations), ‘active begging’ (that is, approaching people in a public place and asking them for money or other gifts) and ‘aggressive begging’ (that is, following or asking a person threateningly or repeatedly for money or other gifts).⁴

The notion that begging is ‘offensive’ or constitutes a ‘problem’ has persisted since at least the 1800s. Begging remains a criminal offence in England and Wales under the *Vagrancy Act 1824*, 5 Geo 4, c 83, s 3, and continues to constitute a criminal offence in most Australian jurisdictions under legislation based on that Act.⁵ In Victoria, begging or gathering alms remains a criminal offence pursuant to s 6(1)(d) of the *Vagrancy Act 1966* (Vic), which provides that any person who ‘begs or gathers alms or causes or procures or encourages a child to beg or gather alms’ is guilty of an offence. The maximum penalty for begging or gathering alms is imprisonment for one year for a first offence and imprisonment for two years for a second or subsequent offence.⁶ Begging also constitutes a criminal offence in Victoria under reg 19(2)(b) of the *Transport (Ticketing and Conduct) Regulations 2005* (Vic) and under cl 5.1 of the *City of Melbourne Activities Local Law 1999*.

The continued relevance of begging as both a political and a public policy problem is evidenced by extensive media coverage of the issue in recent years, together with governmental consideration of the regulation and governance of begging.

Following a review of the content and relevance of the *Vagrancy Act 1966* (Vic) in 2002, the Victorian Parliament Scrutiny of Acts and Regulations Committee recommended in September 2002 that the act of begging be retained as a criminal offence.⁷ The Committee also recommended, however, that a ‘comprehensive investigation into the causes of begging, and the linkages between begging, homelessness, poverty, drugs and crime, be given to the appropriate parliamentary committee.’⁸

Although the Victorian Government indicated its initial support for the Committee’s recommendations in 2003,⁹ an article in the *Herald Sun* on 16 February 2005 that suggested that the government was considering the decriminalisation of begging¹⁰ ignited public and political debate of the issue.

According to the State Opposition Leader, Robert Doyle, the decriminalisation of begging would lead to a significant increase in the incidence of begging ahead

⁴ These categories were first defined in Michael Horn and Michelle Cooke, *A Question of Begging: A Study of the Extent and Nature of Begging in the City of Melbourne* (2001) 9.

⁵ See, eg, *Summary Offences Act* (NT) s 56(1)(c); *Summary Offences Act 1953* (SA) s 12; *Police Offences Act 1935* (Tas) s 8(1)(a); *Vagrancy Act 1966* (Vic) s 6(1)(d); *Transport (Passengers and Rail Freight) Regulations 1994* (Vic) reg 325(d); *Police Act 1892* (WA) s 65(3).

⁶ *Vagrancy Act 1966* (Vic) s 6(1).

⁷ Scrutiny of Acts and Regulations Committee, Parliament of Victoria, *Review of the Vagrancy Act 1966: Final Report* (2002) 16.

⁸ *Ibid.*

⁹ Fergus Shiel, ‘Begging to Remain a Criminal Offence’, *The Age* (Melbourne), 23 April 2003, 5.

¹⁰ Wilkinson, above n 1, 3.

of the Commonwealth Games in 2006: ‘The last thing we would want is to get a name in Melbourne as the “begging city” when we’re on the world stage ... this is not something that we tolerate in our streets.’¹¹

The Australian Retailers Association provided a similar response, stating that ‘[t]he last thing we want is to encourage people to be having a free-for-all and be able to walk up and harass visitors and city shoppers because police have their powers taken away from them’.¹²

Victoria Police strongly objected to the proposed decriminalisation of begging, arguing that ‘the force would be powerless to control problem beggars if begging was decriminalised’, and stating that the law is used as a ‘deterrent and a means of moving on beggars who intimidat[e] and [harass] people’.¹³

While welfare agencies and social service providers generally supported the decriminalisation of begging, they also recognised that it constitutes a problem. Anglicare stated its position that ‘begging is a complex social issue’,¹⁴ while Hanover Welfare Services wrote that we should ‘not tolerate the injustices of poverty and homelessness’.¹⁵

People engaged in begging themselves also recognised begging to be a ‘problem’: ‘Begging up money is very embarrassing but I’ve got to live too,’ said Kenny, a 32-year-old homeless man who had often begged.¹⁶ Brian, another homeless man, similarly stated that ‘[i]f you’re living on the street, you don’t have an address, so you can’t get on the dole, and so basically that’s the only way to get money’.¹⁷

On 17 February 2005, seemingly in response to public pressure, the Victorian government announced that it had no intention of decriminalising begging, but would instead re-enact it as a criminal offence in the *Summary Offences Act 1966* (Vic) punishable by imprisonment, following the repeal of the *Vagrancy Act 1966* (Vic).¹⁸ The government also announced its intention to undertake further research to ascertain and understand the links between begging, poverty, drugs and crime.¹⁹ To date, the government has not released any details of the nature, scope or timing of this research.

Also in February 2005, the government, through Crime Prevention Victoria, released a discussion paper entitled ‘*A Good Night for All: Options for Improving Safety and Amenity in Inner City Entertainment Precincts*’, which considered

¹¹ Tomazin and Topsfield, above n 1, 3.

¹² Brian Donegan, Executive Director of the Australian Retailers Association, cited in Wilkinson, above n 1, 3.

¹³ Wilkinson, above n 1, 3.

¹⁴ Ray Cleary, Letter to the Editor, *Herald Sun* (Melbourne), 18 February 2005, 16.

¹⁵ Chris Middendorp, ‘Begging: A Problem We Cannot Hide’, *The Age* (Melbourne), 19 February 2005, 9.

¹⁶ Quoted *ibid.*

¹⁷ Brian Maher, quoted in ABC Radio National, ‘Begging’, *The Law Report*, 22 February 2005 <<http://www.abc.net.au/rn/talks/8.30/lawrpt/stories/s1307425.htm>>.

¹⁸ Tomazin and Topsfield, above n 1, 3. See also Editorial, ‘Keeping a Hex on the City’s Beggars’, *The Age* (Melbourne), 22 July 2005, 12; Rob Hulls, Attorney-General, Victoria, ‘Hulls Repeals Outdated Laws from the Dickensian Era’ (Press Release, 21 July 2005); Clay Lucas, ‘Hulls Spells Out a Future that Witches Can Stake On’, *The Age* (Melbourne), 22 July 2005, 3.

¹⁹ Tomazin and Topsfield, above n 1, 3.

options for ‘improving safety and amenity’ in the inner city.²⁰ In that paper, ‘homelessness’ and ‘begging’ are identified as potential ‘antisocial behaviour issues’ in the inner city.²¹ Having regard to this, the paper proposes consideration of the enactment of ‘dispersal legislation’ to enable police to direct people ‘engaged’ in such behaviour to ‘move on’.²²

As can be surmised from the discussion above, begging is recognised and cast as a ‘problem’ by diverse stakeholders, including the media, politicians, retailers and traders, law enforcement officers and agencies, welfare and social service providers, the general public and people who beg. Each of these stakeholders has a common interest in reducing the incidence of begging. The remainder of this article is concerned with the design and delivery of legal and social policies that will most effectively and efficiently realise this common public interest.

A The Public Interest and Value in Responding to Begging within a Human Rights Framework

Sound policy is founded on empirical evidence and is responsive to the preferences, interests and values of key stakeholders and the broader community.²³

This article adopts a ‘human rights approach’ to defining and articulating public interests and values.²⁴ According to this approach, ‘public interest’ refers to the public’s interest in the realisation of various fundamental human rights,²⁵ while ‘public values’ refers to the values associated with human rights-focused policy design and service delivery; namely fairness, equality and non-discrimination, participation and empowerment, progressive realisation, holism, and accountability.²⁶ This framework for analysis has been chosen for three key reasons.

First, the human rights framework is universal and founded upon a set of agreed core minimum standards that bind the conduct of governments, enterprises and individuals. As the Office of the United Nations High Commissioner for Human Rights has asserted:

²⁰ Inner City Entertainment Precincts Taskforce, Crime Prevention Victoria, *‘A Good Night for All’: Options for Improving Safety and Amenity in Inner City Entertainment Precincts* (2005).

²¹ *Ibid* 28.

²² *Ibid* 39. The paper also recognises, however, that the most effective policy responses to people who are socially disadvantaged involve connecting them with appropriate support services: at 39.

²³ See generally Geoff Mulgan and Andrea Lee, *Better Policy Delivery and Design: A Discussion Paper* (2001) 3–4 <<http://www.number10.gov.uk/files/pdf/betterpolicy.pdf>>; Mark Moore, *Creating Public Value: Strategic Management in Government* (1995); Gerry Stoker, Institute for Political and Economic Governance, *Public Value Management (PVM): A New Resolution of the Democracy/Efficiency Tradeoff* (2003) <<http://www.ipeg.org.uk/Paper%20Series/PVM.pdf>>.

²⁴ See generally Eugene Bardach, *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving* (2000) 19–27, for a discussion as to the importance of selecting and defining evaluative criteria to analyse and assess policy alternatives and outcomes.

²⁵ The Productivity Commission also adopts a ‘public interest’ test in relation to development and reform of competition policy. This enables the Commission to value not only efficiency, but also other interests such as social and environmental issues: Productivity Commission, *Review of National Competition Policy Arrangements: Issues Paper* (2004) 9.

²⁶ See, eg, Paul Hunt, Manfred Nowak and Siddiq Osmani, Office of the United Nations High Commissioner for Human Rights, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 1–3 (*‘Draft Guidelines’*).

The human rights approach offers an explicit normative framework — that of international human rights. Underpinned by universally recognized moral values and reinforced by legal obligations, international human rights provide a compelling normative framework for the formulation of national and international policies, including poverty reduction strategies.²⁷

Second, the human rights framework focuses attention on the basic conditions necessary for people to live with human dignity and to participate in and contribute to civil, political, economic, social and cultural life.

Third, as well as enshrining rights, the international human rights framework imposes responsibilities and obligations in relation to those rights. Implementation obligations imposed on governments by the human rights framework include obligations to respect human rights (that is, refrain from interfering, directly or indirectly, with the enjoyment of human rights), protect human rights (that is, prevent third parties from interfering in any way with the enjoyment of human rights) and fulfil human rights (that is, take positive steps to promote, support and provide for the realisation of human rights).²⁸

A human rights approach to policy analysis, design and implementation, then, requires consideration of how best to realise the common interest in reducing the incidence of begging, while developing and delivering a policy that is cognisant of other human rights and interests²⁹ and reflects and is responsive to public values such as efficiency, accountability, equity and fairness.³⁰ A zero tolerance policing approach to begging that results in the incarceration of beggars may act on the public interest to reduce the incidence of begging, but would probably fail operationally due to its incongruence with fundamental human rights (such as the right of beggars to be treated with dignity and respect) and fundamental public values (such as the public value in developing a response that is 'fair'). The development and implementation of a 'diverted giving scheme',³¹ on the other hand, may well accord with public values of fairness and equality and may

²⁷ Office of the United Nations High Commissioner for Human Rights, *Human Rights and Poverty Reduction: A Conceptual Framework* (2004) 33. See also Submission to Parliamentary Joint Statutory Committee on Corporations and Securities, Parliament of Australia, Canberra, 25 January 2001, 48 (Ingrid Barnsley, Centre for International and Public Law, Australian National University).

²⁸ United Nations Committee on Economic, Social and Cultural Rights, *General Comment 15: The Right to Water*, [20]–[29], UN Doc E/C.12/2002/11 (2002). See also United Nations Committee on Economic, Social and Cultural Rights, *General Comment 12: The Right to Adequate Food*, [15], UN Doc E/C.12/1999/5 (1999); United Nations Committee on Economic, Social and Cultural Rights, *General Comment 13: The Right to Education*, [47], UN Doc E/C.12/1999/10 (1999).

²⁹ See generally Bardach, above n 24, 27–37, for a discussion as to the importance of projecting outcomes and anticipating indirect consequences of a particular policy or programme. A human rights approach to policy analysis, design and delivery requires that explicit attention be given to the impacts and outcomes of that policy on the various civil, political, economic, social and cultural determinants of wellbeing. See also Stoker, above n 23, 9.

³⁰ See generally Gavin Kelly, Geoff Mulgan and Stephen Muers, *Creating Public Value: An Analytical Framework for Public Service Reform* (2002) 4–8 <http://www.e-democracy.gov.uk/documents/retrieve.asp?pk_document=22&pagepath=http://www.e-democracy.gov.uk/knowledgepool>. See also David Weimer and Aidan Vining, *Policy Analysis: Concepts and Practice* (3rd ed, 1999) 59.

³¹ See below Part V(D).

not violate any other human rights, but may fail with respect to the common public interest in achieving substantive change.

Having regard to the above, in the discussion and analysis of current and alternative public policy responses to begging, this article will seek to consider in relation to each policy:

- 1 the extent to which the policy is likely to deliver the desired public interest outcome, namely reducing the incidence of begging;
- 2 the extent to which the policy either enhances or diminishes other public interests, namely the human rights of stakeholders; and
- 3 the extent to which the policy adds public value; that is, whether the policy is consonant with the principles of human rights-based policy design and delivery, in that it is:
 - i fair and non-discriminatory — this requires that the policy be targeted at reducing disadvantage and discrimination;³²
 - ii participatory and empowering — this requires that the policy be informed by the active participation of key stakeholders and expands their range of choice and freedoms;³³
 - iii holistic — this requires that the policy have regard to the civil, political, economic, social and cultural determinants of wellbeing of affected persons;³⁴ and
 - iv transparent and accountable — this requires that the policy identify the persons or entities responsible for implementation, sets targets and indicators to measure progress, and establishes mechanisms to ensure accountability.³⁵

III UNDERSTANDING THE NATURE, EXTENT AND CAUSES OF BEGGING

A Literature Survey

Recognising the importance of consultative, participatory, evidence-based policy analysis and development,³⁶ this section of the article includes a comparative literature survey regarding the nature, extent and causes of begging. It also summarises recent small-scale primary research conducted by the author in relation to begging, including the demographic profile of people who beg, the reasons why people beg, and the ways in which people beg.

³² Hunt, Nowak and Osmani, above n 26, 2.

³³ Ibid 2, 4. See also Stoker, above n 23, 9.

³⁴ Hunt, Nowak and Osmani, above n 26, 2–3.

³⁵ Ibid 2, 4–5. See also Mulgan and Lee, above n 23, 3–4; Moore, above n 23, 10.

³⁶ See, eg, Stoker, above n 23.

Despite its relevance and salience as an issue of political and public policy concern, relatively little research has been conducted in Australia or internationally regarding the nature, extent, causes, and consequences of begging.³⁷

An action research project undertaken in 1999–2001 by Hanover Welfare Services in collaboration with Melbourne City Council and Victoria Police, regarding the issue of begging within Melbourne's central business district, remains the only comprehensive research on the topic in Australia.³⁸ The Hanover research was based on in-depth interviews of 14 people observed begging and an examination of police files of around 500 people charged with begging by Victoria Police.³⁹

In relation to the nature and extent of begging in Melbourne, Hanover's research revealed that an average of 10 people are likely to be begging on any given day.⁴⁰ According to Hanover, most people beg alone for relatively short periods — there is no evidence to support the proposition that people systematically beg in 'gangs' or groups.⁴¹ Hanover also found that the incidence of so-called 'aggressive' begging (that is, the use of standover tactics or threatening speech or behaviour) is very low: 43 per cent of persons who beg adopt 'passive' begging techniques (that is, sitting or standing in one spot with a sign alerting passers-by that they need money), while 57 per cent adopt 'active' begging techniques (that is, following passers-by and asking for money).⁴² No persons charged with begging between January 1999 and December 2000 were found to have adopted 'aggressive' begging techniques.⁴³

In relation to the demographic profile of people who beg and the causes and consequences of begging, Hanover's research indicates that people who beg are among the most marginalised, disadvantaged and disenfranchised in society. Hanover's study found that, of the persons observed to be engaged in begging behaviours over a four month period in 2000, 43 per cent were long-term homeless, of whom 71 per cent were sleeping rough or in squats and 28 per cent were living in crisis accommodation or with family or friends.⁴⁴ In terms of access to income, 93 per cent were long-term unemployed and over 90 per cent were receiving social security payments.⁴⁵ More than a quarter of those in receipt of income support had, at the time of interview, had their payments reduced or terminated as a result of Centrelink 'breaches'.⁴⁶ Seventy-one per cent suffered from drug or alcohol disorders.⁴⁷

³⁷ Scrutiny of Acts and Regulations Committee, above n 7, 16. See also Michael Adler, 'Public Attitudes to Begging: Theory in Search of Data' in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 163, 163.

³⁸ Horn and Cooke, above n 4.

³⁹ *Ibid* 4, 10.

⁴⁰ *Ibid* 19, 24.

⁴¹ *Ibid* 18, 24.

⁴² *Ibid* 15.

⁴³ *Ibid* 19.

⁴⁴ *Ibid* 15, 20.

⁴⁵ *Ibid* 15–16.

⁴⁶ *Ibid* 21.

⁴⁷ *Ibid* 15.

According to Hanover's research, the main reasons for begging include the inadequacy of social security payments (particularly having regard to the costs of housing, clothing, food and medical treatment), psychiatric disabilities and disorders, and drug, alcohol and gambling dependencies.⁴⁸

Hanover found that begging is generally an activity of last resort — a more acceptable means of satisfying immediate needs than resorting to other criminal activities such as theft, drug dealing, or prostitution.⁴⁹ Those engaged in begging reported it to be a harsh necessity that was humiliating, demeaning, degrading, frustrating, and time consuming.⁵⁰ The notion that people who beg are 'frauds' or commonly misrepresent their circumstances was found to be a myth.⁵¹

As Hanover concludes, each of these indicators support the conclusion that begging is an income supplement necessary for survival at some level, related to addictive behaviours or the need for food, accommodation, or health.⁵² There are clear associations between begging, substance abuse, homelessness, mental health issues, unemployment and poverty.

Hanover's conclusions corroborate those of Kate Driscoll and Liz Wood, who conducted a study, commissioned by the City of Melbourne in 1998, regarding the incidence of homelessness and chronic disadvantage on behalf of the Royal Melbourne Institute of Technology Centre for Applied Social Research.⁵³ Their research found that a complex relationship exists between poverty, begging, drug use, psychiatric and physical disability, and homelessness.⁵⁴ According to Driscoll and Wood, many homeless and poverty-stricken individuals use begging as a last resort; a means by which they can supplement their income for basic survival needs.⁵⁵

The findings of both Hanover and Driscoll and Wood regarding the underlying causes of begging and the associations between begging, homelessness, poverty and disability are also supported by recent research conducted in the United States,⁵⁶ Canada⁵⁷ and, in particular, the United Kingdom. In the United Kingdom, research undertaken by the non-governmental organisation Crisis,⁵⁸ as well as work conducted by Luton University on behalf of the Rough Sleepers Unit

⁴⁸ Ibid 21–2.

⁴⁹ Ibid 24.

⁵⁰ Ibid.

⁵¹ See also Suzanne Fitzpatrick and Catherine Kennedy, 'The Links between Begging and Rough Sleeping: A Question of Legitimacy?' (2001) 16 *Housing Studies* 549, 560.

⁵² Horn and Cooke, above n 4, 24.

⁵³ Kate Driscoll and Liz Wood, *A Public Life: Disadvantage and Homelessness in the Capital City* (1998) 1.

⁵⁴ Ibid 3–5, 7.

⁵⁵ Ibid 2–3, 19–20.

⁵⁶ See, eg, Barrett Lee and Chad Farrell, 'Buddy, Can You Spare a Dime? Homelessness, Panhandling, and the Public' (2003) 38 *Urban Affairs Review* 299, 303–4, 309–11.

⁵⁷ See, eg, Arthur Schafer, *Down and Out in Winnipeg and Toronto: The Ethics of Legislating against Panhandling* (1998) 3, 12; *Federated Anti-Poverty Groups of British Columbia v City of Vancouver* (2002) 8 MPLR (3d) 165, where the intimate links between begging, homelessness and poverty were accepted as fact by the Supreme Court of British Columbia.

⁵⁸ Simon Danczuk, *Walk On By ... Begging, Street Drinking and the Giving Age* (2000).

within the Office of the Deputy Prime Minister,⁵⁹ has confirmed strong links between begging, poverty, social exclusion and marginalisation. According to those studies at least 80 per cent of people who beg are homeless,⁶⁰ between 45⁶¹ and 57⁶² per cent experience drug dependency, between 33 and 54 per cent experience problematic alcohol use,⁶³ and over 50 per cent have a physical, intellectual or psychiatric disability.⁶⁴

Having regard to the issues discussed above, Hanover, Crisis and the Rough Sleepers Unit all conclude that begging is a complex and multifaceted social issue that requires a coordinated, holistic, integrated, multi-agency approach, at both local and national levels, that provides both individualised and flexible support and also addresses systemic and structural issues causing disadvantage and social exclusion.⁶⁵

B Primary Research

In light of the relatively scant research on begging in Australia, particularly with regard to appropriate interventions to address the underlying causes of begging and thereby reduce its incidence, the author conducted a quantitative and qualitative study of begging in Melbourne.

The research aimed to ascertain the demographic profile of people who beg and obtain information about the nature, extent and causes of begging. It also sought to determine the nature and extent of law enforcement and criminal justice interventions in relation to begging. Finally, it aimed to elicit information regarding the impacts and effects of begging on people who beg, and consult people who beg about their needs and the actions or interventions that may be appropriate and successful in addressing these needs, and thereby in reducing the incidence of begging.

The study involved conducting in-depth interviews with 17 people observed to be begging in Melbourne's central business district at randomly selected times in March and April 2005. Interviews took the form of a structured questionnaire and a facilitated discussion. Each interview took about one hour. Although, in absolute terms, this is a small number of respondents, it is a not statistically insignificant number given Hanover and Victoria Police estimates that a total of about 10 people beg each day in Melbourne's central business district.⁶⁶ The

⁵⁹ Sandra Jowett, Gary Banks and Alyson Brown, *Looking for Change: The Role and Impact of Begging on the Lives of People who Beg* (2001).

⁶⁰ *Ibid* 2; Danczuk, above n 58, 9.

⁶¹ Danczuk, above n 58, 10.

⁶² Jowett, Banks and Brown, above n 59, 1.

⁶³ *Ibid* 2.

⁶⁴ Danczuk, above n 58, 10.

⁶⁵ Horn and Cooke, above n 4, 25; Danczuk, above n 58, 20–1; Jowett, Banks and Brown, above n 59, 1. See also Suzanne Fitzpatrick and Catherine Kennedy, *Getting By: The Links between Begging and Rough Sleeping in Glasgow and Edinburgh* (2000) 5 <www.ghn.org.uk/keyinfo/homelessness/articles/br.pdf>; Bob Coles and Gary Craig, 'Excluded Youth and the Growth of Begging' in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 63, 76–7.

⁶⁶ Horn and Cooke, above n 4, 24.

study targeted only those people actually observed to be begging; that is, soliciting in a public space a unilateral donation of money, apparently for personal use.

C Demographic Profile of People who Beg

Information was collected in relation to the age, gender, income source, housing status, wellbeing, welfare and health of respondents.

In terms of age, 23 per cent of respondents were children or young people aged 24 or under, while 59 per cent were aged 25 to 44. The median age category of respondents was 35 to 44.

In terms of gender, a total of three respondents (18 per cent) were female, while the remaining 14 respondents (82 per cent) were male.

Access to adequate income for respondents was very limited: 18 per cent received no income or income support, while 82 per cent were in receipt of a social security payment. No respondents were in employment, with 82 per cent reporting that they were long-term unemployed (that is, unemployed on a continuing basis for more than one year). Of those in receipt of a social security payment, 50 per cent received Newstart Allowance or Youth Allowance which, at the base rate of \$194.60 per week for a single unemployed adult, is 39 per cent below the Henderson Poverty Line (and 24 per cent below the Poverty Line if the person also receives the highest payable rate of Rent Assistance).⁶⁷ Forty-three per cent of social security recipients received the Disability Support Pension which, at its base rate, is paid 10 per cent below the Poverty Line for a single adult (rising to 9 per cent above the Poverty Line if that person is also paid Rent Assistance at the highest rate). A total of 10 respondents were, or had been, obliged to comply with activity test requirements under the *Social Security Act 1991* (Cth) (commonly known as ‘mutual obligations’) in order to obtain and maintain income support payments. Newstart Allowance and Youth Allowance are both activity-tested payments.⁶⁸ Of these 10 respondents, a total of six respondents (60 per cent) had had their payments suspended (in which case they were recorded as having ‘[n]o income’) or reduced at the time of interview for inability or failure to comply with activity test requirements. These requirements include providing Centrelink with requested notification, notifying Centrelink of a change of address or circumstances, and attending scheduled job interviews. In aggregate terms, 65 per cent of respondents reported subsisting on incomes below the Poverty Line and all respondents noted that they ‘needed’ to beg in order to survive or meet basic subsistence needs. The research clearly establishes that there are strong connections between begging, poverty, and lack of an adequate income.

The research also demonstrates that there are strong associations between begging and homelessness, particularly primary homelessness. A total of 16

⁶⁷ See generally Melbourne Institute of Applied Economic and Social Research, *Poverty Lines: Australia* (September Quarter 2004).

⁶⁸ Centrelink, *Activity Test* (2005) <http://www.centrelink.gov.au/internet/internet.nsf/payments/newstart_activity_test.htm>.

respondents (94 per cent) were 'homeless',⁶⁹ with 76 per cent experiencing primary homelessness and 18 per cent experiencing tertiary homelessness the night before the interview. No respondents were experiencing secondary homelessness. One respondent lived in public housing.

Respondents were asked to indicate whether they experienced any of a range of indicators that may impact on health, welfare and wellbeing. These indicators are shown in Table 1 below.

Table 1: Wellbeing of People Observed Begging in Melbourne

Wellbeing Indicators	Number	Percentage
Mental illness	12	71
Drug dependency	8	47
Alcohol dependency	6	35
Domestic/family violence	7	41
Problem gambling	3	18
Physical disability	2	12
Intellectual disability	2	12
Other (pregnancy)	1	6

As Table 1 suggests, there are particularly strong associations between begging and mental illness (71 per cent), drug dependency (47 per cent) and a recent history of domestic or family violence (41 per cent). Further, while every respondent reported that they experienced at least one of the wellbeing indicators, 11 respondents (65 per cent) reported two or more, and 6 respondents (35 per cent) reported three or more. This suggests strong associations between begging and complex and multiple needs.

Many respondents reported significant difficulties and barriers associated with accessing social services. Every respondent had sought but been unable to access some form of social service in the previous month, with 94 per cent of respondents being denied access to accommodation or housing services, 18 per cent to drug or alcohol treatment, and 12 per cent to health care services. There are two

⁶⁹ The research adopted the definition of 'homeless' applied in the Australian Bureau of Statistics report *Counting the Homeless 2001*, which categorises people as either 'housed' or as experiencing 'primary', 'secondary' or 'tertiary' homelessness. 'Primary homelessness' refers to those people with no form of conventional accommodation. This includes 'people living in the streets ... squatting in derelict, buildings or using cars or railway carriages for temporary shelter.' 'Secondary homelessness' refers to those people who are staying in or moving frequently between temporary accommodation. This includes people staying in crisis or emergency accommodation, refuges or shelters and also includes people staying temporarily with friends or relatives because they have no accommodation of their own. 'Tertiary homelessness' refers to those people who live in boarding houses or rooming houses on a medium- to long-term basis. They are categorised as homeless because such accommodation is below the minimum community standard and does not provide security of tenure: Chris Chamberlain and David MacKenzie, *Counting the Homeless 2001* (2003) 1–2.

primary reasons for this lack of access. First, the demand for social services generally significantly exceeds the supply of those services. For example, in the area of homelessness assistance, more than 55 homeless people per day are turned away from services across Australia due to capacity and resource constraints.⁷⁰ It is estimated that, in Victoria alone, over 22 000 people are unable to access homelessness assistance services each year due to lack of capacity and resources.⁷¹ Similarly, in the area of drug treatment, there is a significant gap between demand for drug treatment services and the supply of such services, resulting in extensive waiting lists.⁷² Second, homeless people experiencing mental disorders, particularly co-morbid people experiencing both mental illness and drug or alcohol dependency, are especially susceptible to being unable to access, or being actively denied access to, housing and homelessness services.⁷³ According to a recent report by the New South Wales Ombudsman, the following homeless client groups find it particularly difficult to access homelessness assistance services: people with drug and alcohol disorders (61 per cent); people with mental illness (53.7 per cent); people with intellectual disabilities (33.3 per cent); and people with acquired brain injuries (19.5 per cent).⁷⁴ There are clear correlations between these groups and the demographic profile of people who beg. Thus, even a substantial increase in social service capacity is unlikely to increase the access of these groups to services without a range of other supports and interventions.

D *Why and How do People Beg?*

Respondents in the author's study reported that they beg primarily to meet immediate subsistence needs, particularly in relation to accommodation (53 per cent), adequate nutrition (88 per cent) and health care (29 per cent). Respondents also indicated that they beg in connection with addictive disorders such as alcohol dependency (41 per cent) and drug dependency (24 per cent). No respondents indicated that they begged because it was lucrative or 'easy money'.

Begging was found to be frequently engaged in by respondents. A significant majority of respondents (65 per cent) reported that they beg every day. The remaining respondents indicated that they beg, on average, between every second day (24 per cent) and once per week (12 per cent).

The average duration of begging episodes varied significantly among respondents. A total of four respondents (24 per cent) reported begging for, on average,

⁷⁰ Australian Institute of Health and Welfare, *Homeless People in SAAP: SAAP National Data Collection Annual Report 2002–03* (2003) 44 ('SAAP Annual Report 2002–03').

⁷¹ See generally Australian Council of Social Services, 'National Survey of Services under Strain' (Press Release, 4 April 2005).

⁷² Senate Legal and Constitutional Legislation Committee, Parliament of Australia, *Provisions of the Disability Discrimination Amendment Bill 2003* (2004) 31.

⁷³ See generally New South Wales Ombudsman, *Assisting Homeless People — The Need to Improve Their Access to Accommodation and Support Services* (2004) 86–7. See also Sam Tsemberis and Ronda Eisenberg, 'Pathways to Housing: Supported Housing for Street-Dwelling Homeless Individuals with Psychiatric Disabilities' (2000) 51 *Psychiatry Services* 487, 487.

⁷⁴ Monica Wolf, 'Assisting Homeless People: The Need to Improve Their Access to Accommodation and Support Services' (2005) 18(1) *Parity* 25, 26.

30–60 minutes per episode; seven respondents (41 per cent) reported begging for, on average, 1–3 hours per episode; five respondents (29 per cent) reported begging for, on average, 3–6 hours per episode; and one respondent reported begging for six or more hours per episode on average. A significant number of respondents indicated that they generally beg only for the duration necessary to solicit the money necessary to meet the needs for which they were begging, after which they stopped. For these respondents, the duration of any given begging episode was therefore contingent on their rate of success and level of remuneration.

Consistent with the definitions adopted by Hanover and researchers in the United States, the United Kingdom, and Canada, people observed begging were classified as engaged in either ‘passive begging’, ‘active begging’, or ‘aggressive begging’.⁷⁵ The research observed eight respondents (47 per cent) engaged in ‘passive begging’ and the remaining nine respondents (53 per cent) adopting ‘active begging’ techniques. No respondents were observed to be begging aggressively. The extremely low incidence of aggressive begging disclosed both in the research conducted for this article and the earlier research undertaken by Hanover can be explained by the fact that aggressive or intimidatory begging techniques tend to be unsuccessful — a ‘self-defeating begging strategy’.⁷⁶ Many beggars emphasise the importance of being ‘polite’ and affording respect to passers-by.⁷⁷ Generally speaking, people who adopt passive begging techniques tend to obtain more donations than people who adopt active begging techniques, while people who adopt aggressive techniques tend to be the least successful. Commenting on similar findings in the United Kingdom, Roger Hopkins Burke observes:

The particularly rough ... beggar was usually far less successful in obtaining donations from passers-by over the longer term than their more placid ... contemporaries. Moreover, the former group were far more likely to be the target of a police intervention.⁷⁸

Respondents were asked to report on their average hourly income from begging. All respondents reported that hourly income is contingent and variable. Despite this, a very significant majority of beggars, 94 per cent, reported that their average hourly take is between \$5 and \$20, with 47 per cent stating that, on average, they derive \$5–10 from begging and 47 per cent indicating that they average \$10–20. One respondent reported that they received, on average, \$30–50 per hour.

⁷⁵ Horn and Cooke, above n 4, 9; see Part II above.

⁷⁶ Roger Hopkins Burke, ‘Tolerance or Intolerance? The Policing of Begging in the Urban Context’ in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 219, 230.

⁷⁷ Hartley Dean and Margaret Melrose, ‘Easy Pickings or Hard Profession? Begging as an Economic Activity’ in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 83, 86.

⁷⁸ Hopkins Burke, above n 76, 230.

E *Law Enforcement Interventions and Court Outcomes*

In Victoria, begging is a criminal offence under s 6(1)(d) of the *Vagrancy Act 1966* (Vic). The Act is administered and enforced by Victoria Police.

Although Victoria Police often maintains that s 6(1)(d) of the Act is principally used as a preventative tool or as a ‘deterrent and a means of moving on beggars who intimidate and harass people’,⁷⁹ criminal charges for begging are common, as illustrated in Table 2 below.

Table 2: Number of Begging Charges in Victoria by Year⁸⁰

Year	1998	1999	2000	2001
Number of Charges	107	274	293	241

Reflecting this trend, every respondent reported that they had experienced some engagement with police officers in connection with begging. However, a positive counter-finding was that no respondents indicated that they were regularly threatened or harassed by law enforcement officers.

By far the most common law enforcement intervention involved police officers asking the respondent to ‘move on’; this had happened to 71 per cent of respondents. Further common interventions involved issuing the beggar with a summons requiring attendance in the Magistrates’ Court (experienced by 41 per cent of respondents) and arresting the beggar and taking him or her into custody (experienced by 24 per cent). Respondents were not asked whether police officers had made them tear up or destroy their signs or ‘confiscated’ their takings. Disturbingly, however, two respondents reported that they were compelled to tear up their signs and a further two reported that police officers had ‘confiscated’ their money but not taken any other action (such as issuing a summons). Although the respondents in each of these cases were not required to attend court, the money was not returned. Only one respondent reported that police officers had referred them to, or assisted them to access, a social service. This ‘on the ground reality’ contrasts starkly with the claim by Crime Prevention Victoria that ‘[t]he police play a key role in diverting such people to appropriate services’.⁸¹

Charges laid under s 6(1)(d) of the *Vagrancy Act 1966* (Vic) are heard and determined in the Magistrates’ Court. On a finding of guilt, the Magistrate is entitled to dispose of the matter in accordance with the principles and provisions of the *Sentencing Act 1991* (Vic), with the maximum sentence being imprisonment for one year for a first offence and imprisonment for two years for a second or subsequent offence.⁸² Previous research undertaken by Hanover indicates that the majority of persons charged with begging are convicted and sentenced to a

⁷⁹ Wilkinson, above n 1, 3.

⁸⁰ Statistical Services Division, Victoria Police.

⁸¹ Inner City Entertainment Precincts Taskforce, above n 20, 40.

⁸² *Vagrancy Act 1966* (Vic) s 6(1).

fine averaging \$50 for a first offence, \$75 or \$100 for a second offence and \$300 for a third or subsequent offence.⁸³ Approximately 14 per cent of offenders incur no penalty, with the matter either being dismissed or discharged, while approximately 9 per cent of offenders receive a community-based order.⁸⁴

The primary research conducted for this article in large part confirmed Hanover's findings. A total of eight respondents reported that they had been required to attend court in connection with begging. Of these people, two people had the charges against them dismissed and none received an adjournment on an undertaking of good behaviour, a community-based order, or diversion to a support service. The remaining six, a significant majority, were sentenced with a fine. As one beggar put it, 'we end up having to beg just to pay off the begging fine'.⁸⁵

IV WHAT DO PEOPLE WHO BEG SAY ABOUT BEGGING?

A human rights approach to reducing poverty and addressing its manifestations, such as homelessness and begging, requires active and informed participation of poor people in the development, implementation, and assessment of poverty reduction strategies.⁸⁶ The standards of international human rights law require the participation of poor people in decision-making and policy formulation processes. In addition to this, their participation is substantively important and intimately linked to meaningful social inclusion.⁸⁷

An important component of the research conducted for this article therefore involved actively consulting people who beg about their views on begging, including its impacts and effects, and appropriate responses and interventions.

As discussed above, it is widely reported that people who beg generally do so as a last resort to supplement their income, and consider it to be a degrading and demeaning experience.⁸⁸ This evidence was strongly supported by research respondents. Every respondent stated that they 'needed' to beg and would not beg if they had a choice. Respondents' experiences of begging included a sense of social exclusion, vulnerability, disadvantage and humiliation. In response to the question as to how begging made them feel, respondents variously replied:

'I hate it, but I've got no choice. It's very embarrassing.' (Male, aged 40, Swanston Street, 17 March 2005)

'Begging is demeaning. It makes you feel like a "nobody" and a "second class citizen".' (Male, aged 56, Swanston Street, 2 March 2005)

⁸³ Horn and Cooke, above n 4, 4–5.

⁸⁴ *Ibid* 5.

⁸⁵ Brian Maher, quoted in ABC Radio National, above n 17.

⁸⁶ Hunt, Nowak and Osmani, above n 26, 2.

⁸⁷ See, eg, Stoker, above n 23, 13–20, for a discussion of the role that active and informed stakeholder consultation and ongoing assessment and participation can play in promoting allocative and technical efficiency, accountability, effective governance, responsiveness to values and needs, and realisation of rights.

⁸⁸ See Part III(A) above.

‘I feel “shitful” and embarrassed. You’d never do it if you didn’t have to.’
(Male, aged 38, Elizabeth Street, 1 March 2005)

‘I don’t like asking for help or feeling like a bludger, but I’ve got no choice.’
(Male, aged 25, Swanston Street, 7 April 2005)

‘I feel depressed and ashamed. I’ve hit rock bottom, but I’ve got to survive.’
(Male, aged 37, Bourke Street, 31 March 2005)

‘I feel poor. It’s a big “shame job”.’ (Female, aged 16, Elizabeth Street, 4 April 2005)

The feeling of humiliation and being regarded as a ‘low-life’ were recurring themes.

Recognising that, generally speaking, begging is a necessary income supplementation activity, respondents were asked what they would do to survive if there was a major ‘crackdown’ on begging or the police adopted a ‘zero tolerance’ enforcement approach to beggars. Overwhelmingly, respondents indicated that if they were unable to beg they would resort to other illegal activities (82 per cent). By far the most common form of such activity was theft or shoplifting, with a total of 76 per cent indicating that they would resort to such conduct. Eighteen per cent of respondents indicated that, in order to survive, they would continue to beg regardless of the existence and enforcement of anti-begging legislation. Two respondents (12 per cent) stated that they would attempt to access more social services and material aid, although they recognised the marginal efficacy of such an approach given the limited availability of services and the difficulties associated with accessing them.

Respondents were also asked to consider the legal, social, political and economic actions or interventions that could be taken to prevent them from begging. This question was asked in an open-ended fashion and the research questionnaire did not provide any examples or choices of interventions. Despite this, there was considerable consensus among respondents regarding necessary interventions, particularly in relation to access to adequate housing (59 per cent), access to adequate income support (47 per cent), and access to employment (41 per cent). Access to health care services, including medical care, drug and alcohol treatment and services, and access to gambling counselling and support, also featured prominently. These results are substantially similar to results obtained in the United Kingdom, with interventions supported by people who beg including access to adequate housing (55 per cent), reasonable employment (41 per cent) and drug and alcohol treatment (39 per cent).⁸⁹

V ALTERNATIVE LEGAL, PUBLIC AND SOCIAL POLICY RESPONSES TO BEGGING

This part of the article discusses a range of public policy initiatives, including international initiatives, designed to respond to begging. Each initiative is

⁸⁹ Jowett, Banks and Brown, above n 59, 3.

analysed in the context of its contribution to achieving public interest goals and promotion of public values, its responsiveness to the research findings as to the nature, extent and causes of begging, and its likely impact and outcomes having regard to the views, values and needs of people who beg.

A 'Zero Tolerance' Policing and Dispersal Legislation

In recent months, there have been numerous calls for an 'absolute ban'⁹⁰ on begging and a 'zero tolerance'⁹¹ approach with respect to its policing. 'Zero tolerance policing' generally refers to 'comprehensive and aggressive law enforcement' in which petty offenders are 'targeted directly and fed into the criminal justice system by arrest or summons'.⁹² Due to resource constraints, however, 'zero-tolerance policing' in practice generally involves the 'selective intolerance of a targeted crime problem';⁹³ in this case, begging.

Some respondents suggested that such an approach has already been adopted in the central business district of Melbourne. Further, Crime Prevention Victoria has very recently proposed consideration of enactment of 'dispersal legislation' to empower police to 'move on' people engaged in 'antisocial behaviour' (including being homeless or begging) in the inner city.⁹⁴

There is evidence to suggest that zero tolerance policing methods are effective in reducing the incidence of the targeted offence within the geographical area in which law enforcement resources are concentrated.⁹⁵ In the context of begging, however, there is also evidence suggesting that zero tolerance policing methods tend to either divert beggars to other geographical locations with a lesser police presence, or divert such people into the commission of more serious criminal activity.⁹⁶ This evidence is strongly supported by both the research undertaken by Hanover (which found that many people beg as an alternative to criminal activity such as theft, drug dealing or prostitution)⁹⁷ and the research undertaken for this article, which found that 100 per cent of beggars considered that they 'need to beg' in order to survive and that 82 per cent would resort to income-generating petty crime (such as theft) if they were unable to beg due to a 'crackdown' or a zero tolerance policing approach.

Having regard to the above, while it is likely that a zero tolerance policing approach to begging would result in a short-term decrease in the incidence of begging in the targeted area, it is also likely that such an approach would result

⁹⁰ See, eg, Royce Millar, 'Mayoral Hopeful to "Rid City of Beggars"', *The Age* (Melbourne), 15 November 2004, 3.

⁹¹ See, eg, Philip Lynch and Deb Tsorbaris, 'Zero Tolerance Beggars the Question', *Herald Sun* (Melbourne), 7 December 2004, 19, in which the authors discuss a number of calls for such an approach from politicians, retailers, traders, and police.

⁹² Gareth Griffith, 'Zero Tolerance Policing' (Briefing Paper No 14, Parliament of New South Wales, 1999) 8–11.

⁹³ Hopkins Burke, above n 76, 231.

⁹⁴ Inner City Entertainment Precincts Taskforce, above n 20, 39.

⁹⁵ See, eg, Griffith, above n 92, 16.

⁹⁶ Hopkins Burke, above n 76, 231.

⁹⁷ Horn and Cooke, above n 4, 24. See also, Michael Horn, 'Understanding Begging in Our Public Spaces' (2002) 15(1) *Parity* 10, 10.

in the displacement of beggars to other areas and other criminal activities. As Jeremy Waldron analogises, a ‘broken window’ is not fixed by knocking down the whole building or moving it to just outside the edge of town.⁹⁸

It is also likely that a zero tolerance approach would fail the test of being fair and non-discriminatory, participatory and empowering, holistic, and transparent. During 2001 and 2002, the Monash University Faculty of Law and the Enforcement Management and Crime Prevention Unit of the Department of Justice undertook a cooperative study to ascertain community perceptions of Victoria’s summary offence laws and infringement notice system.⁹⁹ The study also sought to identify factors that contribute to the community’s preparedness to comply with summary offence laws and the administrative arrangements for their enforcement — that is, factors contributing to ‘civic compliance’.¹⁰⁰ Instructively, the joint study found that the most significant factor contributing to ‘civic compliance’ in respect of summary offence laws is the perception that those laws and the administrative arrangements for their enforcement are ‘fair’ and ‘legitimate’.¹⁰¹ People are less likely to comply with summary offences laws or the procedures for their enforcement if they consider them to be unfair.

The joint study identified a number of factors contributing to community perceptions of unfairness and, by extension, lack of civic compliance in relation to summary offences laws.¹⁰² Those factors relevant to the issue of begging included: the lack of ‘cautions’ or other alternatives to arrest, summons, or issuing an infringement notice; and the failure of law enforcement officers to take into account an alleged offender’s ‘special circumstances’ and means.¹⁰³ The study also found that the community is more likely to regard laws and law enforcement as ‘fair’, ‘equitable’ and ‘legitimate’, and that financially and socially disadvantaged people are more likely to comply with summary laws and enforcement procedures if they are informed and apprised of their rights.¹⁰⁴ Perceptions of fairness are also significantly contingent upon whether the law and law enforcement officers take account of any ‘special circumstances’ that disadvantaged people may have and whether they are treated with dignity and respect.¹⁰⁵

By definition, zero tolerance policing of begging involves the targeted, comprehensive and punitive application of anti-begging laws to people who, according to all of the available research, are generally marginalised, disadvantaged,

⁹⁸ Jeremy Waldron, ‘Homelessness and Community’ (2000) 50 *University of Toronto Law Journal* 371, 387.

⁹⁹ Monash University and the Department of Justice, Victoria, *On-the-Spot Fines and Civic Compliance: Final Report* (2003) vol 1, v.

¹⁰⁰ *Ibid* 6–11.

¹⁰¹ *Ibid* 6–7.

¹⁰² *Ibid* 7–8.

¹⁰³ *Ibid* 95.

¹⁰⁴ *Ibid* 85.

¹⁰⁵ See also Kelly, Mulgan and Muers, above n 30, 14–15; Department of Premier and Cabinet, Victoria, *Challenges in Addressing Disadvantage in Victoria* (2005) 1, 16–20, for a discussion of the notion that both procedural and distributive fairness are valued and create value.

vulnerable and homeless. As such, zero tolerance policing may be regarded by both people who beg and the broader community as unfair and discriminatory.¹⁰⁶

In addition to contributing to perceptions of unfairness, zero tolerance policing strategies are likely to be ineffective in resolving any of the underlying causes of begging and may result in the wasted expenditure of significant policing and enforcement costs and resources.¹⁰⁷ According to Major Bob Pusins of the Fort Lauderdale Police Department in the United States:

Strict enforcement strategies are not effective and do not provide long-term resolutions to problems. Strict enforcement and arrests are a short-term resolution of the growing social problem of homelessness. The residential and business communities demand immediate and forceful police action believing that the problem will be resolved with the arrest. In reality, the homeless spend a day or two in jail before being discharged back into the community with a 'time served' sentence and the cycle starts again.¹⁰⁸

Victoria Police should not adopt a zero tolerance approach to begging and the Victorian Government should not proceed with consideration of proposed 'dispersal legislation'. There are strong links between begging, homelessness, poverty, and poor mental health. Zero tolerance policing strategies and 'move on' powers are likely to displace beggars and contribute to an increase in other illegal activities.

B Police Training, Intervention and Referral

The rejection of a zero tolerance policing strategy as an effective public policy response to begging should not be seen or regarded as a wholesale rejection of the role of laws and law enforcement in the regulation of begging.

With every person interviewed for this article having had some engagement with the police in relation to begging, law enforcement officers potentially have a very significant role in the development and implementation of early intervention, diversionary and cautionary strategies to respond to begging.¹⁰⁹ Unfortunately, this potential is currently unrealised in Victoria, with only one person reporting that they had ever been referred to, or assisted to access, a social service by law enforcement officers.

¹⁰⁶ Hopkins Burke, above n 76, 232.

¹⁰⁷ See, eg, Fiona Hudson, '\$50,000 Blown on Hounding Vagrant: Penniless Man Racks up \$110,000 Fines', *Herald Sun* (Melbourne), 7 August 2003, 9; Fiona Hudson, 'Getting Out of Fine Mess', *Herald Sun* (Melbourne), 7 August 2003, 9; Matthew Pinkney, 'Better Way to Deal with This', *Herald Sun* (Melbourne), 11 August 2003, 18; Editorial, 'Bureaucratic No-Brainer', *Herald Sun* (Melbourne), 8 August 2003, 20.

¹⁰⁸ Bob Pusins, *The Fort Lauderdale Model: Police Response to Homelessness* (2000) Fort Lauderdale Police Department <<http://ci.ftlaud.fl.us/police/homeless5>>. See also Charles Polard, 'Zero Tolerance: Short-Term Fix, Long-Term Liability?' in Norman Dennis (ed), *Zero Tolerance: Policing a Free Society* (1997) 43, 139.

¹⁰⁹ Recent research suggests that many homeless people, particularly rough sleepers, have frequent engagement with police and support the use of police as information, advice and referral sources: Suzie Forell, Emily McCarron and Louis Schetzer, *No Home, No Justice? The Legal Needs of Homeless People in NSW* (2005) 194–7 <http://www.lawfoundation.net.au/access/homeless/no_home_no_justice.pdf>.

This potential has, however, been recognised and harnessed through a number of innovative policing policies and partnerships both internationally and inter-state. The approach adopted in Fort Lauderdale, Florida, is perhaps the best practice example.

*Policy 511, Homeless Persons*¹¹⁰ was developed collaboratively between the Fort Lauderdale Police Department and the Florida Coalition for the Homeless in the United States. The policy's purpose is to

ensure that personnel are sensitive to the needs and rights of the homeless population, to establish procedures to guide police officers during casual and arrest situation contacts with the homeless and to reaffirm that homelessness is not a crime.¹¹¹

The policy encourages officers to refer homeless 'offenders' to appropriate social service providers in lieu of citation or arrest.¹¹² It also encourages officers to proactively engage with homeless people to inform them of available social services and, if requested, assist them with transportation and admission to such services.¹¹³ The policy provides that citation or arrest should only proceed if a person continues to offend and refuses to engage with a social service.¹¹⁴ *Policy 511* is implemented through, among other things, the requirement that officers undertake a 'Homelessness 101' training program to raise awareness as to the nature, extent and causes of homelessness and to equip officers to respond sensitively and effectively to people experiencing homelessness.¹¹⁵ It is reported that the implementation of *Policy 511* has resulted in the successful referral of, on average, over 750 homeless people to social services per year.¹¹⁶

The Fort Lauderdale Police Department in Florida has also founded a Homeless Outreach Unit, comprising a police officer and a member of the local Coalition for the Homeless.¹¹⁷ The worker from the Coalition is formerly homeless and known to many of the people on the street.¹¹⁸ The Unit aims to engage with the 'hardcore' or 'chronic' homeless and inform them about available support services.¹¹⁹ The Homeless Outreach Unit engaged with 2787 homeless people and placed over 1300 homeless people in homelessness assistance services between 1999 and 2003.¹²⁰ It has been recognised by homeless advocates as a model programme.

¹¹⁰ Fort Lauderdale Police Department, *FLPD Policy 511, Homeless Persons* (1999) <<http://ci.ftlaud.fl.us/police/homeless4.html>>.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

¹¹⁷ *Pusins*, above n 108.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ Bruce Roberts, 'A Message to the Fort Lauderdale Police Department and Community' (2003) 2(2) *Sierra One: The Newsletter of the Chief of Police*, 1-2 <<http://www.flpd.org/sierraone22.html>>.

There is strong evidence to suggest that an active policy of assertive police contact with people who beg, including referral to appropriate services, treatment and support, can be successful in reducing the incidence of begging.¹²¹ According to the Fort Lauderdale Police Department, recognised by both homelessness services and homeless people as engaging in ‘best practice’, the following elements are central to the implementation of an effective and responsive policy in this regard:

- close consultation with homeless people and homelessness service providers regarding the design and delivery of the policy;
- documentation of the policy;
- institutionalisation of the policy;
- provision of adequate training to law enforcement officers about homelessness, begging, the homelessness service system, empathetic engagement and the employment of early intervention, diversionary, referral and cautionary strategies;¹²²
- availability and capacity to accept referrals within the homelessness service system; and
- development of efficient and integrated referral protocols and relationships between police and the homelessness service system.¹²³

Research from the United Kingdom indicates strong support among people experiencing homelessness for the training, resourcing and involvement of police in social service interventions, with two in three considering that police should change their approach to dealing with begging, one in five considering that police officers should receive specialised training with respect to homelessness and begging, and one in seven considering that the police should establish a specialist homelessness outreach unit.¹²⁴ Partnerships with social services, including through the establishment of multi-agency outreach teams, are also strongly supported by members of the police force in the United Kingdom.¹²⁵

Engagement with people who beg through partnerships, early intervention and the provision of appropriate support services is a more efficient and effective policing approach than zero tolerance. Recognising this, Victoria Police and the Department of Justice should consult and collaborate with relevant stakeholders (such as people who beg, people experiencing homelessness, homelessness assistance services, and social service providers) to develop and implement a

¹²¹ Gary Fooks and Christina Pantazis, ‘Criminalisation of Homelessness, Begging and Street Living’ in Patricia Kennett and Alex Marsh (eds), *Homelessness: Exploring the New Terrain* (1999) 123.

¹²² Programmes for the ‘education of the police ... as well as the public at large, aimed at fostering tolerance and respect for the poor’ are identified as key features of a human rights-based poverty reduction strategy: Hunt, Nowak and Osmani, above n 26, 44.

¹²³ See generally Pusins, above n 108.

¹²⁴ Crisis, *Begging and Anti-Social Behaviour: Crisis’ Response to the White Paper, Respect and Responsibility — Taking a Stand against Anti-Social Behaviour* (2003) 7–8 <http://www.crisis.org.uk/pdf/AntiSoc_response.pdf>.

¹²⁵ *Ibid* 8. For a discussion regarding the potential role of police in the diversion and referral of homeless people to social services in an Australian context, see Forell, McCarron and Schetzer, above n 109, 194–7.

policy that delivers effective and coordinated engagement with people who beg or are homeless. The policy should include: a training programme for law enforcement officers regarding effective, holistic, and empathetic engagement with people who beg or are homeless; a range of early intervention, diversionary, referral and cautionary alternatives to arresting, summoning, or issuing an infringement notice to a person for begging; and integrated referral relationships, protocols and procedures as between law enforcement officers and social service providers. The Department of Justice and Victoria Police should also consider establishing a 'Homeless Outreach Team' to proactively engage with people who beg or are homeless. The purpose of such a programme would be to refer homeless people to appropriate services. This team could comprise a police officer, a social worker and a person who is homeless or formerly homeless.

C *Assertive Outreach and Social Service Intervention*

In both Scotland and the United Kingdom, homelessness services have developed and implemented assertive outreach, engagement, intervention, and referral strategies to assist rough sleepers to access housing and other support services. There is strong evidence to suggest that these initiatives have been successful in reducing the incidence of both begging and primary homelessness.¹²⁶ In Brisbane, the City Council employs an Indigenous Public Space Liaison Officer who liaises with users of public space, police and social service providers to minimise coercive interference in the lives of homeless people.¹²⁷ The Public Space Liaison Officer explains local laws to public space users in an effort to bring about compliance without criminal charges or penalties being imposed. Where necessary, the Officer links homeless people with appropriate support services. Brisbane City Council reports that, between 2000 and 2002, outcomes for homeless people included 'improved safety, reduction in alcohol consumption, 17% [of] people accessing rehabilitation services and 33% moving to and maintaining long term accommodation'.¹²⁸

Given the strong correlation between homelessness and begging (94 per cent of people who beg being homeless), the establishment of assertive outreach, engagement, intervention, and referral strategies to assist beggars to access housing and other support services has the potential to significantly reduce the incidence of begging. Key determinants of the success of such a strategy would include:

- close consultation with people who beg and homelessness service providers regarding the design and delivery of the strategy;

¹²⁶ See, eg, Geoffrey Randall and Susan Brown, *Helping Rough Sleepers off the Streets: A Report to the Homelessness Directorate* (2002) 4 <http://www.odpm.gov.uk/stellent/groups/odpm_homelessness/documents/downloadable/odpm_home_609299.pdf>; Suzanne Fitzpatrick, Nicholas Pleace and Mark Bevan, *Final Evaluation of the Rough Sleepers Initiative* (2005) <<http://www.scotland.gov.uk/library5/social/fersi.pdf>>.

¹²⁷ Suzanne Lawson, *Response to Homelessness: Strategy 2002–06* (2002) Brisbane City Council 7 <http://www.brisbane.qld.gov.au/bccwr/plans_and_strategies/documents/plans_strategies_homelessness_strategy_full_strategy_document.pdf>.

¹²⁸ *Ibid* 14.

- provision of adequate training and resources to outreach workers;
- availability and capacity to accept referrals within the homelessness service system, the drug and alcohol treatment system, the health care system, and other social and welfare services;
- development of efficient and integrated referral protocols and relationships between outreach workers and the various service systems; and
- ongoing support and case management for people engaged through the strategy.¹²⁹

Street outreach teams in the United Kingdom have been strongly supported and endorsed by homelessness agencies, local law enforcement authorities and, importantly, homeless people themselves.¹³⁰ In the United Kingdom, at least two thirds of rough sleepers report that they would appreciate positive interventions to assist them to access housing and other support services.¹³¹ A significant majority of beggars would be more likely to engage with and respond to such interventions if they occurred through social service outreach teams rather than police outreach and referral teams.¹³²

On the other hand, two thirds of rough sleepers also report, however, that they have been excluded or barred from accommodation and other services or have chosen not to use them.¹³³ The effectiveness, sustainability, impact, and appropriateness of assertive outreach to people who beg would be significantly contingent, therefore, upon service system expansion and enhancement. This is particularly important for delivery of services to people with mental illnesses or drug dependencies.¹³⁴

D *Diverted Giving Schemes*

'Diverted giving schemes' seek to encourage people to place money in strategically-located charity boxes (or 'begging boxes') rather than in the hands or hats of beggars.¹³⁵ Monies donated in this way are then directed to homelessness assistance services, crisis accommodation and welfare agencies to increase capacity and resources.¹³⁶

Diverted giving schemes have been established in a number of cities in the United Kingdom, including Winchester, Liverpool, Brighton and Manchester.¹³⁷ They have been broadly supported by the public, law enforcement officers and

¹²⁹ See, eg. Randall and Brown, *Helping Rough Sleepers off the Streets*, above n 126, 16.

¹³⁰ See generally *ibid* 13–16.

¹³¹ *Ibid* 15.

¹³² Shaks Ghosh, *Compassion Not Coercion: Addressing the Question of Begging* (2004) 3–5 <http://www.crisis.org.uk/pdf/Compassion_print.pdf>.

¹³³ Randall and Brown, *Helping Rough Sleepers off the Streets*, above n 126, 14–15.

¹³⁴ See generally Fitzpatrick, Pleace and Bevan, above n 126.

¹³⁵ See generally Joe Hermer, 'Policing Compassion: "Diverted Giving" on the Winchester High Street' in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 203, 205.

¹³⁶ *Ibid*.

¹³⁷ www.drugs.gov.uk, *Policy and Practice Implications: Interventions to Address the Drug Problems of People Begging* <<http://www.drugs.gov.uk/WorkPages/communities/ToolKits/Begging/Implications>>.

retailers.¹³⁸ Unfortunately, however, there is no evidence that the installation of begging boxes has resulted in an overall decrease in the incidence of begging in any of these cities.¹³⁹ Research suggests that there are three primary reasons for this lack of success.

First, diverted giving schemes have not been particularly successful in soliciting substantial donations or, by extension, expanding the resources or capacity of homelessness services.¹⁴⁰

Second, many people who beg are unable to access or have been excluded from services due to problematic behaviours or complex and multiple needs. As discussed above, all respondents surveyed for this article had been recently unable to access, or denied access to, accommodation, health care services or drug or alcohol treatment services. Even a substantial increase in capacity through diverted giving schemes is unlikely to increase the access of these groups to services without a range of other supports and interventions.

Third, many people beg to obtain money for drugs or alcohol. Diverted giving schemes and supported services do not meet people's needs to support these addictive disorders or provide sufficient funds to fill the significant gap between the demand for drug treatment services and the supply of such services.¹⁴¹

As discussed above, the concept of diverted giving schemes has been supported by the general public, retailers and police. However, evidence suggests that diverted giving schemes are not particularly effective. In the United Kingdom, the publicity accompanying diverted giving schemes has resulted in increased demand for homelessness assistance services that is incommensurate with increases in the capacity of services from monies received.¹⁴² Other consequences of diverted giving schemes, particularly when accompanied by zero tolerance policing strategies, include displacement of beggars to other parts of the city¹⁴³ and evidence of some increase in other low-level, income-generating crime, such as shoplifting and theft.¹⁴⁴ In light of these consequences, diverted giving schemes are unlikely to provide an effective, fair, or holistic response to begging.

E Access to Adequate Housing

There are very strong and clear associations between begging and homelessness. As discussed above, 94 per cent of people surveyed for this article were homeless, including 76 per cent who were experiencing primary homelessness.¹⁴⁵ Fifty-three per cent of respondents reported that their primary purposes for begging included obtaining money for accommodation.

¹³⁸ Hermer, above n 135, 207.

¹³⁹ *Ibid* 213.

¹⁴⁰ *Ibid* 212.

¹⁴¹ Senate Legal and Constitutional Legislation Committee, above n 72, 31.

¹⁴² Hermer, above n 135, 212.

¹⁴³ *Ibid* 213.

¹⁴⁴ Hopkins Burke, above n 76, 231.

¹⁴⁵ Similarly, 100 per cent of people surveyed for Hanover's research were homeless: Horn and Cooke, above n 4, 15. Further, 80–90 per cent of beggars in the United Kingdom are reported to

Fiscal and public policy measures to increase access to adequate housing — that is, housing that enables people to live in security, peace and dignity¹⁴⁶ — constitute integral components of a holistic and sustainable policy response to begging and to poverty reduction more generally. Although homelessness is not the only cause of begging, lack of access to adequate housing is a critical issue for many beggars.¹⁴⁷ Ninety-four per cent of respondents to the survey for this article indicated that, despite attempts, they had been unable to access accommodation, including crisis or emergency accommodation. A significant majority of respondents, 59 per cent, stated that the provision of access to adequate housing would obviate the need for them to beg.¹⁴⁸ This is consistent with recent research regarding people with complex and multiple needs, which demonstrates that the provision of adequate, supported accommodation is the single most important factor contributing to reducing the incidence of criminal reoffending.¹⁴⁹

Housing plays a critical role in creating the conditions necessary for social inclusion and meaningful participation in civil, political, economic, and cultural activity. Notwithstanding this, every night, almost 100 000 people experience homelessness across Australia.¹⁵⁰ Over 20 000 people are homeless in Victoria on any given night.¹⁵¹ Across Australia, only one in seven of these people finds a bed in the homelessness service system.¹⁵² Funding for the homelessness service system (that is, the Supported Accommodation Assistance Program) is manifestly inadequate to meet demand. More than 700 homeless people per day are turned away from homelessness services across Australia.¹⁵³ In 2003–04, almost 35 000 requests for assistance were not met or referred.¹⁵⁴ It is estimated that in Victoria alone, over 22 000 people are unable to access homelessness assistance services each year due to lack of capacity and resources.¹⁵⁵ Homeless people experiencing mental disorders, particularly co-morbid people experiencing both

be homeless, including 60–80 per cent who sleep rough: Danczuk, above n 58, 8–9; Fitzpatrick and Kennedy, above n 65, 27.

¹⁴⁶ United Nations Committee on Economic, Social and Cultural Rights, *General Comment 4: The Right to Adequate Housing*, [7], UN Doc E/1992/23 (1992).

¹⁴⁷ Dean and Melrose, above n 77, 97.

¹⁴⁸ These results are substantially similar to results obtained in the United Kingdom. Interventions supported by people who beg include access to adequate housing (55 per cent), reasonable employment (41 per cent) and drug and alcohol treatment (39 per cent): Jowett, Banks and Brown, above n 59, 3.

¹⁴⁹ Social Exclusion Unit, Office of the Deputy Prime Minister, United Kingdom, *Reducing Re-Offending by Ex-Prisoners* (2002) 94 <<http://www.socialexclusion.gov.uk/downloaddoc.asp?id=64>>.

¹⁵⁰ Chris Chamberlain and David MacKenzie, *Counting the Homeless 2001: Victoria* (2004) 6.

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*

¹⁵³ Australian Institute of Health and Welfare, *SAAP Annual Report 2002–03*, above n 70, 44.

¹⁵⁴ Australian Institute of Health and Welfare, *Homeless People in SAAP: SAAP National Data Collection Annual Report 2003–04* (2005) 60 ('SAAP Annual Report 2003–04').

¹⁵⁵ Australian Council of Social Services, above n 71.

mental illness and drug or alcohol dependency, are especially susceptible to being unable to access, or being actively excluded from access to, housing and homelessness services.¹⁵⁶

In addition to those experiencing homelessness, it is estimated that up to 35 per cent of low income people experience 'housing stress', meaning that their housing costs are so great relative to their income as to jeopardise their ability to meet other basic needs.¹⁵⁷ Almost 10 per cent of low income people experience 'extreme housing stress', meaning that they are required to spend more than 50 per cent of their income on rent to avoid homelessness.¹⁵⁸ In Victoria alone, the waiting list for public housing includes over 35 000 families, including over 21 000 families who have been on the list for two years or longer.¹⁵⁹

Access to adequate housing is essential for health, wellbeing, and social inclusion.¹⁶⁰ Further, providing adequate housing is likely to be a cost effective and efficient policy response to prevent homelessness and begging.¹⁶¹ In terms of effectiveness, as discussed above, recent research demonstrates that the provision of adequate, supported accommodation can contribute to the reduction of criminal offending by over 20 per cent.¹⁶² In terms of efficiency, studies conducted in the United States and Canada demonstrate that establishing long-term solutions to homelessness reduces the use of other government services and substantially reduces the total cost to government.¹⁶³ This is because, among other things, the cost of providing social services and health care to, and obtaining positive social and health outcomes for, people experiencing homelessness is considerably higher than for domiciled people.¹⁶⁴ For example, a Canadian study found that the cost of providing health care, criminal justice, and social services (excluding housing) to homeless people costs, on average, 33 per cent more than the cost of providing those services to housed people.¹⁶⁵ According to the study, the service and shelter costs of homeless people range from C\$30 000 to \$40 000 per annum, while the cost of providing services and supported housing to the

¹⁵⁶ See generally New South Wales Ombudsman, above n 73, 86–7. See also Tsemberis and Eisenberg, above n 73, 487.

¹⁵⁷ Recent research suggests that over 200 000 low income households in Victoria have housing costs in excess of 30 per cent of household income: Department of Premier and Cabinet (Victoria), above n 105, 18.

¹⁵⁸ Senate Community Affairs References Committee, Parliament of Australia, *A Hand Up Not a Hand Out: Renewing the Fight against Poverty* (2004) 123.

¹⁵⁹ Tanya Giles, 'Homes Go to Waste', *Herald Sun* (Melbourne), 21 March 2005, 1.

¹⁶⁰ National Health Care for the Homeless Council, *Homelessness and Health: Policy Statement* (2003) 1 <<http://www.nhchc.org/Advocacy/PolicyPapers/2003/01HealthCareHomelessness.pdf>>.

¹⁶¹ Suzanne Zerger, *Chronic Medical Illness and Homeless Individuals: A Preliminary Review of the Literature* (2002) 16 <http://www.nhchc.org/Publications/literaturereview_chronicillness.pdf>.

¹⁶² Social Exclusion Unit, Office of the Deputy Prime Minister, United Kingdom, above n 149, 94.

¹⁶³ Dennis Culhane, Stephen Metraux and Trevor Hadley, 'Public Service Reductions Associated with Placement of Homeless Persons with Severe Mental Illness in Supportive Housing' (2002) 13 *Housing Policy Debate* 107, 145; Margaret Eberle et al, *Homelessness — Causes and Effects: The Costs of Homelessness in British Columbia* (2001) 39 <<http://www.mcaaws.gov.bc.ca/housing/homeless/Vol3.pdf>>.

¹⁶⁴ Sharon Salit et al, 'Hospitalization Costs Associated with Homelessness in New York City' (1998) 338 *New England Journal of Medicine* 1734, 1738.

¹⁶⁵ Eberle et al, *The Costs of Homelessness in British Columbia*, above n 163, 40.

same group range from C\$22 000 to \$28 000.¹⁶⁶ A similar study in New York monitored 4679 homeless people suffering psychiatric disabilities over a seven year period who were placed in affordable housing and provided with clinical and social support.¹⁶⁷ The study found that placement of a homeless person in supported accommodation resulted in an average reduction in service use of US\$16 281 per year.¹⁶⁸ According to the cost study, the reduction in service usage overall would pay for an average of 95 per cent of the costs of building, operating and providing accommodation and related support services to the homeless.¹⁶⁹

Having regard to the impact of adequate housing on the incidence of begging, social inclusion and social service costs, it is imperative that state and federal governments increase funding to the Supported Accommodation Assistance Program by 40 per cent to meet demand.¹⁷⁰ It is also crucial that there be a substantial increase in funding, access and availability to various forms of supported housing and accommodation, particularly housing which meets the needs of people with disabilities, mental illness and drug or alcohol disorders.

F *Access to Adequate Income*

According to Amartya Sen, Nobel Prize winner for Economics, ‘inadequate income is a strong predisposing condition for an impoverished life.’¹⁷¹ An adequate income is necessary to ensure an adequate standard of living and to facilitate participation in the civil, political, economic, social, and cultural aspects of community life.

There are very strong correlations between begging and lack of adequate income, with 18 per cent of people surveyed for this article receiving no income or income support and 65 per cent subsisting on incomes below the Henderson Poverty Line (with the remaining 35 per cent subsisting on incomes which were, at most, nine per cent above the Poverty Line). Many respondents in receipt of a social security payment had their payments reduced or terminated for ‘breaching’ the Centrelink activity test (or mutual obligation) requirements. It is unsurprising then that all respondents identified that they needed to beg to survive and a

¹⁶⁶ Ibid 39.

¹⁶⁷ Culhane, Metraux and Hadley, above n 163, 112. See also Ted Houghton, *The New York/New York Agreement Cost Study: The Impact of Supportive Housing on Services Use for Homeless Mentally Ill Individuals* (2001) <<http://www.csh.org/html/NYNYSummary.pdf>> for a summary of Culhane, Metraux and Hadley’s research.

¹⁶⁸ Culhane, Metraux and Hadley, above n 163, 136.

¹⁶⁹ Ibid 138.

¹⁷⁰ The Federal Government’s recently-commissioned review of the Supported Accommodation Assistance Program IV found that there needs to be a 35–40 per cent increase in current funding levels to meet projected demand for homelessness assistance services: see Erebus Consulting Partners, *National Evaluation of the Supported Accommodation Assistance Program (‘SAAP IV’): Final Report* (2004) <[http://www.facs.gov.au/internet/facsinternet.nsf/v1A/saap_iv/\\$file/main_report.pdf](http://www.facs.gov.au/internet/facsinternet.nsf/v1A/saap_iv/$file/main_report.pdf)>.

¹⁷¹ Amartya Sen, *Development as Freedom* (1999) 87.

significant proportion of respondents (47 per cent) stated that the provision of access to an adequate income would obviate the need for them to beg.¹⁷²

Access to a secure and adequate income is necessary to ensure a dignified human existence and social and economic inclusion, integration, participation, and contribution. Recognising this, art 9 of the *International Covenant on Economic, Social and Cultural Rights* provides that all people are entitled to social security.¹⁷³ Although international human rights law does not prescribe social security payment levels, it does stipulate that benefits must not be reduced below a minimum threshold.¹⁷⁴ Social security must be sufficient to ensure a dignified human existence and to meet people's needs, particularly in relation to housing and health.¹⁷⁵ A person's needs vary based on factors including housing status, age, health, cultural background, and family responsibilities. Social security must be available to cover 'all the risks involved in the loss of means of subsistence' beyond a person's control.¹⁷⁶

Australia's current social security regime, administered by Centrelink under the *Social Security Act 1991* (Cth), does not meet human rights standards.¹⁷⁷ For example, not all people who require social security are able to access it, including newly-arrived migrants (many of whom become homeless), people unable to provide adequate proof of identity, and marginalised and disadvantaged people unable to satisfy mutual obligation requirements.¹⁷⁸ Further, the level of income support paid is inadequate to meet needs or guarantee a dignified human life¹⁷⁹ and the breach penalty regime can result in a loss of income beyond a person's control and to an extent that violates the right to an adequate living standard.

The difficulties faced by many marginalised people, particularly homeless people, in obtaining and maintaining social security payments, together with the

¹⁷² These results are substantially similar to those obtained in the United Kingdom, as noted above n 148.

¹⁷³ Opened for signature 16 December 1966, 999 UNTS 3 (entered into force 3 January 1976) ('ICESCR'). For a detailed discussion of the content of the right to social security, see Linda Jansen van Rensburg and Lucie Lamarche, 'The Right to Social Security and Assistance' in Danie Brand and Christof Heyns (eds), *Socio-Economic Rights in South Africa* (2005) 209 <<http://www.chr.up.ac.za/pulp/book/Chapter%207-Social%20Security.pdf>>.

¹⁷⁴ *Convention concerning Minimum Standards of Social Security* (ILO No 102), opened for signature 28 June 1952, 210 UNTS 131 (entered into force 27 April 1955). See also International Labour Office, *Social Security: A New Consensus* (2001) 56.

¹⁷⁵ *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, 3rd sess, 183rd plen mtg, arts 22, 25, UN Doc A/RES/217A(III) (1948). See also International Labour Office, above n 174, 56.

¹⁷⁶ United Nations Committee on Economic, Social and Cultural Rights, *General Comment 5: Persons with Disabilities*, [28]–[29], UN Doc E/1995/22 (1995); United Nations Committee on Economic, Social and Cultural Rights, *General Comment 6: The Economic, Social and Cultural Rights of Older Persons*, [26]–[28], UN Doc E/1996/22 (1996).

¹⁷⁷ See generally Tamara Walsh, 'Breaching the Right to Social Security' (2003) 12 *Griffith Law Review* 43, 48.

¹⁷⁸ According to the Australian Institute of Health and Welfare, eight per cent of homeless people have no form of income or income support: Australian Institute of Health and Welfare, *SAAP Annual Report 2003–04*, above n 154, 63.

¹⁷⁹ Eighty-six per cent of people accessing homelessness assistance services in 2003–04 received a social security payment, indicating that such payments are inadequate to access or maintain housing: *ibid*.

inadequate levels of such payments, breach the right to social security and contribute significantly to begging.

Having regard to the impact of income support on reducing the need to beg and the incidence of begging, contributing to the conditions necessary for inclusion and participation, and discharging Australia's obligations under international human rights law, it is imperative that welfare reform include the following measures. First, social security payments must be available to all people who experience a loss of income beyond their control or who require income support to ensure realisation of their human right to an adequate standard of living. Second, social security payments must be increased to levels above the Henderson Poverty Line so that recipients are able to meet their material needs and participate in society.¹⁸⁰ Payments should be sufficient to ensure that recipients can afford adequate housing, health care and an adequate standard of living. Third, the breach penalty regime under the *Social Security Act 1991* (Cth) should be amended so that people are only penalised if they wilfully and intentionally breach their mutual obligations.¹⁸¹ Penalties should be no longer than eight weeks duration, no greater than 25 per cent of income and recoverable on compliance or reasonable steps.¹⁸² Fourth, Centrelink's 'proof of identity' requirements should be changed so that homeless people can use a letter from a homelessness assistance service as proof of identity. Finally, an integrated package of social security assistance to homeless people should be developed that includes access to health care, adequate housing, employment assistance and personal support to ensure sustainable outcomes.

G *Employment Schemes*

There are clear correlations between begging and unemployment. All respondents surveyed for this article were unemployed, while 82 per cent were long-term unemployed. While 41 per cent identified access to employment and vocational opportunities as an important policy intervention to reduce the incidence of begging, only 6 per cent stated that they considered employment to be a viable alternative to begging in terms of income generation and supplementation. This suggests that, although a significant proportion of people who beg want to work, they are not provided with adequate or appropriate employment or vocational opportunities.

It is well recognised that employment is a critical pathway out of homelessness and poverty. It is also well understood that traditional housing and employment assistance programs deliver poor outcomes for homeless people 'because they

¹⁸⁰ See, eg, Australian Council of Social Service, *Australia's Social Security System: International Comparisons of Welfare Payments* (2004) 5.

¹⁸¹ See, eg, Dennis Pearce, Julian Disney and Heather Ridout, *Making It Work: Report of the Independent Review of Social Security System Breaches and Penalties* (2002) 70–1. Two survey respondents in this study indicated that, although they had been recipients of Newstart Allowance, which purports to 'prepare people for work', they had opted instead to rely on begging as a principal income source because their inability to comply with onerous activity test and mutual obligation requirements regularly resulted in payment reductions, suspensions and terminations.

¹⁸² Brotherhood of St Laurence, *2004 Federal Election: Brotherhood of St Laurence Call to the Parties* (2004) 4–6 <http://www.bsl.org.au/pdfs/2004_Federal_Election.pdf>.

are too fragmented, one-dimensional and consequential'.¹⁸³ More recent programmes, including those discussed below, are designed to operate 'across the domains of housing, employment assistance and personal support' with a view to 'improved sustainable outcomes for homeless jobseekers as well as significant efficiencies within specific programs'.¹⁸⁴

Recognising the strong associations between begging, homelessness and unemployment, targeted training and employment schemes have the potential to contribute to social inclusion and participation, and significantly reduce the incidence of begging.¹⁸⁵ As discussed above, research demonstrates that begging is generally a last resort activity engaged in by people who are poor and disadvantaged to obtain the income necessary to meet immediate and subsistence needs. Most beggars would prefer to work. However, barriers to workforce participation among the beggars surveyed for this article include homelessness (94 per cent), long-term unemployment (82 per cent), mental illness (71 per cent), drug dependency (47 per cent) and disability (24 per cent).

Targeted training and employment schemes which address workforce participation barriers and create and enhance employment (and, by extension, income-generating) opportunities for poor and homeless people have the potential to displace the need for many people to beg.¹⁸⁶ An example of such an employment scheme is *The Big Issue*, an independent street magazine which is sold by vendors who are homeless or long-term unemployed.¹⁸⁷ The purpose of the magazine is to provide a 'mechanism to assist homeless, ex-homeless and long-term unemployed people to participate in society as independently as possible'.¹⁸⁸ Vendors keep \$2 from every magazine sold.¹⁸⁹ Barriers to workforce participation for vendors are addressed by 'vendor support workers', who seek to 'support and assist homeless and other disadvantaged people make positive changes to their lives through their work selling the magazine on the streets'.¹⁹⁰ The vendor support program offers training and support, motivation, referral to other services, counselling, peer support, legal advice, and social development opportunities.¹⁹¹

Another example of a targeted, holistic employment scheme is the YP4 programme (previously known as the Young Homeless Job Seekers Trial). YP4 is a collaborative partnership between the Brotherhood of St Laurence, Hanover

¹⁸³ Hanover Welfare Services, *Current Research* <http://www.hanover.org.au/index_general.asp?menuid=070.040>.

¹⁸⁴ *Ibid.*

¹⁸⁵ See generally Coles and Craig, above n 65, 77.

¹⁸⁶ See generally Geoffrey Randall and Susan Brown, *Ending Exclusion: Employment and Training Schemes for Homeless Young People* (1999) vii–x. See also Homeless Link (UK), *Do You Want to End Homelessness?* (2005) <<http://www.homeless.org.uk/Files/Manifesto%20poster%20A3.pdf>>.

¹⁸⁷ The Big Issue, *What's The Big Issue?* (2005) <<http://www.bigissue.org.au/content.cfm?categoryID=1&topicid=2&infoPageID=211>>.

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

¹⁹⁰ The Big Issue, *About the Vendor Support Program* (2005) <<http://www.bigissue.org.au/content.cfm?categoryID=3&topicID=81&infoPageID=238>>.

¹⁹¹ *Ibid.*

Welfare Services, Melbourne Citymission and Loddon Mallee Housing and is funded through both state and federal government funds.¹⁹² It seeks to join up service delivery and programmes in the areas of housing, health, employment, and personal support to provide a holistic, integrated, individualised, and flexible response to the multifaceted needs of young homeless job seekers.¹⁹³

Although employment schemes and community enterprises such as YP4 and *The Big Issue* do not meet the needs of all beggars, anecdotal evidence suggests that they have displaced begging as a necessary income-generating activity for at least some marginalised and disadvantaged people.¹⁹⁴ Formal evaluations of programs such as YP4 are anticipated to demonstrate strong links between an increase in employment and a diminution in activities such as begging and disadvantages such as homelessness.

The purpose of targeted employment schemes and programmes is to develop and enhance opportunities for workforce, social and economic participation and contribution in a sustainable and empowering way.

The value of such initiatives is recognised by many participants in *The Big Issue*'s programme.

It is indeed an utmost pleasure to be out of retirement, selling *The Big Issue* once again at my old pitch outside Malvern Central in Melbourne. The interaction with my customers is great because I groove as I sell. It's great to be back. (David M, Big Issue vendor, Melbourne)¹⁹⁵

All the best to everyone in *The Big Issue* world — I'm grateful for the support I've received through the mag. (Mick, Big Issue vendor, Brisbane)¹⁹⁶

This value is also recognised by consumers and the broader public:

Fortunately homelessness is something I do not have first-hand knowledge of. I applaud what *The Big Issue* is doing to assist those in need of some support to get their lives back together. (Jane Bolding, reader)¹⁹⁷

Targeted employment schemes, such as *The Big Issue* and YP4, are likely to attract broad support, as they provide access to training, support and secure income. Further, they provide opportunities for interaction and engagement and establish more inclusive, participatory communities. In this way, they both reflect and add public value.

Recognising the value of participation and the desire to work of many people who beg, Australian governments, in consultation with people who beg, people experiencing homelessness, and homelessness assistance services, should

¹⁹² Brotherhood of St Laurence, *Creating Sustainable Economies* (2005) <<http://www.bsl.org.au/main.asp?PageId=66#YP4>>.

¹⁹³ Michael Horn, 'A New Approach to Assisting Young Homeless Job Seekers: Trial Proposal' (Paper presented at the 3rd National Homelessness Conference: Beyond the Divide, Brisbane, 6–8 July 2003).

¹⁹⁴ Interview with Paul S and John B, *The Big Issue* vendors (Melbourne, 31 March 2005). See also Dean and Melrose, above n 77, 98–9.

¹⁹⁵ David McLeod, 'Street Sheet: A Special Report' (2004) 213 *The Big Issue* 45.

¹⁹⁶ Mick, 'Street Sheet: Better Days' (2004) 206 *The Big Issue* 45.

¹⁹⁷ Jane Bolding, 'First-Class Mag' (2004) 206 *The Big Issue* 45.

collaborate to resource and develop a range of vocational and employment schemes that aim to overcome participation barriers; provide holistic personal support in the areas of health, education, and housing; and create sustainable employment opportunities for people who beg or are homeless.

H Access to Adequate Health Care

As discussed above, there are clear associations between begging and poor health, including mental illness (71 per cent), drug dependency (47 per cent), alcohol dependency (35 per cent), physical disability (12 per cent), and intellectual disability (12 per cent). There are also strong correlations between begging and inability to access health care (29 per cent). At least 30 per cent of beggars report that they would not need to beg if they had adequate access to health care. These findings are consistent with research demonstrating that poor health is a cause of, contributor to, and consequence of, homelessness.¹⁹⁸ As the United States Institute of Medicine states in a report entitled *Homelessness, Health, and Human Needs*, there are three types of interactions between homelessness and poor health.¹⁹⁹ First, some health problems precede and causally contribute to homelessness.²⁰⁰ Second, some health problems are consequences of homelessness.²⁰¹ Third, homelessness exacerbates and complicates the treatment of many health problems.²⁰²

Pursuant to art 12 of the *ICESCR*, all people have the right to the highest attainable standard of physical and mental health. The right to health does not necessarily translate as a right to 'be healthy' — the United Nations Committee on Economic, Social and Cultural Rights acknowledges that health is relative to an individual's biological conditions and a state's available resources.²⁰³ However, the right does impose important substantive obligations on Australian governments to establish conditions designed to ensure that people have the best possible chance of being healthy, including through the adoption of legislative measures.²⁰⁴ According to the Committee, these conditions should mean that people are able to access the full variety of facilities, goods, services and conditions necessary to ensure an individual's health.²⁰⁵ This includes access to appropriate health care and safe water, adequate sanitation, supply of safe food, nutrition, housing, occupational health, a healthy environment, and access to health-related information.²⁰⁶ Services must be provided in a culturally appropri-

¹⁹⁸ Adrienne Lucey, 'South Eastern Sydney Area Health Service Homelessness Health Strategic Plan 2004–09' (2004) 17(8) *Parity* 6, 6–7.

¹⁹⁹ Committee on Health Care for Homeless People, Institute of Medicine, *Homelessness, Health, and Human Needs* (1988) 39.

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ United Nations Committee on Economic, Social and Cultural Rights, *General Comment 14: The Right to the Highest Attainable Standard of Health*, [9], UN Doc E/C.12/2000/4 (2000).

²⁰⁴ *Ibid* [33].

²⁰⁵ *Ibid* [4], [9].

²⁰⁶ *Ibid* [11].

ate²⁰⁷ and non-discriminatory manner.²⁰⁸ Health care services must be particularly targeted towards, and accessible to, the poor.²⁰⁹ Pursuant to art 2(1) of the *ICESCR*, Australian governments are obliged to take steps that are as ‘deliberate, concrete and targeted as clearly as possible’ towards full realisation of the right to the highest attainable standard of health. As discussed above, this includes the adoption of legislative measures.²¹⁰ Progress towards full realisation of the right is required to be as ‘expeditious’ and ‘effective’ as possible, and requires that the maximum of available resources be directed towards public health, including by ensuring that the attainment of good mental health is a fiscal and budgetary priority.²¹¹ Further, even while Australian governments are developing and implementing measures to this end, they are under an obligation to ensure that certain non-derogable ‘core minimum standards’ are met, including the provision of basic housing, nutrition, and health care for marginalised or disadvantaged people.²¹² At a minimum, health care for the poor must be ‘available, accessible, acceptable and of good quality.’²¹³ Australian governments are obliged to ‘reduce the financial burden of health care and health protection on the poor, for example by reducing and eliminating user fees for the poor.’²¹⁴

Notwithstanding the right to the highest attainable standard of health and its associated obligations to implement legislative measures and meet core minimum standards, recent analysis demonstrates that homeless and poor people have significantly less access to health services than the broader population.²¹⁵ The Senate inquiry into poverty and financial hardship found that homeless people ‘are missing out on a range of health services.’²¹⁶ As one formerly homeless person reports:

I was assaulted several years ago while having no fixed address. I was admitted to the Accident and Emergency department of a major hospital bruised and battered and with two sprained ankles. There was no avenue for effective after care. Who has ever heard of a hospital admission for sprained ankles! For somebody with a safe and secure home, limited use of both legs can be a major inconvenience. For somebody who has no secure home, limited use of their legs can be a serious threat to their continued well-being.²¹⁷

Identified barriers to adequate health care for people experiencing homelessness include:

²⁰⁷ Ibid [12(c)], [27], [37].

²⁰⁸ Ibid [43(a)].

²⁰⁹ Hunt, Nowak and Osmani, above n 26, 25.

²¹⁰ United Nations Committee on Economic, Social and Cultural Rights, *General Comment 3: The Nature of States Parties’ Obligations*, [2], UN Doc E/1991/23 (1990).

²¹¹ Ibid [9].

²¹² Ibid [10].

²¹³ Hunt, Nowak and Osmani, above n 26, 23.

²¹⁴ Ibid 26.

²¹⁵ Elizabeth Harris, Peter Sainsbury and Don Nutbeam (eds), *Perspectives on Health Inequity* (2000) 39–40, 43.

²¹⁶ Senate Community Affairs References Committee, above n 158, 174.

²¹⁷ Matt Gleeson, ‘Obstacles to Surviving Homelessness’ (2000) 13(10) *Parity* 7, 7.

- financial barriers and hardship, and associated lack of access to appropriate and affordable health care;
- lack of transportation to medical facilities;
- competing needs — basic subsistence needs in relation to food, accommodation and income take precedence over health care;
- lack of documentation;
- many homeless people do not have a Medicare Card and very few have health insurance;
- lack of contact details which presents difficulties in maintaining contact and, for example, communicating results;
- reluctance on the part of many homeless people to engage with services due to previous negative experiences;
- lack of insight into illness or assistance to access services — those most in need are those least likely to obtain health care;
- difficulty maintaining appointments, contact or treatment regimes; and
- disconnection from supportive social networks.²¹⁸

Research and experience demonstrate that improving health outcomes for homeless people requires specifically-targeted health care services, delivered together with programs to address underlying causes of homelessness.²¹⁹ The consequences of failing to provide adequate treatment, support services and supportive housing for people who are homeless and have mental health issues include ‘poor physical health, social dysfunction, inappropriate incarceration, high rates of drug-related crime, prolonged homelessness, and early death’.²²⁰

Having regard to the levels of homelessness (94 per cent) and poor health (at least 80 per cent) of people who beg, together with the fact that many people who beg are either denied access to health care (29 per cent) or beg in order to obtain health care or meet health related costs (29 per cent), targeted health care for people who are homeless or beg is likely to significantly reduce the incidence of begging.

Targeted health care schemes are also likely to reduce the cost of begging and homelessness. A number of recent studies have examined the costs of homelessness to the health care system. Research in the United States, Canada, and the United Kingdom has consistently demonstrated that, on a per capita basis, homeless people are significantly more likely to require medical care and

²¹⁸ Lillian Gelberg et al, ‘Health, Homelessness, and Poverty: A Study of Clinic Users’ (1990) 150 *Archives of Internal Medicine* 2325, 2328–30; National Mental Health Working Group, *Homelessness and Mental Illness: Bridging the Gap — Discussion Paper* (2003) 5; Margaret Eberle et al, *Homelessness: Causes and Effects — A Review of the Literature* (2001) 16–17. See also Royal District Nursing Service Homeless Persons Program, *It Can Be Done: Health Care for People who Are Homeless* (1992), cited in Department of Human Services, Victoria, *Primary and Acute Health Responses to People who Are Homeless or at Risk of Homelessness: Information Paper* (2000) 3.

²¹⁹ Paula Braveman and Sofia Gruskin, ‘Poverty, Equity, Human Rights and Health’ (2003) 81 *Bulletin of the World Health Organization* 539, 540.

²²⁰ National Health Care for the Homeless Council, *Addiction, Mental Health and Homelessness: Policy Statement* (2005) 2.

hospitalisation than domiciled people.²²¹ They have also found that, on average, homeless people require longer hospitalisation and treatment (with the cost of the additional days per stay for mental health patients exceeding \$6000 per person) and that better access to adequate housing would significantly reduce health problems and treatment needs and costs.²²² Synthesising this research, Professor Paul Starr of Princeton University has commented that:

Failure to deal with a social problem ‘upstream’ (lack of housing, education, health insurance, substance-abuse prevention) leads to added costs for resources ‘downstream’ (police, prisons, hospital care). The downstream institutions are not only expensive, but also poorly equipped to deal with the underlying social problems. Many people conclude, therefore, that pre-emptively attacking the problems upstream would be both more efficient and more effective, but the pattern stubbornly persists. In the case at hand, we continue paying to put the homeless in hospital beds while not providing them with ordinary beds of their own.²²³

The provision of targeted, affordable, adequate health care services to people who beg and are homeless is likely to promote economic efficiency and equity, and contribute to the conditions necessary for individuals to fully participate in and contribute to the community.

I ‘Do Nothing’ or the *Laissez-Faire* Approach

An alternative public policy response to begging is to adopt a libertarian policy of nonintervention, pursuant to which neither the legislative nor the executive interfere in the governance or regulation of begging.

Although some commentators have suggested that the decriminalisation of begging would result in the streets becoming ‘awash with beggars’,²²⁴ this is not supported by the research undertaken for this article. The research discloses that: begging is generally a last resort activity engaged in by people who identify that they need to beg to survive (100 per cent); begging is considered to be degrading, demeaning, undignified, humiliating, and shameful (100 per cent); and begging is not generally lucrative, the average earning being in the order of \$5–20 per hour (94 per cent). In addition to these disincentives, people who beg

²²¹ See generally Eberle et al, *Causes and Effects*, above n 218, 16–22; Robert Rosenheck and Catherine Seibyl, ‘Homelessness, Health, Service Use and Related Costs’ (1998) 36 *Medical Care* 1256, 1257.

²²² Eberle et al, *Causes and Effects*, above n 218, 18, 20–2. See also Sharon Salit et al, above n 164, 1738–9; Rosenheck and Seibyl, above n 221, 1260, 1262; Peter Molyneux and John Palmer, *Towards a Strategy for Health and Housing: Cost Drivers and Blocks that Impact on the Public’s Health* (1998); Paul Starr, ‘The Homeless and the Public Household’ (1998) 338 *New England Journal of Medicine* 1761, 1761; Barbara Dickey et al, ‘Housing Costs for Adults who Are Mentally Ill and Formerly Homeless’ (1997) 24 *The Journal of Mental Health Administration* 291, 300–1.

²²³ Starr, above n 222, 1761. See also Department of Premier and Cabinet, Victoria, above n 105, 23.

²²⁴ See, eg, Wilkinson, above n 1, 3.

are highly susceptible to violence and assault, with 68 per cent of beggars in the United Kingdom reporting that they have been subject to violence or assault while begging.²²⁵

However, while a policy of nonintervention is unlikely to result in a radical increase in the incidence of begging, it is also unlikely to meet the public interest in reducing the incidence of begging. As discussed elsewhere in this article, begging is a complex and multifaceted issue with both individual and structural causes requiring a coordinated, joined up response that is both flexible and individualised but that also addresses systemic issues.

In addition to failing with respect to the public interest in reducing the incidence of begging, a policy of absolute nonintervention does not take into account or address the interests or values articulated by either the general public (who may have legitimate concerns about begging, whether those concerns relate to their own welfare or those of people who beg) or by people who beg.

None of the beggars surveyed for this article supported a policy of absolute nonintervention, with every respondent indicating that they would like to stop begging and supporting at least some form of social or economic intervention to achieve this. Support was particularly desired in the areas of access to housing (59 per cent) and income assistance (47 per cent). Surveys of public attitudes toward begging in Scotland disclose that, regardless of whether a person adopts passive, active or aggressive begging techniques, people tend to find begging encounters confronting and discomfiting and support some form of intervention — whether social, economic, or legal — to reduce the incidence of begging.²²⁶

A policy of absolute nonintervention would not be in the public interest or add public value. As Hopkins Burke argues, '[s]ome form of policing and regulation is essential for the benefit of all — beggars and the general public — alike.'²²⁷

VI CONCLUSION

There is a strong common public interest in reducing the incidence of begging in Melbourne; people who beg have an entitlement to social inclusion and an adequate standard of living and the general public has an entitlement to safe and amenable public places and cohesive communities. Public policy initiatives designed to reduce begging should also aim to promote the realisation of human rights. They should enhance public value by being holistic, fair, and non-discriminatory; participatory and empowering; and transparent and accountable.²²⁸ Zero tolerance and dispersal policing strategies are unlikely to reduce the incidence of begging without also targeting already disadvantaged and vulnerable people and contributing to a rise in alternative illegal income supplementation activities. Strategies that identify and holistically and sustainably address

²²⁵ Homeless Link, *Summary of Research Findings on Begging* (2000) <<http://www.homeless.org.uk/db/20001103133834/view?searchterm=none>>.

²²⁶ See generally Ian McIntosh and Angus Erskine, "I Feel Rotten. I Do, I Feel Rotten": Exploring the Begging Encounter' in Hartley Dean (ed), *Begging Questions: Street-Level Economic Activity and Social Policy Failure* (1999) 183, 192.

²²⁷ Hopkins Burke, above n 76, 221.

²²⁸ See generally Department of Premier and Cabinet, Victoria, above n 105, 24.

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underlying causes of begging are more likely to realise the public interest in reducing the incidence of begging in a framework that reflects and creates public value. They are also more likely to be cost efficient and effective.

Begging is a complex and multifaceted problem that is most often caused by multiple and interrelated individual and structural deprivations. There are clear causal and consequential correlations between begging, homelessness, poverty, mental illness, drug dependency, and inadequate access to housing, income and health support services. As a complex and multifaceted problem, begging requires a holistic, coordinated, inter-agency response that addresses both individual and structural issues.²²⁹ If the public interest in addressing the ‘problem of begging’ is to be realised, street level public policy responses and interventions that are flexible, responsive, individualised, and holistic need to be joined up and implemented with structural socio-economic reforms in the areas of housing, health, income support, and social inclusion.²³⁰

²²⁹ Catherine Kennedy and Suzanne Fitzpatrick, ‘Begging, Rough Sleeping and Social Exclusion: Implications for Social Policy’ (2001) 38 *Urban Studies* 2001, 2015; Coles and Craig, above n 65, 76.

²³⁰ See generally Hopkins Burke, above n 76, 232.