

THE LAW CLINIC AS A REGIONAL CENTER: LOOKING FOR SOLUTIONS TO RURAL SOUTHERN HOUSING PROBLEMS

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Poor housing is the most visible manifestation of the extreme rural poverty that typifies the southern state. Whole communities, renting and homeowner households alike, live in dilapidated, substandard dwellings often in isolated rural settings. For these communities, states and local funds for housing are scarce, and federal funds are often difficult to access. Because of the magnitude of the housing problem and the distinctive demographics, politics, history, and land tenure patterns of the region, there is a real need for an organization to study and analyze southern housing conditions, resources, and programs.

In January 1992, the University of Mississippi School of Law began a housing law clinic designed to bring law students and the private bar together to address housing issues in Mississippi and similarly situated southern states. This new clinic has two distinct purposes. First, it will offer representation to low-income tenants in three North Mississippi counties. Second, the clinic will act as a regional law study and assistance center serving several southern states including Alabama, Arkansas, and Mississippi. In this capacity, the clinic will respond to research requests from housing advocates and groups in the region, conduct independent housing studies and research projects, provide community education workshops on housing issues, and offer technical assistance to housing groups. The center will also convene groups

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from the southern states to identify common housing needs and issues and develop common strategies for addressing them.¹

Although the tenant representation aspect of the clinic is typical of many law school clinics in its structure, goals, and methods, the regional housing law study and assistance center is atypical. The idea of a regional center began as a response to a combination of factors common to rural southern states: the deplorable condition of low-income housing, the lack of laws protecting tenants and homeowners, the need for creative solutions designed specifically for the area, and the shortage of groups to undertake housing studies and projects. In regions where resources and advocates are so scarce, cooperation across state lines makes sense as an efficiency measure to avoid duplication of efforts.

This Article discusses the housing problems, the limited resources, and the legal environment that prompted development of this new type of clinic. It then outlines the clinic's organization and describes its initial operation.

I. HOUSING CONDITIONS

Shaw, Mississippi is a Delta town located on Highway 61 and Porter's Bayou in Bolivar County. It is typical of the pockets of poverty that dot the Delta countryside. White settlers came to farm the rich Delta soil in 1855, bringing slaves to clear the land obtained through United States patents. After the Civil War, freed slaves remained as laborers and sharecroppers. The town's primary activities relate to cotton farming and include two ginning companies, one elevator, and chemical and fertilizer companies. When cotton was king, the town was a prosperous farming community—at least for its minority of white residents.²

1. An initial informal survey revealed marked similarities in the three states in housing demographics, state laws related to housing, and current financial and human housing resources. Limiting operation to these three states initially does not indicate an intent to preclude later involvement with groups in other states. Other rural southern states, particularly Louisiana, probably share many of the concerns and problems outlined in this Article.

2. Max Bonner & Margie Hesson, *Community Assessment: A Survey of the Community of Shaw, Mississippi* 2 (1985) (unpublished manuscript, on file with the author). The divided town has been described as follows:

On the right side—predominantly white—Shaw was a fairly modernized and comfortable American town. The wrong side of the tracks—predominantly black—was an impoverished site of hard-core neglect, where streets were unpaved and unlit, water mains and fire hydrants lacking, and drainage and sanitary sewers non-

The town is known to civil rights lawyers as the defendant in *Hawkins v. Town of Shaw*,³ a 1971 Fifth Circuit case that challenged discriminatory provisions of municipal services. Judge Tuttle, reviewing the record, observed that black housing in Shaw was truly "the other side of the tracks."⁴ At that time, the town was almost totally segregated, with ninety-seven percent of its black residents living in areas where no whites lived.⁵ Ninety-seven percent of the homes on unpaved streets were black, and about the same percentage of all homes without sanitary sewers were black.⁶ The town's engineer, responsible for planning improvements, testified that he was not even familiar with street usage in the largest black neighborhood in Shaw, the Promised Land Addition.⁷

The civil rights movement has left its mark on Shaw. Since 1977, most of the city government has been black.⁸ It has not, however, changed the social fabric. Until five or six years ago, the Shady Nook Cafe operated on Main Street as one of the last openly "whites only" key club restaurants in the state. Black employees cooked for, but could not dine with, patrons in the little cafe plastered with autographed pictures of Miss America contestants. The town supports two schools: the Shaw public schools and the Bayou Academy⁹, an all-white institution formed when desegregation threatened to merge the

existent. In sum, the white section of Shaw fit the pattern of a middle-class rural town of the mid-twentieth century, while its black section resembled a typical poor town of the nineteenth century.

CHARLES M. HAAR & DANIEL W. FESSLER, *THE WRONG SIDE OF THE TRACKS* 12 (1986).

3. 437 F.2d 1286 (5th Cir. 1971).

4. *Id.* at 1287.

5. *Id.* at 1288.

6. *Id.*

7. *Id.* at 1288-1289. Judge Tuttle found that there was no evidence of malicious intent or bad faith in the town's failure to provide services, but held that actual discriminatory motive was not necessary for success in a civil rights suit under the Equal Protection clause. *Id.* at 1291-1292. The Fifth Circuit, sitting en banc, affirmed the decision, but modified this point. See *Hawkins v. Town of Shaw*, 461 F.2d 1171 (5th Cir. 1972).

8. A white mayor was elected in 1990. However, the city council is still predominantly black.

9. Today, seven percent of the Shaw public elementary schools are white. Interview with Reuben Watson, Superintendent of Schools, in Shaw, Mississippi (February 25, 1992).

segregated white and black schools.¹⁰

According to the 1980 census, the population of Shaw is 2,461, seventy-seven percent black, twenty-two percent white, and one percent "other."¹¹ The town is true to Bible Belt traditions, supporting thirteen churches — twelve Protestant and one Catholic. The median family income in Shaw is \$9,063, less than half the median for the country, placing sixty-seven percent of the families below the poverty level.¹² The housing reflects the poverty of its occupants. Of the 798 housing units in the city, sixty-one percent of the owner occupied units and an amazing eighty-seven percent of the rental units are substandard.¹³ Housing units for section 8 housing certificates cannot be found, even though certificates are available and landlords are anxious to rent under section 8 because of a guaranteed payment. There simply are not enough units that meet section 8 standards. Today the economic decline of cotton farming and the Delta region as a whole affects Shaw's entire population. Farm foreclosures are common. Main Street, which a decade ago boasted several restaurants, businesses, and offices now seems almost abandoned. Only a drug store, a pool hall, and a few bars remain.

The City of Shaw is typical. The squalor of its housing conditions is similar to that found in many towns across the south, where rural living patterns, extreme poverty, and housing conditions reminiscent of the 1930's are often inextricably tied to a history of racism and unequal treatment. These problems are more evident in Mississippi than in any other state.

Mississippi is a rural state consisting of small towns and farming communities. The capital city of Jackson, in the center of the state, has a population of only 407,000.¹⁴ The only other urban areas are DeSoto County in the extreme northern portion of the state, which accommodates the suburban sprawl from Memphis, Tennessee, and the Gulf Coast strip along the southern border of the state.¹⁵ More than two-

10. After the desegregation order, the public school board sold the white school to private school promoters for \$1. HAAR & FESSLER, *supra* note 2, at 12 n.2.

11. Bonner & Hesson, *supra* note 2, at 8-9.

12. *Id.* at 9.

13. *Id.* at 10.

14. 1989 MISSISSIPPI STATISTICAL ABSTRACT 41 (Mississippi State University 1989).

15. A DECENT HOME FOR EVERY MISSISSIPPIAN: THE REPORT OF THE HOUSING TASK FORCE, 55 (Dept. of Planning & Policy, State of Miss. 1988) [hereinafter HOUSING TASK FORCE REPORT]. (Included in definition of metropolitan statistical area).

thirds of the state's residents live outside the urban areas.¹⁶ Most of the state is sparsely populated; Mississippi has the second lowest population density — fifty-five persons per square mile — of any state east of the Mississippi River.¹⁷ Almost the entire western half of the state lies in the Delta basin, the valley of the Mississippi River.¹⁸ The state has the highest percentage of black residents in the nation, thirty-five percent, as compared with twelve percent nationally.¹⁹

Poor housing in Mississippi is a symptom of the widespread poverty that grips the state. Almost one-fourth of the population lived below the poverty level in 1987,²⁰ more than twice the national figure of eleven percent.²¹ A higher percentage of Mississippians received food stamps²² and Aid for Families with Dependent Children (AFDC) or SSI²³ than in any other state in the country.²⁴ Poverty is much more concentrated in the state's rural areas.²⁵ The Delta is a region which, ironically, includes "thousands of square miles of some of the country's richest natural resources and physical assets" and yet constitutes "the poorest region of the United States of America; where jobs are scarce and jobs skills training almost unknown, where infant mortality rates rival those in the Third World; . . . where good housing and health care are unattainable for many."²⁶ Tunica, Mississippi, in the heart of the

16. 1980 CENSUS OF POPULATION, CHARACTERISTICS OF POPULATION, GENERAL SOCIAL OF ECONOMIC CHARACTERISTICS, MISSISSIPPI, vol. 1, ch. C, part 26, table 72 (1980) [hereinafter 1980 Census].

17. See STATISTICAL ABSTRACT OF THE UNITED STATES 1990 21 (Department of Commerce, Bureau of the Census 1990) [hereinafter STATISTICAL ABSTRACT].

18. Forty-three rural counties are located in the Delta basin. THE INTERIM REPORT OF THE LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION app. at III, VIII (1989) [hereinafter INTERIM DELTA REPORT].

19. STATISTICAL ABSTRACT, *supra* note 17, at 26.

20. 1980 CENSUS, *supra* note 16, at table 72.

21. *Id.* at part 1, table 97.

22. 18.7% of the population received food stamps in 1987. STATISTICAL ABSTRACT, *supra* note 17, at xvi.

23. The state ranked first in the nation in percentage of persons receiving the two transfer payments, with 11.1% of its citizens receiving payments. *Id.*

24. In 1987, the per capita income of the state was \$9,716, only 66% of the national average. HOUSING TASK FORCE REPORT, *supra* note 15, at 6.

25. The state's metropolitan counties are DeSoto, near Memphis, Tennessee, Hinds, Rankin, and Madison, surrounding Jackson, the state capital, and Jackson, Hancock, and Harrison on the Gulf coast. Of the state's 911,374 households, well over two-thirds are in non-metropolitan areas. STATE OF MISSISSIPPI COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY 3-8 (1992) [hereinafter CHAS REPORT].

26. THE LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION: REALIZING

Delta, is the poorest county in the nation, with well over half of its citizens living in poverty.²⁷

Housing statistics mirror the statistics on poverty. Conditions in the state are much worse than conditions nationally. Poorer housing exists in rural than in urban areas, and poor housing is most prevalent in the Delta counties. Despite improvements in the state's housing over the last few decades,²⁸ Mississippi still has almost twice the national percentage of units that are overcrowded, lack plumbing, or are dilapidated.²⁹ The 1980 census indicated possible substandard conditions in twelve percent of the owner occupied units³⁰ and forty-five percent of the renter units³¹ across the state. Like many rural states, Mississippi has a high percentage of poverty-level homeowners, many of whom live in very poor housing.³² Of the state's below-poverty renter households, thirty-five percent lived in houses that were either overcrowded or lacked full plumbing.³³

In rural areas across the state, both owners and renters occupy housing that is inferior to the housing available to metropolitan residents. Overcrowded units are three times as common in non-metropolitan ar-

THE DREAM . . . FULFILLING THE POTENTIAL (May 14, 1990) [hereinafter DELTA COMMISSION REPORT]. The Delta includes almost all of the twenty-one counties in the state with a median family income of less than 80% of the state-wide median. See CHAS REPORT, *supra* note 25, Map 3.

27. The 1980 census report showed a poverty rate of 52.0% for Tunica. INTERIM DELTA REPORT, *supra* note 18, app. at XII.

28. The 1988 HOUSING TASK FORCE REPORT notes that overcrowding declined from 15% in 1970 to 8% in 1980. HOUSING TASK FORCE REPORT, *supra* note 15, at 3. The Mississippi Home Corporation reports that overcrowding further declined to 5.6% in 1990. CHAS REPORT, *supra* note 25, at 3. Owner-occupied units increased from 66% to 71% from 1970 to 1980. HOUSING TASK FORCE REPORT, *supra* note 15, at 3. That number remained constant in 1990. CHAS REPORT, *supra* note 25, at 3. Housing units lacking full plumbing were reduced from 24% of all units in 1970 to 8% in 1980. HOUSING TASK FORCE REPORT, *supra* note 15, at 3.

29. In 1980, 7% of units in the United States lacked full plumbing or were overcrowded. In Mississippi, half of the counties in the state had rates that were at twice as high or higher than the national rate. HOUSING TASK FORCE REPORT, *supra* note 15, at 5.

30. For owner occupied housing, the conditions measured were overcrowding, lack of full plumbing, and low value. CHAS REPORT, *supra* note 25, at 4.

31. The definition of "substandard" used here included overcrowding, lack of full plumbing, and payment of over 30% of income for rent. *Id.*

32. Fifty-five percent of the state's poverty level households own their own homes. HOUSING TASK FORCE REPORT, *supra* note 15, at 4.

33. CHAS REPORT, *supra* note 25, at 4.

eas.³⁴ Almost fourteen percent of owner units in rural areas had characteristics indicating substandard conditions, while only eight and one-half percent in metropolitan areas had these characteristics.³⁵ The Mississippi Home Corporation reports that eighty percent of the renter units that lack full plumbing are in rural areas or towns with populations of less than 2500 persons.³⁶

The rural western half of the state that is part of the Delta is a grim picture of "decaying shotgun houses and broken-down farmhouses."³⁷ The impoverished Delta is so marked by poor housing that dilapidated farm shacks have become a national symbol of the region. The value of Delta houses tells the story succinctly. Two-thirds of all homeowner units in the region are valued at under \$15,000; approximately one-fifth of them are not worth more than \$5,000.³⁸ Jacquelyn McCray, a consultant for the Delta Commission, estimates that over one-half of the rental units in the Delta are dilapidated beyond repair.³⁹

Much of the dilapidated Delta housing was initially built for farm laborers on cotton plantations at least half a century ago and was not designed to be "adequate" housing by today's standards. As mechanization reduced the number of laborers needed, many of the former farm workers, particularly older persons, remained as tenants. Many tenants of farm housing, including the non-employees, pay little or no rent for the units. According to the 1990 census, over twenty percent of rural renters in Mississippi pay no cash rent at all.⁴⁰ The median rent for the entire Delta region is forty-one dollars a month.⁴¹

Poverty and poor housing are problems for white Mississippians as well as black, but the impact varies by race. More black Mississippians are poor and their homes, whether owned or rented, are less habitable. The poverty of black Mississippians far exceeds that of whites statewide and in rural areas forty-seven percent of blacks live in poverty while only fifteen percent of whites fall below the poverty level.⁴² Par-

34. *Id.* at 5.

35. *Id.*

36. HOUSING TASK FORCE REPORT, *supra* note 15, at 4.

37. INTERIM REPORT, *supra* note 18, at 19.

38. DELTA COMMISSION REPORT, *supra* note 26, at 50.

39. *Id.* at 52.

40. CHAS REPORT, *supra* note 25, at 4.

41. DELTA COMMISSION REPORT, *supra* note 26, at 52.

42. The state's black residents are more concentrated in rural areas, particularly in the Delta. About 57.6% of the state's white residents lived in the 72 counties with

ticularly in the Delta, heavy concentrations of black residents coincide with a high incidence of poverty and substandard housing. Almost all of the Delta counties have a black population exceeding the 35.6 percent statewide figure.⁴³ With few exceptions, the Delta also includes the counties with the highest poverty levels in the state⁴⁴ and those with the highest indicators of substandard housing.⁴⁵ Of the twenty-three counties with over half of renter housing substandard, only three fall outside the Delta counties.⁴⁶ Black homeowners as well as renters suffer inadequate housing. The average value of a home owned by a white family is \$60,930; for a black family, the average value is \$38,182.⁴⁷ In Mississippi, as in most of the nation, housing continues to be segregated by race. A recent study found that, in order to achieve integrated living patterns, eighty percent of black residents would have to move.⁴⁸

The conditions described in this section are similar to those in adjacent states. Arkansas and Louisiana, together with Mississippi, form the greater part of the Mississippi Delta and are home to much of the region's poverty and poor housing. About one-half of the counties or parishes in each state lie within the region. Alabama is also characterized by severe rural poverty and whole communities that are poorly housed. These states share many national housing problems, but they also present unique problems requiring specifically tailored approaches to funding. The following section briefly explains problems presented by current levels of funding and organization and existing state laws.

under 60,000 residents. The same rural counties are home to 64.5% of the black population. Compilation of Data from 1990 Census (available at State Document's Depository, University of Mississippi).

43. CHAS REPORT, *supra* note 25, at Map 6.

44. There are twenty-one counties in the state where the median family income is less than 80% of the state median. *Id.* at Map 3.

45. A map showing the thirteen counties where over ten percent of all occupied units are overcrowded does not include a single county without a high concentration of black residents. *Id.* at Map 2.

46. *Id.* at Table 3.

47. CENTER FOR POPULATION STUDIES, CHARACTERISTICS OF HOUSING STUDIES, 1990.

48. See John P. Marcum et al., *Residential Segregation by Race in Mississippi*, 8 SOC. SPECTRUM 117-31 (1988).

II. HOUSING RESOURCES

A. Funding

While there is a proportionally greater need for housing assistance in Mississippi, proportionally fewer housing dollars are available to low-income residents in Mississippi than are available to low-income families in the rest of the country. In the last ten years, wealthier states and cities have begun to fill the gap left by staggering cuts in federal housing funds.⁴⁹ They have capitalized housing trust funds, raised taxes to support housing efforts, and appropriated general funds for development.⁵⁰ Mississippi provides no general state funds for housing programs, and given the current financial condition of the state, there is no reason to hope for an appropriation.⁵¹ The state does not even fund the operating costs of the Mississippi Home Corporation, the state agency established in 1989 to address low-income housing needs.⁵² Local governments in rural areas cannot realistically be expected to provide direct funding. Local governments are characterized by low-income and high unemployment, forcing them to operate from a low tax base. As a result, they often have difficulty providing the most basic services.⁵³

Federal funding is often difficult to access for states like Mississippi. The newly announced HOME program under the National Affordable Housing Act requires that states provide matching funds in order to access federal housing dollars.⁵⁴ This requirement may be difficult for a state government to meet. The inexperience of local governments, community groups, and eligible individuals about available funds is an additional limiting factor. They often fail to secure otherwise available federal funds because of lack of information, difficulty of access to application centers, or the lack of experience in planning and grant-writing.⁵⁵ In addition, the urban bias of most housing programs hinders rural states like Mississippi. Much of the national effort to subsidize

49. A DECENT PLACE TO LIVE: THE REPORT OF THE NATIONAL HOUSING TASK FORCE 5-13 (1988) [hereinafter NATIONAL REPORT].

50. *Id.*

51. Interview with Ben Mokry, Policy Division, Mississippi Home Corporation (February 20, 1992).

52. The agency staff of twelve operates the office from funds generated by the mortgage bond financing program. *Id.*

53. HOUSING TASK FORCE REPORT, *supra* note 15, at 20.

54. CHAS REPORT, *supra* note 25, at 26-27.

55. HOUSING TASK FORCE REPORT, *supra* note 15, at 24.

low-income rental housing, ownership, and development is based on an urban model that does not include strategies for dealing with rural barriers to development, such as lack of infrastructure, inadequate local lending, and lack of available land and housing.⁵⁶ The lack of adequate water and sewage systems⁵⁷ are a major impediment to development in many rural areas.⁵⁸ Even rural-oriented programs may fail to account for factors peculiar to southern rural housing, particularly in the Delta region.

The extreme poverty of both renters and homeowners, and the dilapidated condition of their existing housing excludes many persons from program eligibility for federal programs.⁵⁹ Private for-profit developers often have difficulty accessing federal funds. In 1986, for example, the federal government allocated Mississippi over three million dollars in low-income housing tax credits.⁶⁰ Mississippi only used seven hundred thousand, losing almost two and one-half million dollars available for housing development.⁶¹ Additional resources or lower development costs are essential to make such programs workable for extreme low-income communities.

Lack of local credit for low-income housing development is also a major barrier for Mississippians. In its 1990 report, the Delta Development Commission documented the capital flight from the Delta region, noting that loan to deposit ratios for Delta banks as a whole were lower than the national averages.⁶² The Commission recommended the encouragement of more aggressive local lending patterns, calculating that lending at the national average would give the region an additional three and one-half billion dollars a year.⁶³

In many states, the Community Reinvestment Act (CRA) has be-

56. Linda Kravitz & Art Collins, *Rural Housing in America: Problems and Solutions*, in CRITICAL PERSPECTIVES ON HOUSING 325-26 (Bratt, Hartman & Meyerson eds., 1986).

57. A 1982 Cornell University Study revealed that two-thirds of the rural households surveyed had unacceptable water because of the presence of at least one contaminant. *Id.* at 326.

58. *Id.* at 325; see also DELTA COMMISSION REPORT, *supra* note 25, at 92.

59. See Kravitz & Collins, *supra* note 56, at 326.

60. HOUSING TASK FORCE REPORT, *supra* note 15, at 43.

61. *Id.*

62. The national loan to deposit ratio was 79.5%, as compared to 73.6% for the Delta region as a whole. When urban areas were factored out, the difference was even greater. DELTA COMMISSION REPORT, *supra* note 26, at 110.

63. *Id.* at 111.

come a valuable lever for local groups attempting to gain access to local credit.⁶⁴ Monitoring lender receptiveness to community needs is more difficult in rural areas. Unlike urban banks, rural banks do not operate under the same CRA reporting requirements.⁶⁵ Nonetheless, CRA is at least a viable source of local income that could be tapped by community groups with monitoring capacity.

The challenge in the southern states is to learn to create and access sources of funding and to combine them in packages tailored to rural and particularly poor communities. Potential sources of state and local funding do exist but they must be carefully studied and packaged. For example, state and locally owned lands and tax foreclosed properties could be turned over to non-profits for development and rehabilitation, but Mississippi law prohibits the transfer of state-owned lands for less than fair market value. Recording fees or interest on escrow accounts could generate monies to a revolving loan fund. State foreclosure laws could be amended to permit redemption by non-profits or qualifying individuals. Proposals of this nature should be carefully analyzed to determine the potential amount of funds generated, the expense of the program, and to identify the group that ultimately bears the costs.

In addition to creating new funding sources, most southern housing organizations agree on the need to develop a detailed model for production of extreme low-income, rural housing. It should include a complete analysis of potential barriers, physical models for low-cost units, guidelines for realistic financial projections, and suggested packages of funding — in effect, a manual of extreme low-income development. A law clinic, working in conjunction with state agencies and housing organizations, is ideally suited to undertake some of these projects.

B. Housing Organizations

The most immediate need for housing assistance in the southern states may be the need to increase local capacity for housing development and provide technical assistance to existing organizations. There are very few community-based non-profit housing developers across the southern states. An informal survey revealed a handful of viable organizations in each state. Those organizations, many of which at-

64. *Id.* at 48. The Commission recommended expansion of CRA reporting requirements to require uniform reporting, and suggested that states publish annual CRA "report cards" rating lender performance. *Id.* at 48-49.

65. *Id.* at 48.

tended the November Housing Workshop at the University of Mississippi, have impressive service records in their communities. The Willow Non-Profit Housing Corporation in Alabama has a twenty-year record of service in which they have provided home ownership for three hundred low-income families through self-help and sweat equity development. The Coahoma Habitat for Humanity is literally rebuilding the Mississippi town of 350 persons. With funding assistance from national organizations and volunteer builders, Habitat and the families of Coahoma have now built homes for one-third of the residents. Unfortunately, such community-based groups are rare.

The absence in most areas of non-profit groups involved in housing issues is often fatal to local development of low-income housing. Without a local group to act as a catalyst, poor housing conditions may be viewed as just an unfortunate and unalterable by-product of poverty. To the extent that a decision is made to attempt low-income development, the targeted families frequently are lost in the shuffle when state and local agencies and for-profit developers plan without the assistance of a community based group. Perhaps most importantly, when housing efforts are not centered around a community-based organization that includes the potential beneficiaries of a program, they lose the opportunity for self-determination with respect to a vital aspect of their lives. How, where, and with whom one lives is a decision that should not be dictated in the name of assistance. The Sugar Ditch illustration in Part IV of this Article is a vivid example of what can happen in a well-intentioned effort that is not community-based.

There appears to be some consensus among housing providers and agencies that the role of the non-profit in low-income housing development is pivotal. The Delta Commission strongly recommended that funds be directed toward providing technical assistance for local planning efforts. The Mississippi Housing Task Force concluded that Mississippi differs from urban, more populated states in that its citizens are poorer and more dependent, there are a smaller number of local organizations to develop housing, and local governments are smaller, poorer, and less experienced in community development strategies. The report recommended as a priority that time and resources go into organizing and training community-based groups.⁶⁶ In addition to the need for assistance to emerging community groups, those groups with a

66. HOUSING TASK FORCE REPORT, *supra* note 15, at 24. The report stated that "these characteristics mean promoting housing investment in Mississippi will require a concentration or capacity-building over an extended period of time." *Id.*

long record of service have indicated a real need for technical assistance. Many of them operate on very limited budgets and cannot afford legal fees and other services.

The presence of a large number of strong groups across the southern states would not only affect local development, but state policy and funding as well. In the past, there have been no active state-wide housing coalitions in most of the southern states. This is undoubtedly part of the reason that legislative reform efforts described in the next section have been unsuccessful.

A law clinic could provide assistance to such groups in a number of ways. It could organize seminars in local communities, prepare materials for local groups, and research specific issues. The University of Mississippi clinic plans to work with the Young Lawyers Section State-wide Housing Committee to provide technical assistance to community groups.

C. *Legal Resources*

Fair housing and landlord-tenant laws that provide habitability requirements and protect tenants from landlord retaliation are two common tools for improving housing conditions across the nation. In the southern states, these legal protections for tenants and homeowners are almost nonexistent. While other states have developed a wide range of protective provisions, Mississippi, Alabama, and Arkansas have adhered to common-law property doctrines. Until last year, these states represented three of four states in the entire country where landlords had no general duty to repair.⁶⁷ In 1991, the Mississippi Legislature passed a landlord-tenant bill after a fourteen year struggle by a handful of legislators and tenants' rights advocates.⁶⁸ The bill, a very modest victory for tenants, obligates landlords to repair whatever worked at the outset of the lease and to comply with any applicable building or

67. See *Murphy v. Hendrix*, 500 So. 2d 88 (Ala. 1986) (stating that a landlord covenant to repair will not be implied under any circumstances); *Chambers v. Buettner*, 321 So. 2d 650, 653 (Ala. 1975) (noting that absent a covenant in the lease to repair, a landlord is only liable for latent defects which are known to him at the time of the leasing and concealed from the tenant); *Hurst v. Feild*, 661 S.W.2d 393, 394 (Ark. 1983) ("Unless a landlord agrees with his tenant to repair the leased premises, he cannot, in the absence of a statute, be held liable for repairs."); *Hefferin v. Scott Realty Co.*, 254 P.2d 194, 197 (Wyo. 1953) (stating that there is no implied covenant that a lessor will make repairs to damaged premises during the lease term, even if the premises are in a dangerous condition).

68. MISS. CODE ANN. § 89-8-1-27 (1991).

housing codes. The bill's effectiveness is limited. Although some towns in Mississippi have adopted the Standard Housing Code,⁶⁹ much of the state is not covered by housing codes at all, excluding many tenants from the act's general warranty provision.

There appears to be a deep-rooted suspicion of tenant's rights legislation. In states where property rights have almost religious overtones, such legislation is often seen as an attack on the landlord's sacred rights of ownership.⁷⁰ Arkansas takes this attitude to an unparalleled extreme. In Arkansas, it is a crime to fail to pay rent on time.⁷¹ A tenant whose rent is in arrears forfeits the right to continued occupancy and can be convicted for a separate criminal offense that carries a twenty-five dollar fine for each day that the tenant remains.⁷² In 1989, the Arkansas Supreme Court upheld the statute as a legitimate exercise of the state's police power.⁷³

Reluctance to follow national trends in housing law protections is not limited to the state legislatures. In the last several years, both the Arkansas and Alabama Supreme Courts have refused to impose a judicial warranty of habitability.⁷⁴ The courts exhibit a similar reluctance to override other common law rules that many states have discarded as unfair in modern rentals. For example, landlords in Mississippi and Alabama are still permitted to evict tenants through self-help lockouts so long as the landlord has taken the simple precaution of reserving the right in the lease.⁷⁵ In states where a fear of retaliation from landown-

69. SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL, INC., STANDARD HOUSING CODE (1988).

70. During a committee hearing on the landlord-tenant bill several years ago, one of the Mississippi state legislators declared "[i]f we start passing bills like this, we're going to be looking at rent control and socializing the state." Dan Davis, *Renters' Rights Bill Clears Committee*, CLARION-LEDGER (Jackson, Miss.), Mar. 3, 1988, at 48.

71. ARK. CODE ANN. § 18-16-101 (Michie 1987).

72. *Id.* Tenants are understandably reluctant to contest a case even when they have a valid defense. The possibility of criminal fines accruing daily while the case is contested is too daunting for most renters. The state apparently has foregone the Dickensian practice of debtor's prison and instead imposes fines.

73. *See* Duhon v. State, 774 S.W.2d 830, 835 (Ark. 1989); *see also* Poole v. State, 428 S.W.2d 628, 630 (Ark. 1968).

74. *See* Johnson v. Passmore, 581 So. 2d 830, 832 (Ala. 1991) (stating that covenants to repair generally will not be implied, and the burden is on the tenant alleging the existence of such covenant to prove its existence); Stalter v. Akers, 798 S.W.2d 428, 430 (Ark. 1990) (noting that absent a statute, a landlord has no duty to repair unless he agrees to do so).

75. *See, e.g.,* Moriarty v. Dziak, 435 So. 2d 35, 37 (Ala. 1983). *See also* Stallworth v. Continental Real Estate Management, Inc., 582 So. 2d 534, 537 (Ala. 1991) (stating

ers may be strong,⁷⁶ the existence of the self-help remedy places tenants at a significant disadvantage in confrontations with landlords. Application of principles of contract law to leases is the trend in the rest of the country; however, all three states permit landlords, upon tenant abandonment, to leave the property vacant, make no attempt to relet, and then hold the tenant liable for the entire remainder of the term.⁷⁷

In addition, Mississippi and its neighbors are out of sync with the rest of the country on many protective housing laws. Reform is necessary, but may require approaches and solutions different from those used in urban states with different housing problems. For example, an urban analysis of the warranty of habitability does not fit a large portion of rural rental housing. For some low-income renters — those who pay excessive or market rate rent for poor housing — the warranty of habitability can provide a useful remedy.⁷⁸ Unfortunately, the warranty will be of little use to many extreme low-income renters in rural areas. According to the 1990 census, almost twenty percent of the renters in rural Mississippi pay no cash rent at all. Many of these tenants are farm workers or former farm workers living in barely habitable houses.

Owners who are forced to weatherize, plumb, heat, and repair tenant

that temporary possession of a tenant's property, as incident of lawful re-entry, is not a conversion); *Kenamer Shopping Center, Inc. v. Bi-Low Foods, Inc.*, 571 So. 2d 299, 300 (Ala. 1990) (noting that the non-payment of rent does not permit re-entry by a landlord unless the right is reserved by the lease). The Arkansas Supreme Court has held that the forcible entry and detainer action precludes self-help eviction. See Renée S. Dale, Note, *Landlord-Tenant—Forcible Entry and Detainer—Statutory Prohibition of Landlord Self-Help Remedies*. *Gorman v. Ratliff*, 289 Ark. 332, 712 S.W.2d 888 (1986), 9 U. ARK. LITTLE ROCK L.J. 683 (1987). Of course, landlords have no need of self-help eviction where the local prosecutor does the job for them.

76. Participants in the November housing workshop agreed that rural and small town low-income persons often are very concerned about retaliation because of the lack of anonymity characteristic of small towns and rural communities.

77. See *Crestline Center v. Hinton*, 567 So. 2d 393, 396 (Ala. Civ. App. 1990) (stating that the lessor need not compromise and settle for less rent to mitigate damages); *Ryals v. Laney*, 338 So. 2d 413, 415 (Ala. Civ. App. 1976) (“[T]he lessor is under no duty to relet vacant premises.”).

78. See *Duncan Kennedy, The Effect of the Warranty of Habitability on Low Income Housing: “Milking” and Class Violence*, 15 FLA. ST. U. L. REV. 485, 499 (1987); Charles J. Meyers, *The Covenant of Habitability and the American Law Institute*, 27 STAN. L. REV. 879, 889-93 (1975) (noting if a landlord upgrades without raising the rent, warranty reduces the funds available for maintenance and therefore, shortens building life).

houses, will either begin charging rent to cover the costs or terminate the occupancy. The latter is more likely; there is no economic incentive to repair and continue renting. Landlords are certainly aware that most potential renters for this housing are too poor to be a good source of rental payments without deep subsidy. There is no reason to preserve the stock, because it has little or no residual value. In fact, the costs of bringing a house up to code standards may exceed the value of the house itself. Given that choice, the owners will simply let the housing fall or will destroy it.

Use of fair housing protections must also be tailored to specific barriers to enforcement in rural communities. At a November conference of southern housing issues, there was considerable agreement that rural low-income persons are extremely reluctant to assert fair housing act violations. This is partly because of the absence of supportive fair housing groups as well as the fear of retaliation. Given the intricate network of relationships in rural communities and small towns, complainants fear not only landlord or seller reprisal, but retaliation from employers, creditors, welfare offices, and police departments connected with the defendant. In addition, national approaches to testing may be difficult in small towns where strangers are highly visible, application processes non-uniform and informal, and where potential applicants may be asked a range of fairly unpredictable questions. Finally, it has been suggested that southern juries are so unreceptive to fair housing cases that their participation results in jury nullification of the existing law.⁷⁹

III. AN AMERICAN ETHIOPIA: THE CASE FOR DEVELOPING SOLUTIONS

In 1985, Jesse Jackson led national reporters on a tour of "American Ethiopia," bringing Sugar Ditch, a community located in Tunica, Mississippi, from a half-century of obscurity to instant notoriety.⁸⁰ As a result, the entire nation saw the community⁸¹ as an example of third world living conditions in a county that boasted the highest per capita

79. John T. Relman, *Overcoming Obstacles to Federal Fair Enforcement in the South: A Case Study in Jury Nullification*, MISS. L.J. (forthcoming 1992)(manuscript on file with author).

80. Clay Hathorn, *Exit Open to Half at Tunica Slum*, COMMERCIAL APPEAL (Memphis, Tenn.), Oct. 4, 1988, at A1.

81. Reed Branson, *21 Sugar Ditch Families Must Wait for New Housing*, CLARION-LEDGER (Jackson, Miss.), Oct. 17, 1988, at A1.

number of millionaires in the country.⁸² The only black neighborhood in Tunica, Sugar Ditch, was established in the 1930's when families left increasingly mechanized plantations or were brought to the Ditch by wealthy families to work as domestics in Tunica.⁸³ The neighborhood of ninety-six families⁸⁴ took its name from an open ditch that ran through the community. The Ditch ran with raw sewage because many tenants lacked toilets and "all either flushed or carried their waste into the stagnant ditch just yards away."⁸⁵ Many houses did not have hot water, bathtubs, or toilets. For most families, a hot plate provided the only kitchen for most families and a small wood-burning stove or electric heater was the only heat source.⁸⁶ The Ditch was located in a flood plain⁸⁷ and flooding was a fact of life in the community.⁸⁸

In late 1984, a citizen filed a complaint against the City of Tunica with the Office of Revenue Sharing (ORS), alleging the town's failure to provide black residents with water and sewer facilities.⁸⁹ The ORS ordered Tunica to enforce city ordinances and require Sugar Ditch landlords to install toilet facilities. The ORS rejected the town's explanation that enforcement would cause eviction and abandonment or would result in rental increases that the residents could not pay.⁹⁰ Tunica was told to "encourage" owners to comply with the order rather than evict tenants and to ensure that owners who elected to demolish

82. Thirty-five of the county's less than 10,000 residents are reportedly millionaires. See GEMMA BECKWITH ET AL., *BEYOND THE PORCHES* 6 (1988).

83. *Id.* at 6-7. Of the 18 families intensively interviewed in the study, 83.3% worked on cotton farms the first 15 years of their lives. *Id.* at 20, Table 7. Of the 49 families interviewed in a more limited study, 65.2% had worked on farms or as domestic workers. *Id.* at 19, Table 6.

84. *Id.* at 6. The area once included over 500 families along a two-mile strip. *Id.*

85. Jason DeParle, *The Shacks Disappear, but the Poverty Lives On*, N.Y. TIMES, March 10, 1991, at 20. See Attachment to Letter from Michael F. Hill, Office of Revenue Sharing, to Mayor Richard Sands 3 (March 6, 1985) [hereinafter Hill Letter] (on file with the author).

86. BECKWITH, *supra* note 82, at 30.

87. The abundance of flood plain land is a serious impediment to housing development in Mississippi. Much of the state's low income housing is located in flood plains and most federal programs will not operate in flood-prone areas. See DELTA COMMISSION REPORT, *supra* note 26, at 92.

88. In fact, flooding was one of the primary complaints of Ditch residents. BECKWITH, *supra* note 82, at 29-30.

89. Hill Letter, *supra* note 85.

90. *Id.*

units cleaned the lots.⁹¹

The combination of national media attention and the ORS ruling prompted state, local, and federal officials to act. A plan was devised to use Community Development Block Grant funds to purchase and raze the dilapidated houses, temporarily moving the residents into mobile homes. The Farmers Home Administration provided a three and a half million dollar loan to build an eighty unit subsidized rental apartment complex and a forty unit complex.⁹² No land could be found for sale for that purpose within the city limits, and the city government stated that it would not annex land outside of town when the housing was built. The United Voters' League of Tunica objected, stating that the razing of Sugar Ditch effectively displaced almost the entire black population of the town, leaving Tunica an all-white municipality in a black majority county.

The controversy over annexation prompted the Mississippi Civil Rights Commission hearings. Testimony at the hearing showed an incredible disparity in housing conditions of blacks and whites,⁹³ and a history of city exclusion of black neighborhoods.⁹⁴ It also revealed a fairly consistent disinclination to assist the town's ill-housed black citizens. Although the town had never applied for funds for low-income housing, it had received a \$500,000 block grant to restore Main Street, one hundred yards from Sugar Ditch, and \$750,000 to build a second

91. *Id.*

92. *See* Branson, *supra* note 81.

93. Mary Dixon, *Sugar Ditch Relocation Plan Draws Fire*, CLARION LEDGER (Jackson, Miss.), Dec. 17, 1985, at 1B. *See also* Letter from author to Louis Westerfield, Chairman, Mississippi Civil Rights Commission (December 17, 1985) [hereinafter Bell Letter] (on file with author).

94. Bell Letter, *supra* note 93.

In Tunica County, 48% of black renters lived in units that lacked complete plumbing; 33% in units with no plumbing at all. In comparison, only 4% of white families lived in rental units lacking complete plumbing, and only 1.7% have no plumbing at all. Within the town of Tunica, less than 1% of the white rental households lack complete plumbing, compared to 33% of black households. Statistics regarding overcrowding equally demonstrate the disparity between living conditions for black and white persons. In the city of Tunica, 83% of black families occupy housing with more than one person per room, while only 17.5% of white families live with more than one person per room. In the county, only 3% of the white families live in housing with more than one person per room as compared with 29% of black families. Census data also shows that 31% of black households in the county lack complete kitchen facilities; 68.7% lack air-conditioning, and a substantial number lack adequate heating facilities.

Id. at 1.

airport.⁹⁵

When the new housing was eventually built (outside the city limits), former Sugar Ditch residents received another shock. Half of the forty-four Sugar Ditch households were rejected admission to the new complex.⁹⁶ The private management company and Farmers' Home Administration denied that any commitment was ever made to house all the Ditch families, and insisted that preferential treatment would violate FMHA regulations which require tenant selection on a first-come, first-serve basis. They refused to waive the regulations.⁹⁷ Five years and three million dollars later, with visits from Jesse Jackson and the Sixty Minutes News team notwithstanding, many of the Sugar Ditch residents still live in the "temporary" trailers.⁹⁸

The story of Sugar Ditch is a sad illustration of the convergence of factors discussed above. It was a top-down plan to assist an extreme low-income community, housed very cheaply in shacks that could not be made habitable. Enforcement of city codes was no solution — even if repair was possible, the residents, most of whom lived on transfer payments,⁹⁹ could not have paid the accompanying increases. Because there was no community group involved in the development effort, the low-income community had little input into the process. Others engineered the design¹⁰⁰ and placement of the housing.¹⁰¹ The project chosen could not have housed many of the residents even if they had applied first, because it did not include units large enough to house

95. *Id.* A Tunica landowner interviewed by an Atlanta Constitution reporter noted that a number of planters had private planes at the airport which was built with federal money. He added, however, that "the poor profit from the airport as well; their children skate on the runway." Jim Auchmutey, *Tunica: Poorest County in America*, ATLANTA CONST., June 26, 1984.

96. Many of the residents had been packed for the move for over a year, waiting as the opening date was continually delayed. BECKWITH, *supra* note 82, at 33-34.

97. Clay Hathorn, *Sugar Ditch Deal Disputed; 21 Families Left in a Bind*, COMMERCIAL APPEAL (Memphis, Tenn.), Oct. 5, 1988, at A1.

98. HOUSING TASK FORCE REPORT, *supra* note 15.

99. In 1979, 50% of the county's black residents lived on less than \$5000 a year. Another 25% lived on between \$5000 and \$7500. Bell Letter, *supra* note 93, at 1.

100. Apartment style or row-house buildings are often foreign to rural families. See BECKWITH, *supra* note 82, at 10.

101. The primary characteristic of Sugar Ditch that its residents thought was positive was the proximity to stores, church, cafes, and employment opportunities. *Id.* at 28. Of the group intensively interviewed, 44.4% were not sure they wanted to move but felt that they were being forced. *Id.* at 31.

large families.¹⁰²

IV. LOOKING FOR SOLUTIONS

In some respects, the housing problems of Mississippians mirror those facing the rest of the country. Across the nation, housing has become a symbol of the widening gap between those who have and those who do not.¹⁰³ The 1988 National Housing Task Force Report description of national housing conditions reads much like the pages from the Mississippi Housing Task Force Report.¹⁰⁴ Urban low-income housing is often deteriorated and located in unsafe neighborhoods.¹⁰⁵ Low- and moderate-income renters spend an excessive amount of their income on rent¹⁰⁶ and see little prospect of being able to purchase their own homes.¹⁰⁷ Those who do own their own homes cannot afford to maintain them.¹⁰⁸ In Mississippi, as in the rest of the country, the number of homeless people is increasing¹⁰⁹ and special

102. See Hathorn, *supra* note 80.

103. See CRITICAL PERSPECTIVES ON HOUSING xi (Bratt, Hartman & Meyerson eds., 1986).

104. Both reflect the worsening situation as to low-income renters, would-be homeowners, and the homeless. See generally NATIONAL REPORT, *supra* note 49, at 5-13; HOUSING TASK FORCE REPORT, *supra* note 15; CHAS REPORT, *supra* note 25, at 3-8.

105. New low-income units are sometimes placed in areas where there are already many such units, which can make it difficult to attract or retain stable low-income tenants. CHAS REPORT, *supra* note 25, at 13. One study labeled the situation around urban neighborhood housing projects as "domestic terrorism" due to the gangs, drugs, weapons, and violence. NATIONAL REPORT, *supra* note 49, at 14.

106. According to the 1980 census, over 41% of the state's renters paid more than 25% of their income for rent. HOUSING TASK FORCE REPORT, *supra* note 15, at 6. Nationally, in 1983 half of the country's low-income renters were paying more than half of their income for rent. NATIONAL REPORT, *supra* note 49, at 9.

107. 1980 to 1985 saw a steady deterioration throughout the nation of the ability of middle to low-income people to purchase their own home. NATIONAL REPORT, *supra* note 49, at 10-12. In 1991, it was estimated that 63% of Mississippi's renter households could not afford to buy a home at the state's median home value of \$45,000. CHAS REPORT, *supra* note 25, at 3-4.

108. In Mississippi in 1980, 23% of all households earned incomes below the poverty level. *Id.* at 5. Remarkably, 55% of those below-poverty households owned their own homes, but 20% of those units lacked full plumbing or were overcrowded. *Id.*

109. The homeless population of Mississippi has greatly increased over the last ten years. In addition, there are large numbers of "hidden homeless" in the state, those living doubled and tripled up with friends or relatives, a fact reflected in the statistics on overcrowded units in the state. *Id.* at 6. Nationally, statistics on the numbers of homeless are disputed, but there is no disagreement that they are growing. NATIONAL REPORT, *supra* note 49, at 13.

needs populations such as the elderly,¹¹⁰ handicapped,¹¹¹ and those with AIDS¹¹² present unique housing problems which must be addressed. Minorities and female-headed households as a group face more critical housing problems than the rest of the population.¹¹³ Housing remains a divider of races as well. After two decades of fair housing enforcement, racial segregation persists in all parts of the nation.¹¹⁴ These are problems of national scope, and a wide range of groups are attempting to analyze them and develop proposed solutions.

110. Currently in Mississippi, elderly citizens comprise one-quarter of the state's households and almost 10% of these households lacked complete plumbing. CHAS REPORT, *supra* note 25, at 7. Elderly citizens tend to face problems due to fixed income, high medical expenses, and the need for assistance in routine household maintenance. *Id.*

111. Mississippi has an acute lack of proper housing for mentally handicapped individuals. *Id.* at 8. One report has concluded that Mississippi housing programs for seriously mentally ill persons "are among the worst in the nation." *Id.* (quoting CARE OF THE SERIOUSLY MENTALLY ILL: A RATING OF STATE PROGRAMS, A JOINT PUBLICATION OF PUBLIC CITIZEN HEALTH RESEARCH GROUP AND NATIONAL ALLIANCE FOR THE MENTALLY ILL (1990)). The state, like the nation, has in recent years escalated its efforts to provide housing for the physically handicapped. *Id.*

112. Due to the debilitating nature of the disease, many people with AIDS prefer living in a group setting with adequate medical care. CHAS REPORT, *supra* note 25, at 9. Even with the rising number of AIDS cases in Mississippi and the nation, by January 1991 there were only two group homes in the state that could accommodate the more than 650 people identified with AIDS. *Id.* at 8-9.

113. For example, in 1980 the percentage of female headed households under the poverty level for the country was 29.6% and for the lower Mississippi River Delta region, to which approximately one-half of Mississippi's counties belong, was 41.6%, while the national and Delta overall family poverty rates were 9.5% and 12.4%, respectively. INTERIM DELTA REPORT, *supra* note 18, app. at XII.

114. See THE FAIR HOUSING ACT AFTER TWENTY YEARS 38-39 (Robert G. Schwemm ed., 1988). Robert Schwemm remarked that:

If the United States has been officially committed to providing for fair housing for the past twenty years, why is segregated housing still the prevailing norm throughout our nation? Why does discrimination still regularly occur when minority home seekers venture into white areas? Why are the opportunities for living in stable, integrated neighborhoods only marginally better than they were a generation ago, in the days of Lyndon Johnson, Everett McKinley Dirksen, and Martin Luther King, Jr.? In short, why has the Fair Housing Act accomplished so little?

The situation is no different in Mississippi. A 1988 study by University of Mississippi professors revealed that in fifty percent of the state's communities, residential segregation could be achieved only if 80% of the communities' black residents moved. Marcum, *supra* note 48, at 117-31. The authors of the study found that segregation was affected by income differences, with a higher level of segregation in areas with a larger income gap between the races. *Id.* at 117. They also found that, while segregation was wide-spread across the state, it was greater in the Delta and Piney Woods regions and lower on the Gulf Coast. *Id.*

However, housing needs in Mississippi and its similarly situated sister states¹¹⁵ cannot be addressed simply by a stepped-up effort to apply existing national solutions that are inappropriate for rural, southern, low-income housing. A program serious about addressing housing needs of low-income Mississippians cannot ignore certain factors illustrated in section I or fail to consider their implications.

First, poverty and poor housing are much more widespread in Mississippi than in most of the country. As a result, higher levels of funding are needed statewide and assisted households need deeper subsidies or very low-cost housing.

Second, the great majority of poor and poorly housed persons are in rural rather than urban areas. Programs designed specifically to remedy infrastructure deficiencies are a necessary supplement to actual housing development.

Third, much of the existing housing stock, both rental and owner occupied, was not built to be more than barely habitable farm tenant housing, and much of the housing is currently beyond reclamation. It is necessary to develop means for identifying, rehabilitating, and reclaiming housing particularly when it is owner-occupied. Models for very low-cost production of units suitable for rural settings must be available to replace those that are past repair.

Fourth, much of the existing rural housing stock is located on farms. Most of the tenants are below the poverty level and many of the tenants pay no cash rent at all. Under these circumstances, traditional tenants' rights efforts associated with improving quality are useless.

Finally, there are almost as many low-income homeowners as renters and their housing is almost as bad. Simply making federal dollars available for construction of multi-unit housing, for assisting tenants to rent standard units, or for moderate-income families to purchase homes, will not do anything for the serious problems outlined above. The particular history, geography, population, politics, and land tenure patterns of this area call for innovative and custom-tailored housing programs and designs.

If housing issues, particularly those of the extreme low-income, are to be addressed in any meaningful way in Mississippi, study must focus on creating solutions (both program models and funding sources) tailored to the peculiar state characteristics. Concerted effort must be

115. Arkansas and Louisiana, along with Mississippi, make up the greater part of the Delta region. About one-half of each of the states falls in the Delta area. See *INTERIM DELTA REPORT*, *supra* note 18, at 4.

made to achieve judicial and legislative reforms. Housing advocates and groups must coordinate efforts and inform and engage others in housing issues.

There is no ongoing low-income housing advocacy organization in Mississippi (or Alabama or Arkansas) with the staff or funding to undertake these functions. State Housing Corporation staff time is consumed by administering federal programs. Most non-profit organizations are short-staffed and immersed in the day-to-day scramble of development. Legal services offices do not have the reserves to undertake the task.

The idea of a law clinic designed as a resource center was the direct result of observing the conditions described in this Article. Contact with housing groups that repeatedly emphasized the need for intensive research on various issues and the careful development proposals for funding, reform, and new models for rural low-income housing also contributed to the inception of the clinic. The idea of a regional rather than a statewide center grew out of ten years of frustration with the shortage of housing advocates in Mississippi and a sense that the issues in neighboring states were quite similar. A regional center could both avoid the duplication of efforts across state lines and convene a critical mass of housing advocates for purposes of strategic planning and coalition building on common issues.

With this in mind, in November 1991, the University of Mississippi School of Law hosted a three-day workshop on Mississippi, Arkansas, and Alabama housing issues. The school hoped to bring together housing advocates and community groups from the three states to identify common housing issues, discuss priority of those issues, and to develop recommendations on how a law school clinic could assist to improve low-income housing efforts in the region. An informal survey of the three states during the previous summer revealed a very small number of housing lawyers and non-profit community housing groups. A high percentage of those contacted attended the workshop, along with housing law experts and representatives of national housing groups invited to offer commentary on the discussion. The group included legal services lawyers from the three states and private lawyers from the Mississippi Young Lawyers' Section (YLS) who were all members of a recently formed YLS Housing Committee. A non-profit community housing developer sent representatives with a wealth of personal experience in housing production and a broad knowledge of federal programs. Representatives of the Harvard Joint Center for Housing Studies, International Habitat, the American Bar Association Project

on Housing and the Homeless, the Washington Lawyer's Committee for Civil Rights, the Mississippi Home Corporation, the ABA Affordable Housing Section, and various Harvard Law professors completed the very diverse group.

Informal panels led workshops on four substantive areas: housing discrimination, private landlord-tenant law, funding sources for development, and program design for rural housing development. In each workshop, the group focused on analyzing problems specific to the region and discussing possible solutions geared to rural southern states. On the last day of the workshop, the group divided into four small groups to review the earlier discussions and propose specific ways in which a clinic could provide assistance in each area.

Not surprisingly, the problems identified were fairly consistent across state lines: extreme poverty, very bad rural housing, landlord bias in state laws, lack of state funding and local credit, federal program requirements not suited to rural areas, lack of local development capacity, infrastructure, access to land, and persistent racism — the list was fairly long, as were the suggestions for directions that a clinic might take in providing assistance. There was general agreement that developing clinical capacity to provide local groups with technical assistance would be a valuable addition to housing resources.

V. THE CLINIC

In its first semester of operation, the clinic will take on the following projects identified by participants at the November workshop: 1) preparation of a research paper on three areas for landlord-tenant law reform, with a suggested client profile and fact pattern for ideal test cases, to be distributed to legal services offices; 2) a detailed analysis of housing data in the 1990 census; and 3) preparation of two funding proposals for capitalizing a state revolving loan fund. In addition, the clinic will join forces with the Young Lawyers' Housing Committee to offer technical assistance to existing non-profit groups. The clinic hopes to avoid academic isolation by developing projects through consultation with community groups and housing advocates and by balancing its projects between those involving intensive research, community involvement, and technical assistance.

Ideally, the clinic will offer a diversity of services, including sociological studies, legal research, funding proposals, development packages, and technical assistance. There are a number of possibilities for interdisciplinary projects with other university departments, and for coordi-

nation with the state bar and state agencies. The ongoing communication and planning with housing groups and advocates is an important part of the plan. Vehicles to institutionalize this connection could include newsletters, a yearly conference on housing, or the establishment of ad hoc committees on particular areas or issues. Both the landlord-tenant clinic and the resource center are intended to provide services not otherwise provided by legal services, the private bar, or other organizations.

There is a real need for individual representation in housing cases in North Mississippi. There are only fifty legal services staff attorneys in the entire state, and twenty serve the northern half. Moreover, few of the attorneys are housing attorneys. The program's resources are limited, and, for the reasons outlined earlier, representing housing clients has been a losing battle outside public housing. The live-client clinic will represent tenants referred by legal services in housing disputes: Oxford, Batesville, and Holly Springs, Mississippi. Students will represent public housing tenants in grievance and eviction proceedings, and will represent private tenants under the newly enacted landlord-tenant act.

In addition, the clinic will prepare a legal manual explaining the use of the new act and will distribute brochures in the community explaining tenants' rights under the act. These materials will be offered in connection with a series of training sessions and community workshops sponsored by the North Mississippi Legal Services program. The clinic plans to provide similar training on a different topic each year for legal services attorneys and community groups.

The clinic is offered to students for credit of between three and twelve hours, and students are required to work three hours in the clinic each week for each credit hour. It is available for successive semesters up to twelve hours. The class meets twice a week for two hours. Approximately half of the sessions are training in substantive housing law, while the other half involves skills-training sessions using simulation exercises. The class includes training and simulations in interviewing, counseling, negotiation, drafting agreements, case planning and management, office management, and trial skills. All students are involved in direct representation as well as work on center projects. The students work in teams of two in the live-client clinic, and in teams of three or more on major projects. In this initial semester, students are actively involved in planning and setting up the clinic and preparing grant proposals.

The clinic is intended to provide students with skills training in a wide range of lawyering skills, in combination with in-depth training in one area of the law. The clinic also intends to expose students, most of whom will not become legal services lawyers, to the representation of low-income persons and acquaint them with the variety of ways to provide pro bono service. Students who may later be involved in business, corporate, real estate, and tax law should be aware of the valuable contribution that they can make as transactional lawyers assisting community development groups.

There are many private attorneys in the state that are interested in pro bono work. The Mississippi Pro Bono Project reports that one-third of the lawyers in the state are involved in some form of pro bono representation. However, the services of these lawyers and the scope of expertise that they can offer often remain untapped, partly because they lack familiarity with the need for those services and do not have the time to learn the area in depth. There is also no organization to connect them with the client. In addition, many law students who show an interest in pro bono work in school never carry the interest through practice. If those students develop an interest and expertise in a particular area during law school, they are much more likely to maintain it throughout their careers than if they learn it while in practice.

Most of the students at the University of Mississippi Law School remain in the state after graduation. They later become judges, state officials, legislators, community leaders, and attorneys for local governments and boards. Those who go through the clinic for even a semester will carry with them an understanding of housing issues in the state and will have thought about ways in which attorneys can help address those issues. It may well be that the long-term benefit of the clinic is the fostering of a group of private lawyers who will join with groups in their communities to work for improved housing.