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MEAN STREETS

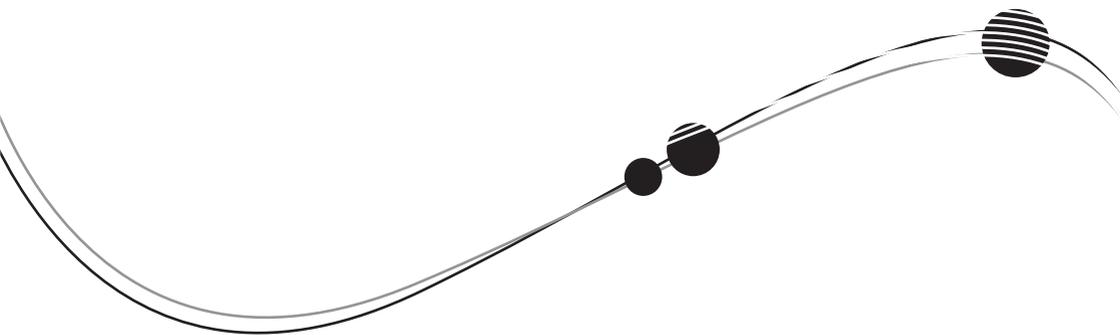
A REPORT ON THE CRIMINALISATION
OF HOMELESSNESS IN EUROPE

POVERTY IS NOT A CRIME. IT'S A SCANDAL.



CHAPTER IV

Criminalisation of Homelessness in Poland



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Social science research on homelessness shows that a number of people sleeping rough have experienced imprisonment. The fact that these instances may be considered causes of homelessness or only short episodes in the lives of people experiencing homelessness is of no significance here. What matters, however, is whether they resulted directly from homelessness. In other words, it is crucial to determine whether homeless people were penalised merely for the fact that they were homeless. In this discussion of the penalisation of homelessness I will first present the legislative aspect of homelessness, followed by a discussion of the public's image of a homeless person and its consequences. Next, I will focus on the policy and methods used by railway stations' authorities towards homeless people on station premises. Finally, I will present the most important aspects of street homelessness and methods used to cope with this problem in Warsaw, the capital of Poland. This should give a clear picture of the issue of homelessness penalisation in Poland.

The fact that one is homeless and stays in public places or sleeps in the streets is not subject to penalty in Poland. However, due to their difficult life situation, homeless people are entitled to state aid, which should be provided by local authorities. Local authorities -- commune entities -- are required to provide shelter, clothing and food to people living in a given commune and homeless people are entitled to this form of support in Poland (Journal of Laws of 15 April 2004, No. 64, item 593). This assistance is largely inadequate.

Homelessness is frequently associated with behaviours that are subject to punishment, rather than with the fact that people do not have a roof over one's head. These behaviours include street drinking, begging or vulgar and obscene behaviour that is subject to penalisation. So the penalisation of homelessness may be considered only in terms of behaviour that is obscene or disturbs public order. This is what is actually happening. A quick review of newspaper headlines using the key words "a homeless person", "a railway station", "a shopping centre", etc. shows that street homelessness is mentioned in the press in the context of littering, disturbing public order or obscene behaviour (Journal of Laws of 25 March 2010 item 275). What does it mean for the homeless individuals? It all depends on the way homeless people occupy public space. And there is penalisation that specifically targets homeless people; that is, finding reasons to justify the intervention of uniformed services in order to remove homeless people from public places.

Now let us focus on the image of street homelessness and the deeply rooted public image of a homeless person. Homelessness is generally associated with physical stereotypes. The image of a homeless person as scruffy and unkempt, smelly,

abusing alcohol, failing to comply with social norms and resorting to begging — this is the stereotypical description of a homeless person (Browarczyk 2010). What seems problematic is the fact that the characteristics mentioned above should sometimes be applied to a group of homeless people (please see FEANTSA's definition of homelessness — ETHOS category 1, i.e. roofless), but it is in fact applied to all homeless people. This stems from the way they look and behave rather than from the fact that they do not have a home. What is more, this approach is frequently associated with value judgements. Scruffy-looking individuals are not only recognised as homeless but also perceived in a negative light — they are seen as drunkards, beggars, scum, bums and petty thieves. They are classified as individuals who should be punished and removed from sight. It should be emphasised that the features attributed to the homeless can be equally applied to describe groups of addicts or beggars who are not homeless and can be classified according to the ETHOS typology as those living in insecure and inadequate housing (categories 8-13).

The following is a description of homeless people found in the press:

"Now we can often stumble over drunk and smelly homeless people lying on the floor at the Central Station." (Torz, 2012).

This short fragment reveals that homelessness is frequently associated with active addiction and a scruffy appearance. Homelessness is often seen not as a social problem but as an aesthetic disturbance which should be removed from view (Browarczyk, 2010). The fact that aesthetic aspects prevail over the state of being homeless leads towards the dehumanisation of homeless people, justification of inhumane methods and solutions to deal with homelessness, as well as acceptance of indifference or violence towards this group. Let us look at a fragment of another article:

"Are the authorities going to act before the Euro 2012 and temporarily remove the unwanted homeless individuals from strategic points in Warsaw or do they think that the homeless are no threat to the organisers' image?" (wp.pl. 2011).

The homeless are described as "unwanted individuals" who are a nuisance and "a threat to the image". These quotes may not illustrate actual penalisation of homeless people, but demonstrate a deeper form of discrimination the symbolic exclusion of homelessness which is frequently associated with aesthetic degradation. For example, homeless people are denied basic human rights and treated as elements that disrupt the aesthetics of a newly renovated railway station. This kind of exclusion may directly lead to applications of laws that serve only to maintain the aesthetics of public space, which includes removing homeless people and keeping them out of sight.

"Suddenly we could smell horrible stench. The homeless, drinking alcohol, eating sandwiches and swearing profusely, were stretching out on benches in their dirty and peed pants." (Osienkiewicz, 2011).

This fragment clearly reveals the disturbance of aesthetics but it also shows inappropriate behaviour of the homeless. But the main aspect used to determine

whether a person is homeless or not is firstly an aesthetic category -- physical appearance -- and secondly behaviour. Whether a person has a home or not is not considered.

"The image we get is appalling: 'the homeless drink, smoke, beg, sleep, defecate and urinate on seats later taken up by travellers and they do everything inside the building. Many find it obnoxious to look at them and to stay among them... Their horrible stench is unbearable!' [...]It may as well be so because in order to be able to stay in the shelter at Strażacka Street they have to be sober. 'And they clearly have a problem with that', say PKP passengers". (Rusek, 2011).

This fragment shows yet another issue associated with street homelessness. Texts mentioned above refer mainly to littering in public space and the fact that the homeless assistance system was developed without considering elements of street reality ("one has to be sober"). This brings us to the national homeless support system. According to government information sources (Ministry of Labour and Social Assistance, Department of Social Security and Social Integration, 2010), facilities for homeless people were able to accommodate 22,529 people in 2010. Despite the lack of credible data on the scale of homelessness in Poland, this number seems accurate. What looks to be inadequate, however, is the structure of facilities offering assistance to the homeless. The number of low-threshold facilities (i.e. those that accept residents under the influence of alcohol) is very low. Shelters (24-hour accommodation) and night-shelters (overnight accommodation) constitute the core of the accommodation system, but both only accept people who meet the required conditions (i.e. they are sober and have been referred to the facilities). Unfortunately, there is no aid programme in Poland for homeless people who are addicted to alcohol or drugs and who stay in public spaces. In other words, there is a shortage of low-threshold facilities (that accept residents under the influence of alcohol) and work with homeless people (outreach programmes are not popular and may be found only in bigger communes). So, because there is no support for homeless people staying in public spaces, this group -- left alone -- uses all available resources to adapt to the existing conditions. In search of places in which it is relatively easy to satisfy their basic needs, homeless people adapt to living at or near railway stations.

Managers of buildings and premises in which the homeless tend to gather consider them to be troublesome and have tried various "solutions". The best solution would undoubtedly be assistance that responds to the needs of this group (i.e. effective social policy), but the managers are not part of the social sector, and their sole responsibility boils down to proper management of their premises. Therefore, they search for solutions that would be effective from their point of view. Solutions frequently adopted include removing homeless people from railway stations and employing uniformed services (border guards, police, railroad guards) and paramilitary organisations, (e.g. security forces), for this purpose.

Attempts to remove people who are considered to be homeless from the premises by the managers of railway stations or shopping centres are not perceived as penalisation of homelessness. These are merely aesthetic changes. They boil down

to the activities taken up in order to remove homeless people from the public space. Managers may have good intentions but this practice is, in fact, a form of punishment imposed on the people who find themselves in the situation that prevents them from leading a socially accepted existence.

There are two types of places where the homeless are not welcome and the managers try to remove them or, to use an euphemism, "ask them to leave". These include railway, bus stations and shopping centres. Managers frequently employ security firms not only to protect the area but also to remove homeless people from the premises. However, homeless people are not thrown out unless they attract the guards' attention with their behaviour or in any other way. This is the official version, but very often even the appearance of homeless people is enough for the security services to ask them to leave. Cases of unjustified violence towards homeless people removed from certain places have been noted.

Unfortunately, this issue has not been researched yet. Nobody collects the statistics on the removal of homeless people from public space. Also, there is no research on cases of unjustified violence towards the homeless. This sphere of homelessness has not been researched. There are two sources of information in this respect: press reports and experienced, homeless service providers. Media articles cannot be considered an objective source of information and service providers' experience is subjective. Due to the shortage of relevant and credible data on homelessness this article is a qualitative analysis rather than a statistical review. Also, the management and security firms clearly have the freedom to choose their own approaches to removing homeless people from their premises. Identification of homelessness on the basis of feelings and experience (some people look homeless and some do not) means that the security guards are left to decide which individual is actually homeless. In other words, a person who works in a specific place makes the decision who should be removed from a given place and what methods to use to do so. Hence, such factors as psycho-physical predispositions of the person employed in a security firm is of key importance here. Their professional approach towards homeless people will be more or less humane depending on the individual's predispositions. Perception of homeless people (i.e. the extent to which the guards hold negative stereotypes when approaching homeless people) is equally important.

The form of penalisation of the homeless presented here stems, on the one hand, from the absence of work with homeless people staying in the public space and, on the other hand, from the stereotypes on homelessness deeply rooted in society. This is reflected in the articles on homelessness and the scale of hostile and aggressive behaviour towards this group.

Station management provides these formal reasons for removing homeless people from public places:

"When we have the information that homeless people pester the travellers, we intervene immediately. That is why we ask passengers to notify us of any inconvenience. Phone numbers are available in the lounge. The security firm will

react promptly and remove unwanted "visitors". I share the view that a railway station is only for passengers." (Rusek, 2011).

The term "pester" used in the fragment is rather euphemistic. It is difficult to determine explicitly what this term means but it is probably used to refer to begging, drinking alcohol etc.

The aggression of the private security company staff towards homeless people may stem not only from negative stereotypes of homelessness and hostility towards this group but it may result from the lack of laws and regulations that penalise homelessness. Police and municipal police officers say the following:

"We can intervene only when someone commits an offence," says Marek Anioł, spokesman for the Kraków Municipal Police Forces. Unfortunately, it often turns out that even the notification of offence yields little result. When officers reach the area, the homeless no longer violate any regulations." (Osienkiewicz, 2011).

A change in laws and regulations on offences would be a step towards the literal and real penalisation of homelessness, which legislators are trying to avoid. The fact that groups of homeless people are forced to stay in such public places as bus and railway stations for a longer period of time is indeed problematic. Solutions chosen by the managers of these places include employing security companies and closing railway stations for a few hours at night. It not only facilitates maintenance of a "clean and tidy station" but also prevents homeless people from spending the night in one place. This is supposed to discourage homeless people from staying in railway stations. This solution has been applied in most large railway stations in Poland.

So far, the discussion has centred on the problems encountered nationwide. Now let us focus on the specific situation observed in Warsaw. The problem of homelessness in this city has slightly different characteristics than in other cities in Poland. First of all, there is not enough data on the levels of homelessness and frequent attempts made to develop a registry of those who receive institutional aid (shelter) have so far been futile. Secondly, only small-scale projects are in place, which do not go beyond the pilot phase and the issue of monitoring and assesment of non-institutional homelessness has not been resolved. What is more, there is no coherent data on the number of people sleeping rough. Finally, due to the limited scope of cooperation among small and large service providers and little knowledge of the activities conducted by other institutions and organisations, there is no comprehensive source of information on homelessness in Warsaw. The nature of homelessness in the capital of Poland may be a bit different than in other regions (for example, a large number of migrants sleep rough), but methods used to penalise homeless people staying in public places are no different. Uniformed guards and police react only when they see homeless people breaking the law. Security companies vary just like in other cities. Depending on the policy of a given entity and the psycho-social profile of the employees, they are more or less restrictive oppressive towards homeless people.

The following quotation is a good example of a typical practice applied towards homeless people staying at railway stations observed in Warsaw:

“Tramps are frequently seen at railway stations. Now, when it’s snowing and it’s cold outside we can see them more often. Railway authorities have no choice and usually force them to leave. This is mainly because of passengers’ complaints. Warszawa Wschodnia (Warsaw East) train station is no exception here and it also declares war on the homeless.” (Świerżewski, 2012).

“They throw us out because we smell bad”, explains Tutek. “But when it’s freezing cold outside even the police order them to let us inside. Now when it’s warmer we can’t come inside even for a moment. But the security guards say that they remove only those who are drunk and accost passengers. Or they throw us out when passengers ask them to intervene.” And they ask a lot. Take this example: there is a queue in front of the kiosk in the station hall. A homeless woman joins the queue, she wants to buy some crisps. People look at each other. A lady at the front waves her hand and expresses her disgust. A man at the back of the queue swears and leaves. They are angry and blame PKP (Polish Rail) for this situation. “We have to step in.” [...] The PKP spokesman is jittery when asked about homeless people from Warsaw East station. On the one hand passengers complain about the smell and say that railway authorities do not react, and the newspapers say that it is a shameful situation. On the other hand, when they try to do something about the situation, there are opinions that it is cold outside and they are heartless. “PKP is not the institution responsible for care provision to the homeless”, says Kurpiewski. “Passengers do not want the homeless at the station that is why security guards remove them from halls which would otherwise turn into night-shelters. When it’s freezing cold outside, we ask the police and municipal guards to take homeless people staying at the station to shelters or night-shelters where they find protection from cold” (Szymanik, 2012).

Warsaw is no exception when it comes to typical practices and approaches towards homeless people. The fact that a person is homeless is not subject to penalty but when people who are sleeping rough commit an offence, uniformed services ask them to leave the station premises. As mentioned before, security companies are more repressive towards the homeless — security guards execute the regulations and follow the manager’s orders. They focus more on the image and aesthetics of a given place rather than keeping order. Therefore, complaints concerning violence towards homeless people or removing homeless people from public places will be directed to the security firms working at railway stations and shopping centres as it is their responsibility.

The fact that homelessness in the public space is considered problematic is proved not only by such practices as closing railway stations at night or removing homeless people who violate regulations but also by attempts made by the government to reduce the scale of homelessness at railway stations through aid programmes conducted in cooperation with Polish State Railways (Notice of open competition within the programme of the Minister of Labour and Social Policy: “The Programme Supporting the Return of Homeless People to Society”, 2012 Edition, 2012). This

programme is aimed at working with homeless people (streetwork), providing facilities for homeless people near railway stations, etc.

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The amount of statistical data on homelessness in Warsaw and generally in Poland presented in the article is insignificant, which requires explanation. The topic covered in the article has not been widely researched and there are no statistics on the penalisation of homelessness. As mentioned before, sources of information presented here include press articles analysed according to the quality of the material. Quantitative analysis would not be appropriate here as the results obtained would lack credibility.

CONCLUSION

In conclusion, it should be emphasised that homelessness is not penalised in Polish legislation. There are no regulations according to which homeless people are not allowed to stay in certain places because they have no abode. People cannot be punished for their poverty. However, there are laws prohibiting such behaviour as drinking in public (Journal of Laws of 19 April 2007 item 473) or begging (Journal of Laws of 25 March 2010 item 275). Private security companies who are responsible not only for maintaining order at railway stations or in shopping centres but also for their aesthetics, are the main actors in the penalisation of homelessness. It is not the fact that a person is homeless but it is rather the stereotyped appearance and behaviour associated with homeless people that is punished. These activities result not from the urge to penalise homelessness but from the lack of adequate solutions in the sphere of homeless service provision. One aspect should be emphasised here, namely the relatively high level of awareness among the managers of public space entities:

“Appearance of young people who arrive at our airport at times does not differ much from the one presented by the homeless. But this does not mean that we should remove them from the terminal because they do not look elegant enough,” he adds. (Klimowicz-Sikorska 2012).

What arises from this opinion is the fact that one’s appearance is not the criterion used to determine whether one is homeless or not and that it is not liable to penalisation. The approach and methods used towards homeless people are similar in Warsaw and in other big cities in Poland. Cases of punishing the homeless for the sheer fact they are homeless are infrequent and there is a clearly ambivalent attitude of the public opinion towards such methods.

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MEAN STREETS

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OF HOMELESSNESS IN EUROPE

Criminalising and penalising homeless people for carrying out life-sustaining activities in public because there is no where to go is a problem across the EU. Policies and measures, be they at local, regional or national level, that impose criminal or administrative penalties on homeless people is counterproductive public policy and often violates human rights.

Housing Rights Watch and FEANTSA have published this report to draw attention to this issue. This report brings together articles from academics, activists, lawyers and NGOs on the topic of human rights and penalisation. Divided into three main sections, the report provides an important theoretical and historical background, before highlighting examples of penalisation across the EU, and finally suggesting measures and examples on how to redress this dangerous trend.

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