

## **SCOTTISH HOMELESSNESS POLICY: ADVANCING SOCIAL JUSTICE?**

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### **INTRODUCTION**

On 6 November 2003 the Centre on Housing Rights and Evictions (COHRE, an international human rights NGO) awarded the Housing Rights Protector Award to the Scottish Executive for its homelessness legislation in recognition of its contribution to protecting human rights and safeguarding human dignity. Leaving aside the muddling of the legislative roles of the Executive and the Scottish Parliament, the winning of such an award raises questions about whether either the proposers of the legislation, the Executive, or the disposers, the Parliament, deserve such an accolade. These questions are addressed in this paper. However, the Scottish Executive says that the aim of its legislation and the wider policy framework within which it sits is to further social justice. This social justice claim is therefore the main focus of the paper. At its heart is an elaboration of four criteria that might be adopted to judge whether policy in a field such as homelessness advances social justice.

The paper is based on published sources and on a series of interviews with members of the Homelessness Task Force, which played a central role in the development of the award-winning legislation. The paper proceeds by considering the links between homelessness, social (in)justice and human rights; evaluating Scottish homelessness policy against features that might be

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expected to characterise policy intended to contribute to social justice; and, finally, drawing conclusions in relation to the legislation's role in improving human rights and advancing social justice. Before tackling these issues, some context setting is necessary in relation to developments in recent homelessness policy.

### **HOMELESSNESS POLICY IN SCOTLAND**

The British treatment of homelessness in housing policy has some distinctive features that stem largely from the post-war development of a substantial stock of council housing up to 1980. This provided a ready-made route into housing for people who were 'roofless', although access was often denied until the Housing (Homeless Persons) Act 1977 provided a legal framework of access and other rights for certain homeless people (Robson and Poustie 1996). Guidance about implementation was provided in separate Codes of Guidance initially for England and Wales together and Scotland separately and now for the three separately (Office of the Deputy Prime Minister and Department of Health 2002; Welsh Assembly Government 2003; Scottish Office Development Department 1997). Under the terms of the 1977 Act, Scottish district councils as *housing* authorities were given responsibility for ensuring the rehousing of successful applicants. *Social work* was the responsibility of the regional tier of local government, thus creating a need for the co-ordination of services provided by different local authorities for homeless people. Scotland was belatedly included in the bill (Gibson 1979), which provided a common framework for Britain until the mid-1990s.

The 1977 right to rehousing was qualified in three ways, with reference to beneficiaries, locality and intention. First, families with children were the main beneficiaries and single people were generally excluded unless judged 'vulnerable'. Second, normally people were required to have a 'local connection'. And, third, applicants were judged as to whether there was culpability in their own homelessness – the 'intentionality' rule.

From the mid-1990s divergence between Scottish and English policy and legislation became apparent. The present policy development phase started in 1994 and resulted in a reduction in rights to accommodation for homeless people in England and Wales but not Scotland (Goodlad 2000). After the establishment of the Scottish Parliament in 1999, increases in the numbers of applications under the homelessness legislation reinforced ministers' views

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that action was required, despite there being much wrong with the way homelessness was measured (Pawson 2000). As the number of applications increased from 40,989 in 1996/1997 to 46,023 in 1999/2000 (Scottish Executive 2003a, p. 9), Parliamentary criticism of the rising level of reported homelessness became a factor in the discussions that led to a new policy initiative.

The homelessness policy associated with the human rights award has three significant features:

- New legal rights for homeless people and other provisions of the Housing (Scotland) Act 2001 and the Homelessness Etc. (Scotland) Act 2003;
- A new Code of Guidance, in draft at the time of writing, to be targeted at local authorities, the main implementation agencies (Scottish Executive 2003b);
- A sum of £127 million for spending in the years 2003/04 to 2005/06 on a range of policy and service developments.

The policy was developed by the Homelessness Task Force (HTF), a multi-sector group with membership mainly of individuals from agencies concerned with homelessness policy and service delivery: local government (2), housing associations (1), housing pressure groups including the Scottish Council for Single Homeless (SCSH) and Shelter (4), civil servants (2) and one academic. It was chaired initially by the deputy minister for communities who remained as convener when she became minister for social justice. Her successor in that role launched the final report. A purpose-designed research programme informed the review and helped to build consensus for change (Scottish Executive 2002a). The terms of reference were:

To review the causes and nature of homelessness in Scotland; to examine current practice in dealing with cases of homelessness; and to make recommendations on how homelessness in Scotland can best be prevented and, where it does occur, tackled effectively.  
(HTF 2002, p.1)

The 59 recommendations of the final report (HTF 2002) were all accepted by the Executive on publication, an outcome attributed by members of the HTF to the presence of the previous minister as convener. Relevant

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recommendations were written into the 2003 Bill, as had been the recommendations of the earlier report (HTF 2000) in relation to the Act of 2001.

The acts of 2001 and 2003 place the main responsibility for implementation onto Scotland's 32 single-tier local authorities. They must provide interim accommodation for roofless people while their application is considered and then ensure permanent accommodation is found. They are, however, expected to work in partnership with voluntary and statutory agencies, both in developing their homelessness strategies (Housing (Scotland) Act 2001) and in delivering them. The roles for the voluntary sector include housing associations as providers and other voluntary agencies as advice and support agencies.

The Homelessness Etc. (Scotland) Act 2003 is being implemented in three phases. The Act is intended to establish by 2012 a right to rehousing for everyone in Scotland, except asylum seekers awaiting a decision on refugee status. After 2012 local authorities will be free to judge 'intentionality' if they choose but a duty to provide 'last resort' accommodation will always apply.

The service developments include the 'rough sleepers initiative' (RSI), which has been extended beyond its initial three-year funding (1997-2000). Glasgow and Edinburgh have received the largest grants under this programme, for a variety of projects and new resettlement services, many providing intensive support for people with a history of street homelessness (Kennedy, Lynch and Goodlad 2001). The voluntary sector is playing a large part in these developments and other funds have been levered in, for example from the National Lottery. Funds have also been channelled to local authorities, for example to pay staffing costs and to fund improvements to accommodation. In addition, a hostel replacement programme for single homeless people in Glasgow (Glasgow Street Homelessness Review Team 2002), and a new procedure for collecting homelessness statistics are part of the programme.

From the start, the Executive saw these developments as furthering their social justice strategy (Scottish Executive 1999), having adopted that term to describe a policy agenda that had previously been expressed by the Scottish Office (1999) as concerned with social inclusion and by the UK government as concerned with social exclusion. The UK government prefers

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'Opportunity for All' as the title for its annual review of action to ameliorate social exclusion and reduce poverty (Department of Work and Pensions 2003). Progress in achieving policy objectives in Scotland is measured in an annual report which operationalises social justice through ten long-term targets covering four stages in the life cycle and 'communities', together with 29 more specific 'milestones'. These targets include defeating child poverty in Scotland 'within this generation' and the 29 'milestones' include two concerned with homelessness: to reduce 'the number of households, particularly families with children, living in temporary accommodation'; and to ensure that no one has to sleep rough (Scottish Executive 1999). The strategy is monitored annually (see Scottish Executive 2003c for the latest review).

This background raises some important questions about the homelessness policy and the way it is linked to the idea of social justice by the Scottish Executive. In particular, before assessing the policy for its contribution to social justice it is necessary to consider what 'social justice' means, whether the Executive's view that homelessness is a manifestation of social injustice is justified and whether aiming to advance social justice differs from aspiring to promote human rights.

### **SOCIAL JUSTICE, HUMAN RIGHTS AND CRITERIA FOR JUDGING POLICY**

What would a socially just homelessness policy look like? According to political philosophers, social justice provides a rationale for 'how the good and bad things in life should be distributed among the members of a human society' (Miller 1999, p. 1). Housing and homelessness potentially fall within the scope of this understanding of social justice since as a valued good, decent housing normally imparts shelter, status, identity, and the means for a stable life and homelessness broadly prevents such benefits. That homelessness can seem the least bad option available in certain circumstances does not negate the value placed on shelter and the idea of home. Whether homelessness arises from unjust distributions of 'bads' is, however, an open question. A substantial if contested literature asserts that unjust distributions of resources arise from one or both of two sources of injustice. These have their roots in material inequalities (Smith 1994) and in

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the low status and powerlessness that have their origins in cultural differences (Young 1990).

Inequalities in the distributions of material resources have been seen as the source of social injustice for many years (Rawls 1971). Inequalities of capital or money have been given particular attention, but other inequalities such as employment, education, health or locality can also feature in claims for attention (Smith 1994). A key feature of such structural inequalities is that they carry over to other spheres of life and these effects are seen as constituting social injustice (Walzer 1983). For example, child poverty is deplored not only for the present material and social deprivation it implies but also for the limitations it imposes on future life chances. The remedy is *distributional justice*.

There is evidence that such social injustice arises in relation to homelessness and poor housing. This is vividly illustrated in Glasgow where, until recently, an estimated 6,500 people were experiencing street homelessness every year. Many had complex needs, some of which are a consequence of homelessness, and others of which can be seen as part of the cause. Drug problems were common amongst young single homeless people (41%) and alcohol addiction problem amongst older homeless people (61%). About half had physical health problems and high levels of mental health problems were reported. Almost all were unemployed (Glasgow Street Homelessness Review Team 2002). It is no coincidence that this city has simultaneously the largest reported rate of homelessness in Scotland (Scottish Executive 2003a) and the most concentrated multiple deprivation in which over half of the wards are in the worst 10 per cent in Scotland (Noble et al 2003).

However, whether one-way causal relationships are involved in such statistical associations can be disputed. Qualitative and quantitative evidence reviewed by Fitzpatrick, Kemp and Klinker (2000) supports the argument that homelessness is implicated as both cause and consequence in other social disadvantages. Further, despite some data difficulties, a quantitative study conducted by Kemp, Lynch and Mackay to provide evidence to the HTF strengthened the case for saying that there are structural causes of homelessness. They conclude:

Unemployment, and to a lesser extent housing affordability and de-institutionalisation, appear to be powerful forces affecting the incidence of homelessness. ... Thus, while behavioural factors may be important in

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explaining individual cases ... structural trends do affect the aggregate level of homelessness. (2001, p. 4)

Behavioural factors may influence why any one individual becomes homeless, and these require specific interventions. However, structural factors determine the aggregate level of homelessness. An important consequence is that these structural problems – unemployment, poverty and so on – require a broad range of *non-housing* as well as housing interventions if they are to be remedied.

The view that low status and powerlessness are the source of social injustice is particularly associated with feminist political philosophy. Social injustice exists, it is argued, when cultural norms oppress certain groups within society: ‘a conception of justice should begin with the concepts of domination and oppression’ (Young 1990, p. 3). For example, some groups’ norms, values or practices may not be recognised or valued and the equal worth and status of people may be denied. This analysis has been extended to the ‘distinctive perspectives of ethnic, “racial”, and sexual minorities, as well as of gender difference’ (Fraser 2001, p. 21). The remedy for this ‘cultural’ injustice is ‘recognition’, participation and power (Lister 2000).

This approach to understanding social injustice has not been much applied to homelessness but research supports the notion that homelessness itself carries a stigma that affects access to and use of public and private services. Further, services for homeless people can be staffed by people with little understanding of homelessness and structured around the assumption that users will present challenging behaviour or be seeking to deceive (Fitzpatrick et al 2000; Cramer 2003). Homelessness is associated with social isolation and can be compounded by other forms of discrimination such as those based on gender, ethnicity and sexuality. For example, a woman speaking in a Women’s Aid refuge revealed her weakness against a violent husband: ‘If I went to my mother’s, he would only turn up there and shout abuse at her, I couldn’t put her through it. ... If he knew where we were, we’d get no peace’ (Fitzpatrick et al 2003. p. 35). A second woman showed how even family support can be absent in this situation: ‘... you try to hide a lot from your family. They judge you, or try to tell you what to do’ (p. 35).

Both of these sources of social injustice are apparent in the use of unjust principles or values in distributional processes (Miller 1999; Fraser 2001). The value or principle most commonly favoured as socially just is equality,

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in a number of possible forms (Sen 1992). Miller (1999), however, uses empirical (survey) data to argue that *desert* or *merit*, and *need* are also commonly seen as appropriate, for example, for job selection and social service delivery respectively. The 1977 legislation used the concept of merit to divide homeless people into two broad groups, those whose vulnerability or responsibility for dependents justified intervention by the local authority with whom the individual had a 'local connection' and those whose circumstances were judged to have no mitigating features. A key question is therefore whether the new policy requires that *socially just principles* be used in service delivery and housing allocation.

In summary, the argument so far suggests that a homelessness policy that advances social justice will have three features. First, it will recognise and try to tackle material disadvantage and in particular the way that structural disadvantages such as poverty, unemployment and poor housing conditions are implicated as cause and consequence in homelessness. Secondly, we need to ask whether policy acknowledges and tackles the lack of recognition, exclusion and powerlessness associated with homelessness. Third, a socially just homelessness policy must ensure that socially just principles such as need and equality are used in housing allocation and homelessness service delivery, rather than unjust principles such as nepotism and discrimination.

These three criteria require to be supplemented by a fourth criterion, which is necessary to assess any public policy, whether concerned with social justice or not. This criterion derives from literature on policy implementation (Hill and Hupe 2002). Public policy on homelessness must set down which institutions have *responsibility* for securing that homeless people receive what the policy entitles them to, and must provide the *resources* needed for implementation. If this is not done, the policy amounts to little more than rhetoric, on which consensus was easily achieved because no one considered the challenges and tensions of implementation. Implementation of such a complex policy by a multiplicity of agencies is likely to be fraught with difficulty at best (for example, Hogwood and Gunn 1984).

Before considering the policy against these four criteria, the relationship between a human rights and a social justice approach to policy-making should be considered. A human rights approach to housing is often traced to the UN Declaration of Human Rights 1948. This embodied all three of the types of rights described by Marshall (1950) as characterising modern

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democracies: civil, political and social rights. Article 25, part 1 can be seen (Dean 2004) as a classic statement of social rights:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

These social rights generally take the form within housing policy of measures that aim to ensure sufficient decent housing for all. Examples include rent allowances, rent control and subsidised non-profit provision of rented housing (Bengtsson 2001).

COHRE's award is specifically for the Scottish *legislation*, not the wider policy framework. This type of 'legalistic minimum right' is seen by Bengtsson (2001, p. 273) as characterising welfare systems that are little committed to social rights. However, COHRE appears to uphold a social rights approach, using the language of the UN declaration of 1948 and the subsequent elaboration by the UN Committee on Economic, Social and Cultural Rights (see <http://www.cohre.org/>).

This raises the question of whether the human rights approach is consistent with the view of social justice outlined above in which action is required to correct market *and bureaucratic* inequalities and injustices. The liberal emphasis in the account of social justice discussed here on how policy affects individuals, on principles and values, on recognition and respect is compatible with the human rights approach of COHRE. Indeed it overcomes one of the weaknesses of the social rights approach, which does not acknowledge that even when markets are abandoned in favour of direct provision of housing, bureaucratic methods of allocating housing do not always produce socially just outcomes. For example, the poorest and most disadvantaged people, including formerly homeless people, consistently end up in the worst housing and neighbourhoods, despite efforts by housing professionals to use 'need' as the basis for allocating social rented housing (Pawson and Kintrea 2002).

The creation of individual legal rights such as those for homeless people in Scotland can therefore be seen as a progressive acknowledgement that measures such as subsidy, Housing Benefit and direct provision of housing

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will not be sufficient to prevent homelessness arising. However, the legislation might alternatively be seen as creating second best rights that have their origins in the reversal of the post-war social rights approach, characterised by the sale of council housing under the Right to Buy. The next section aims to judge which interpretation is appropriate in this case – one that is compatible with social justice or one that fits the narrower, neo-liberal interpretation of human rights that Dean fears is in the ascendant, centred on the notion of ‘individual responsibility’ (2004, p. 14).

### **A SOCIALLY JUST POLICY?**

Judging the Scottish policy and legislation is challenging for three reasons. First, the timescale for implementation in this case means that any full evaluation must await the end of the planned implementation period in 2012. All that can be done now is provide some preliminary judgments. Second, the variety of disadvantages and sources of low status that are implicated in homelessness mean that an evaluation of homelessness policy alone is inadequate. But this paper has neither space nor evidence to provide the breadth of assessment of policy in relation to the multiple forms of disadvantage associated with homelessness and concentrates particularly on housing and homelessness policy. Finally, third, although this paper takes the view that the Scottish Executive is justified in seeing homelessness as broadly an indicator of social injustice, this view is not necessarily shared by all.

#### *Distributional justice*

The structural factors that determine the aggregate level of homelessness include housing itself. However, it is hard to assess whether Scottish housing policy since 1999 has given adequate attention to the supply of decent, affordable housing (Sim et al 2004). A target of 18,000 new and improved homes for social rent and low-cost home ownership by 2006 was set in the Partnership Agreement adopted by the Labour and Liberal Democrat Parties as the basis for the Executive’s work after the 2003 election and rural areas have been favoured most in this respect. However, critics have recently claimed this target is unlikely to be achieved (for example, SCSH 2004). Concern about accelerating prices as well as specific shortages in rural and some urban areas appears to have led the Scottish Executive to embark on a review of affordable housing requirements at the end of 2003 in consultation

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with interested parties such as local authorities. The review is examining requirements at both national and local levels, policy responses, and ways to achieve an improved and a better-targeted supply of affordable housing (Scottish Executive News Release 21/11/2003 and Communities Scotland News Release 25/3/2004).

An unexpected factor affecting housing supply is the homelessness policy itself, which is appearing to make homelessness more prevalent. In the first annual review of implementation, the Homelessness Monitoring Group summarised progress:

... in some cases rising homelessness applications, pressure on temporary accommodation, and an apparent increasing demand for support services have meant that local agencies have found it difficult to respond effectively. ... These trends have coincided with the implementation of the homelessness provisions of the Housing (Scotland) Act 2001 and it is our initial sense that the two are linked to the extent that latent demand for homelessness services, and related services such as those providing housing support, has been brought to the surface. (HMG 2004, p. 4)

Policies concerned with improving living conditions have been presented as important to social justice. The area-based Social Inclusion Partnerships (SIPS) are co-ordinating housing and other investments in deprived areas. Further, a programme for installing central heating and for related fuel poverty measures is in effect targeting housing in some of the most deprived areas, where these assets were least prevalent. Stock transfer is bringing additional resources especially to the two cities of Glasgow and Edinburgh. If Edinburgh's tenants agree to a proposed transfer, this will bring £300 million to supplement the £900 million already provided to write off Glasgow's housing debt at the transfer in 2003. While this element of the package does not buy new housing or improve old housing, it enables new capital to be secured and ensures that tenants' rents are in future not disproportionately devoted to servicing debt. In addition, the proposals for Edinburgh will include building 10,000 more affordable houses in the city. Given the scale of disrepair and dereliction in Glasgow, the disproportionate number of homeless people in the city and the legacy of the hostels, the resources devoted to the Glasgow stock transfer, SIPS, the hostel replacement programmes and other measures can be seen as addressing the scarcity of

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decent housing and living conditions in the city in a way that is relevant to social justice.

Scottish Executive policies in other fields are addressing forms of disadvantage that are implicated in homelessness. These include education, health, drug and alcohol misuse and domestic violence initiatives. This Scottish contribution is likely to be most successful if supported by action in London. Poverty and social exclusion have received greater attention there since 1997 than prior to that date, and attention has focussed on tackling child poverty and low pay through tax credits, the minimum wage, and various New Deals. However, some programmes likely to be of most value to homeless people are funded on a short term basis. For example, New Futures, a joint UK-Scottish Executive programme targeting New Deal support onto vulnerable groups such as homeless people, ends in 2005 unless a commitment to consider 'mainstreaming' produces a continuation (Scottish Executive 2003d). Evaluations of the impact of post-1997 UK policy on poverty are beginning to appear. One set of authors conclude that some progress has been made but that achieving the goal of halving child poverty by 2010 'will require substantially more redistribution to the poorest ... (while) Beyond child poverty, the task of ending poverty more generally remains to be tackled' (Sutherland et al 2003, p. 63; see also Darton and Strelitz 2003).

In summary, although progress with tackling housing and other forms of disadvantage associated with homelessness is at best slow, it can be concluded that the two levels of government have recognised structural factors associated with severe forms of social exclusion such as homelessness and have put in place some relevant goals and programmes. Unfortunately, many of the homeless people who find it hardest to resettle are single, childless, workless and least likely to be touched by Labour's emphasis at UK level on child poverty and work as the route to social inclusion. The steps taken by the Scottish Executive and UK governments within health, drug misuse, employment and housing programmes, for example, are relevant to these people's needs but are insufficient on present evidence to prevent homelessness occurring and recurring in future.

#### ***Recognition, participation and power***

The second question to be addressed is whether the Scottish homelessness policy recognises homeless people's needs, confers dignity and challenges

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low status and powerlessness. The policy developed by the HTF addresses these issues by targeting both specialist and 'mainstream' services for homeless people. The approach is summarised in the HTF's first, strategically placed, recommendation:

The objectives of increasing homeless people's control and extending their choices, and achieving the effective participation of people affected by homelessness in the development of future policy, practice and service delivery should be widely promoted and given practical effect in all activities directed at tackling homelessness. (HTF 2002)

A second recommendation on culture change urged service providers to ensure that they promote values, attitudes and behaviour that deliver responsive and personalised services. These recommendations have been promoted in guidance to local agencies, through training and through resources devoted to seminars and other events. But other promotional work on cultural change, such as Shelter's dedicated website ([www.chipscotland.org.uk/](http://www.chipscotland.org.uk/)) is funded entirely by the voluntary sector itself.

The scrutiny of local authorities' homelessness strategies is a rather weak method of monitoring culture change for two reasons. First, whether such change is taking place is not easily judged from documents such as homelessness strategies. And, secondly, local authorities are not necessarily well placed to assess this aspect of the role of the many agencies responsible for homelessness services in addition to themselves. The first monitoring report recognises that there is still a long way to go in securing 'movement from a gatekeeping regime to one which attempts to find positive solutions for each and every homeless household' (p. 4). While there are good examples of involvement in strategy development and in intentions for service delivery:

However, the essential contribution which can be provided to service development through the involvement of people affected by homelessness needs to be given widespread practical effect throughout all service organisations. (HMG 2004, pp.8-9)

Other relevant measures to address low status and powerlessness include the new statutory rights of access to housing, and a new statutory duty on local authorities to ensure housing advice is available. The Rough Sleepers Initiative has been trying to promote better services that show respect for the

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dignity and rights of homeless people (Kennedy et al 2001). The major Glasgow hostel replacement programme is another example, targeting some of Scotland's most stigmatised citizens. Staff training and development are also relevant here, as is the regulation of homelessness services and housing management by Communities Scotland. The health service, which sometimes has a poor reputation of inaccessibility for homeless people, is being asked to improve its approach and to work closely with housing and other agencies in doing so. A Health and Homelessness Co-ordinator appointed by the Scottish Executive has served on the HMG and has encouraged health boards to develop the Health and Homelessness Action Plans required by the Scottish Executive. Fourteen out of 15 health boards have complied and several have also introduced new services specifically for homeless people (HMG 2004).

Arguably the Scottish homelessness policy cannot be assessed without reference to the process through which it emerged. Were homeless people involved and did it acknowledge their powerlessness and oppression? Homeless people were not directly represented on the Homelessness Task Force, though some efforts were made to involve them (HTF 2002). Nor are they represented on the HMG. Who was represented on the Task Force made a difference. For example, it included a UK department, Work and Pensions, and five recommendations on the benefits system were included in the report's recommendations. These were discussed during a ministerial visit to London to ensure that DWP ministers were neither surprised to see their Department the subject of a Scottish Executive report nor opposed to the recommendations. Homeless people lack the organisational structures that would have allowed them to be similarly deferred to.

Policies in relation to the low status and powerlessness of homeless people would require to be complemented by similar policies targeted at people vulnerable to homelessness for reasons of poverty, gender and so on. Such policies have been pursued, for example, in relation to domestic violence, transitions to adulthood for young people with a history of care and area deprivation. But no systematic evidence of their efficacy is available and it is hard to see how such evidence could be gathered without a major research exercise.

In summary, homelessness policy acknowledges the lack of recognition, lack of participation and powerlessness that are associated with homelessness. In addition, it recognises that social isolation and forms of discrimination such as those based on gender can compound the disadvantage of homelessness.

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Policy therefore recognises that housing service providers and other agencies require to change if the disadvantage of homelessness is not to be compounded. But even the HTF was unable easily to involve homeless people in the development of policy. Further, the legacy of low status and powerlessness in the form of stigmatised services and poorly motivated workers is likely to take longer than ten years to overcome.

***Socially just principles*** The third criterion for judging whether policy promotes social justice is that distributional processes associated with it should demonstrate appropriate principles or values. It is an important feature of the Scottish policy that in most part it advocates need and equality not 'merit' as the basis for the new legal rights. The eventual elimination, by 2012, of two out of three of the 1977 qualifications to the right to rehousing is highly significant and possibly lies at the root of the human rights award. However, a major qualification is required to this assessment.

In the last phase of implementation, the Act provides that carrying out an 'intentionality' investigation should become a power rather than a duty. Those so found to be intentionally homeless would have a more difficult route to secure accommodation. The 2003 Act therefore contains the possible seeds of a practice that could label certain homeless people as undeserving and could at worst confine them to spend a significant period in 'last resort' accommodation. The attitudes of local authorities will become crucial in whether or not the socially just principles of need and equality will be applied to the resettlement of homeless people. The experience of the 1977 homelessness legislation is not encouraging. Research found that uniform enforcement of rights by all local authorities was not taking place in the 1980s and 1990s (Evans et al 1994).

A final qualification is that homelessness has been superseded in Parliamentary debates by 'anti-social behaviour', which occupied more space than any other issue in the manifestos of most political parties for the 2003 Scottish election. Some members of the HTF fear that the atmosphere engendered by the Antisocial Behaviour Etc. (Scotland) Bill, introduced in October 2003, will have the effect of subverting the homelessness legislation and will, for example, encourage social landlords to retain 'intentionality' judgements.

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### ***Responsibility and resources***

Fourth, it is necessary to ask whether the homelessness policy defines who is responsible for doing what and provides the necessary resources. Local authorities are given the key implementation role as strategic planners, service providers and monitors of the role of housing associations and other agencies. The HMG leads the process and monitors activity but the absence of a minister is felt by some members to have led to a loss of momentum by civil servants. The 2003 Act requires housing associations to play their part in providing access to housing, thus acknowledging the more diverse ownership of social rented housing. Local authorities also have a key role in managing the relationship with housing associations. Communities Scotland has a new role of regulating homelessness services as well as housing management services provided by both types of social landlord. Resources ear-marked for implementation by the Scottish Executive were achieved by programming the spending for future not present years at the same time as additional public resources were becoming available from the Treasury's spending review. The long timetable for implementation to 2012 might be seen positively as recognition of the scope, depth and breadth of change required. Alternatively it might be seen as postponing and hence diluting the pressure for cultural and organisational change.

Overall it is too soon to judge whether the resources are adequate. It is clear though that some desired outcomes are hard to secure. The 2002 social justice review reported: 'We have made funds available to the 15 local authorities making the highest use of unsuitable B&B accommodation to provide alternatives for homeless families' (Scottish Executive 2002b, p. 21). However, the numbers of households and families with children in B&B has increased, not declined, a trend attributed by the Monitoring Group to the greater visibility of homeless people after the 2001 and 2003 legislation:

Closely tied to the rising number of applications, and the new rights bestowed by legislation, ... there has been a sustained increase during 2002-03 in the numbers of households placed in temporary accommodation by local authorities under the legislation. The figures as at 30 September 2003 (6,141) show an increase of 31% over those for 30 September 2002 (4,704), although there are substantial variations between local authorities. (p. 18)

## **CONCLUSIONS**

This paper has argued that the Scottish Executive is justified in founding homelessness policy on the premise that homelessness is a symptom of and contributor to social injustice. A crucial feature of the policy is that the Executive defines the position of homeless people as being *unjust*. The remedy is seen as not humanitarian or charitable treatment, but entitlement to accommodation and support. As a result, strong legal rights were created that will in time abolish most of the judgemental elements of previous legislation. These rights certainly go far to justify the 'protecting human rights and safeguarding human dignity' accolade the policy has received. Further, although more time has to pass and more data has to be assembled before an authoritative judgement of the policy can be made, this preliminary assessment suggests that the policy speaks to all four of the criteria suggested as necessary if policy is to promote social justice as understood here: it seeks to tackle structural disadvantages that carry over from one sphere of life to another; it addresses low status and powerlessness; it mostly adopts 'socially just' values for allocating resources and services; and it defines responsibility and provides resources to implement the policy.

For each criterion, however, the conclusion that the policy will advance social justice has to be qualified. The inequalities of resources and power that make some people vulnerable to homelessness or the reduced life chances that are its consequence cannot be easily tackled. The limited role that any set of measures focussed on homelessness *per se* can play is clear and, as the analysis demonstrated, social injustice has multiple causes and consequences that reflect or affect many aspects of public policy and social relations. The present Scottish and UK governments have attempted to tackle several of these but arguably the measures are as yet insufficient. Paradoxically, some of the homelessness measures themselves have increased recognition of homelessness and therefore the measured incidence of it, and this needs to be acknowledged in any evaluation. Further, the possibility that local authorities will be able to continue to judge people to be intentionally homeless carries the danger that some notion of merit rather than need will be used as the basis for allocating secure housing. Overall, the problems the policy seeks to highlight and tackle are deeply embedded in structural inequalities and cultural conditions and any one policy cannot expect to overturn all the injustices involved.

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Finally, the Scottish homelessness policy reflects a particular understanding of a right to housing, which 'must be defined socially and understood against the background of a specific national context of housing provision' (Bengtsson 2001, p. 256). Implicit in the policy is an approach to human rights that incorporates social rights, given its emphasis on structural factors such as housing supply and poverty. However, the homelessness policy also reflects concern that in the restructuring of the welfare state of the last 20 years the most vulnerable have been left behind. The Scottish policy therefore acknowledges that measures such as subsidy and Housing Benefit are not sufficient to prevent homelessness arising. In addition the policy responds to weaknesses in bureaucratic delivery systems, so acknowledging that homelessness occurs even when the state takes control of housing. The policy can therefore be seen as simultaneously acknowledging the reduced scope of state action and direct housing provision but also as reflecting the liberal tradition that recognises that individuals may need rights against an unfair or insensitive state as much as a failing market.

Judging the policy from a social justice perspective has provided a complex and wide-ranging framework for revealing the challenge represented by the policy as well as for identifying its strengths and weaknesses. It has also shown that an interpretation of human rights that is compatible with social justice is superior to an approach that sees social rights alone as the route to social justice since the latter neglects the need for remedies focused on individuals as well as collective action. The challenges lie in the capacity and limitations of the Scottish Executive and other bodies to deliver the measures required to remedy this most intractable of social ills.

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