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Mean Streets: A Report on the Criminalisation of Homelessness in Europe

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In 2011, Jürgen von Mahs and I edited a special issue of *Urban Geography* that examined whether, with the globalization of American-style capitalism, there was likewise a globalization of American-style policies towards homelessness and the homeless. As street homelessness became more prevalent in “advanced” economies, were punitive “anti-homeless” measures being implemented? Studies from South Korea, Germany, France, and Sweden all came to a similar answer: “sort of.” In each country, new measures for managing and controlling homeless populations, or for making them more invisible, were identified, but at the same time efforts at homeless management were situated within specific histories, specific “path-dependencies,” that sometimes softened the punitiveness of various policies.

The authors of *Mean Streets* are less equivocal. About half of *Mean Streets* is given to documenting various new laws and practices that make *being* homeless and thus engaging in activities necessary for daily life either criminal offenses or otherwise punishable. Across Europe, the homeless are the new outcasts and in country after country they are being treated as such. The criminalization of homelessness is perhaps most advanced in Hungary, with the government amending the constitution to make it possible for the legislature to criminalize many aspects of homelessness without review by the Constitutional Courts. (Balint Missetics’s two chapters on Hungary – one outlining the history of criminalization, the other examining the impressive struggles to reverse this history by The City for All, an organization of homeless people – are impressive: they are models of analysis and advocacy.) But moves towards criminalization can be found right across the continent even as much more commonly European governments (often at the local level) tend to penalize being homeless rather than out-and-out criminalize it. Or, as the authors put it in an Executive Summary, “Homelessness is not being explicitly criminalized in Europe. The process is subtle and often almost invisible” with homeless people in essence being cast as a new “enemy” and policies being implemented that

presumes homeless people comprise a dangerous class (p. 20). Preemptive penalization is not uncommon (especially as immigrants, Roma and Travellers make up, or are presumed to make up, a growing portion of the homeless population).

The other half of the book is devoted to advocating for a “human rights” approach to homelessness and to contesting the criminalization and penalization of homeless people. The book opens with two forewords (one by the Council of Europe Commissioner for Human Rights, the other by the UN Special Rapporteurs on housing and extreme poverty) and with the Executive Summary. Part I then lays out a “Theoretical Framework” in two chapters: one on developing and deploying a human rights approach to homelessness; the other tracing historically the rise of European punitive policies and the theories behind them (some, like “broken windows” policing and “zero tolerance” philosophies imported directly from the US). These laws are interpreted in part as an instance of “Symbolic Criminal Law” in which the goal is mostly to give “a soothing impression of being an alert, decisive legislature” (p. 61, quoting Silva, 2001) and in part as revisions in “the law of the enemy.” Part II explores penalization empirically, with chapters on Belgium, Poland and Hungary plus examinations of penalization in relation to housing and prison policies. Part III explores “Good Practices” which are divided into “Political Measures” and “Legal Initiatives.” There are two of the former: (1) A survey of a range of homeless prevention and housing rights strategies across Europe and (2) an examination of Barcelona’s efforts to remove homeless people from its airport. Five of the latter are examined: (1) The development of a legal services bureau for homeless people in Sydney, Australia; (2) The role of University based actors in supporting the rights of homeless people in Barcelona; (3) the value of Ombudsmen and NGOs in defending homeless peoples’ rights in a number of states; (4) an inspiring insider’s account of the work for The City is For All in Budapest; and (5) a comparative study of homeless-service NGOs in Spain, France, and Britain. The Report ends with a brief and confusing Epilogue.

The book is valuable. The historical-legal chapter in Part I (by Guillem Fernández Evangelista) offers a quite convincing narrative about how homeless policy in Europe has shifted to a punitive mode – and offers a good explanation as to why. The other chapter in this part, on developing and applying a human rights approach (by Padraic Kenna and Fernández Evangelista), lays out a clear and excellent case for fighting for housing and various services to the poor as rights at a time where there is a fair degree of skepticism towards rights and “rights talk” among many activists and advocates. The table comparing a human rights approach with charity- and needs-based approaches (p. 37) is especially helpful. The reports from the countries on different penalization processes provide an at times harrowing account of how some European countries and locales are now exceeding the punitiveness that has marked American homeless policies. And, as already noted,

Misetics's report on the work of The City is For All in Budapest is inspiring. Homeless people and activists in that city have created a fighting organization that ought to be emulated (some of its techniques were developed, as Misetic notes, in collaboration with the New York City, Right to the City affiliated organization, Picture the Homeless, but those of us on the American side of the Atlantic would do well to reimport strategies as they have been elaborated by The City is for All).

But the book is not as valuable as it could be. First, the title is misleading. The book is not only, and perhaps not even primarily, "A Report on the Criminalisation of Homelessness in Europe." It is more about penalization than criminalization, and it is as much about elaborating human rights and analyzing various legal "best practices" as it is about either. This matters because the arguments about rights are important and a key part of the book, yet nowhere signaled on the cover. Second, the book is inconsistent in argument. The overall tenor of the book is that criminalization/penalization is a violation of human rights and that homeless people, whether locally born and raised or immigrants, Roma, Travellers, or migrants from the countryside, have as much right to the spaces of the city as anyone. Absent housing or policies that make housing available, they have the right to occupy spaces to carry out their everyday needs, like sleeping, bodily care, eating, socializing, etc. Of particular concern are concerted efforts to "remove" homeless people from public spaces, including places like transportation hubs. Yet one of the two "political" "best practices" – "A Model of Inter-Administration Coordination" (p. 171), no less – concerns the "good results obtained" (p. 177) in an effort to kick homeless people out of the public areas of the Barcelona airport. The idea that homeless people have rights has no place in this chapter. At best officials worked from a "needs-based" approach which was shown to be inadequate in Part I. If this is a model, it is a model of precisely what the book seems to be arguing against: homeless policies developed not with the rights of homeless people in mind, but with the desires of city managers for clean and efficient spaces that do not unsettle the housed, tourists, or the public.

Third, the book is poorly edited. Numerous citations are missing, references are made to concepts that are never explained and will probably only be sensible to workers in the trenches of European homeless policy (e.g. "the ETHOS typology of homelessness" [p. 47]), and translations seem not to have been checked. On this last point Iñaki Rivera Beiras's potentially forceful epilogue (which seeks to "invite criminology to focus its attention not necessarily on actions 'officially' defined as crimes, but on actions that cause real harm to society, like violating human rights" (p. 237) is undermined by a consistent mistranslation of "Ilustración" as "Illustration" or "Illustrated" instead of "Enlightenment." It's hard for a reader to grasp the meaning of sentences like "Humankind not only no longer progresses on the road to freedom, toward the plenitude of the illustration, it retreats and sinks into a new barbaric game" (p. 239)

or “Kant was possibly one of the most lucid philosophers of the Illustration...” (p. 241), and once they do, just a bit of pique tends to set in, distracting from what is, or could be, and important summary argument about how “it is the rule of law itself that has left so many people without the protection of laws” (p. 241).

In the United States, that rule of law has long been quite barbaric as the now more-than-twenty years of reports from the National Law Center on Homelessness and Poverty have so depressingly detailed. To the degree that an American-style punitiveness has come to define the landscape of homelessness in Europe – and this report shows it is way too high a degree – the need for action is urgent. As *Mean Streets* makes clear, this action must be rights-based. Charity (which relies on the good will and largess of the wealthy and tends to reinforce rather than ameliorate inequity) and needs-based approaches (which situate individuals as objects and understand homelessness to be an individual pathology rather than a societal condition) are both radically inadequate. As rights-based approaches are developed and entrenched in Europe, and as organizations like The City is For All, develop and gain the strength to roll-back the punitive tide washing across Europe while enforcing the human rights of the poor such that *poverty* can no longer be a defining feature of their lives, the question of whether homelessness in Europe is somehow being “Americanized” will be moot. The new question will be one of how homelessness in America can be – and should be – Europeanized.

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