

## **Harassing the Poor: Orbán's Fight Against the Homeless**

### **An interview with Tessza Udvarhelyi**

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Since October 2018, it has been illegal to live in the street in Hungary. Social anthropologist and housing rights activist Tessza Udvarhelyi explains why homeless people are such an easy target for populist politicians, and how the newest measures humiliate those who cannot afford a place to live.

**Green European Journal: In mid-October, the Hungarian government, introduced a law that punishes rough sleeping with jail sentences and community service, while the country's right-wing, government-aligned media is actively demonising homeless people in its reports. Why did they start targeting this vulnerable group of people?**

**Tessza Udvarhelyi:** This is not a new phenomenon, the informal criminalisation of homelessness was already a common practice during the previous governments, but Viktor Orbán and his Fidesz party was the one that has put the anti-homeless measures into laws and the constitution. Since 2010, the government has been trying through all possible means to move homeless people out of sight. An earlier anti-homeless law was already struck down by the Constitutional Court; it was put in the Constitution in 2013 that living on the street is forbidden in Hungary.

The previous version of the law stated that municipalities have to provide a justification for why homelessness is not tolerated at specific (and by far not all) public places, such as public health related or cultural issues. But the necessity of these justifications was dropped with the 7th amendment to the Constitution.<sup>[1]</sup> Now, in the whole country, it is forbidden to "live" in public spaces. And the law that was introduced on the October 15 this year makes it possible to penalise homeless people, if found guilty of living on the street. This is the toughest law so far: if the police ask a homeless person to leave the public place or go to a shelter and they refuse, they could be taken into custody for 72 hours, and dragged to court in a fast-paced process. In the end, they can even be put in jail. After three warnings by the police, the homeless person will automatically be sent to court, and the third court case would automatically lead to imprisonment.

I also need to add that this is the only kind of court process in the area of petty offences in Hungary which can take place through a video conference, meaning that the court can order the homeless person to stay in a different room during the process, being connected only through a screen and a camera to the lawyers and the judge. In practice this has also meant that the defendant doesn't have the chance to consult with their lawyer in person, only via telephone.

**Why are judges ordering them to stay in a different room during the process? Just to humiliate them?**

There is no legitimate reason. We, at The City is for All <sup>[2]</sup> movement think that it is because the judges don't want to have the "stinky" homeless people in their court rooms. And also, because this way the judge doesn't have to face the defendant in person. In one case, the official justification of the judge was that moving the defendant to a separate room allowed the court to protect the dignity of the defendant, because this way they don't have to wear a restraint device. This again is a weird justification, because the homeless person is not in pre-trial detention, thus there would be no need for restraint anyway.

**Is this use of video conferences a new practice in Hungarian courts?**

Yes, it is. Lawyers have told me that you could still feel the smell of the fresh paint in the room where the defendant was sitting.

**What are your experiences with the police and the courts since the law was introduced?**

The week prior to the law taking effect was the most intense. Then, the police were visiting people who live in forests and public spaces almost every day, in order to warn them that it is soon going to become illegal for them to live there. Once the first two weeks passed, things calmed down again. Especially now that the issue of the criminalisation of homelessness was taken to the constitutional court. The social workers, for example, are telling me that the police have completely stopped executing the law.

From the news we know that approximately 250 warnings were made, which is not too much, especially compared to the total number of homeless people in the country. So, we can see that the police are just fulfilling the minimum expected from them. The situation was similar in the case of the earlier versions of the law, we have seen for example that in the last 2 years no penalties were made at all. So, the police themselves are only harassing homeless people when they are ordered to.

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The courts are different. We know of eight cases that made it to the courts, and most of the homeless people only received warnings, but there were also cases in which the court hearing couldn't take place due to the bad health of the defendant. In the cities of Szekesfehervar and Kaposvar, the courts have asked the constitutional court to review the law, because they argued that its provisions are against the constitution. We have asked for the same, when the Streetlawyer Association<sup>[3]</sup> was representing some of the people in Budapest, but the courts in the capital refused to turn to the constitutional court. The two provincial courts on the other hand did so without being asked by civil society members. And finally, there was also an old man who was dragged to court, and somehow managed to prove to the judge that he doesn't live on the streets, but spends the nights in a wood shed, which has led to his acquittal, as he has a roof over his head.

**So basically, in practice the law means that if the police find a person sitting on a bench, and the person cannot prove that they have a place to live, the act of sitting on a bench will already count as a misdemeanour?**

Yes. I can tell you, it was one of the most shameful days of my life when I had to listen to an elderly woman who was explaining to the court that she really wants to have a home, and that it was not her own choice to live on the street, but she just didn't have any other option. This whole situation is very absurd. Of course, the penalty will most probably always be just a warning, as the court will not ask for more, but dragging people to court, just because they don't have a place to live is still humiliating.

**And what if someone is on a shelter at night, and on the streets during the day?**

In that case the court will acquit them.

**But they still have to go to court to prove their right?**

Yes. In the current situation it is all left to the discretion of the police. If the police say that someone looks like a homeless person, they can send that person to court for being on the streets. This is probably also one of the reasons why the police try to avoid penalising too many people, as it could be really embarrassing for them if it turned out that many of the people they take to the police station are only poor, and not homeless.

**How did the law affect the lives of the homeless people?**

We know mainly about those who live in the forests in and around the city. Many of our activists, and people from other NGOs, have been visiting them and they seemed to be very scared. They have packed all their things out of fear that the authorities could show up in any minute and could order them to leave their homes.

For many of the people who live on the streets, it is close to a business as usual situation: they are often being harassed anyway, and they don't necessarily mind if they have to wander around the city, and move from place to place in the next few weeks. At the same time, it can be extremely dangerous if homeless people disappear from the places where they have developed long-term relationships with local residents as well as social workers. This can also mean that crucial help, information and support will not be able to reach them. For the people in the forests it is especially problematic, as they have built up their own huts, they live there, all their belongings are there, and their whole existence is therefore threatened. By the way, according to our understanding the law doesn't apply to this group of people, as they are living in "buildings" and don't spend the nights outside. But the police see this differently, and that's what matters at the moment.

**And what is the problem with shelters? Why don't they provide a solution to the problem of rough sleeping?**

First of all, there are not enough of them in the country. And secondly, they are in a really bad condition. These places are full of bugs and parasites, you often have to share a place with 50 other people, and in many places all you get is a mattress without a sheet or anything. Also, there are no opportunities to spend the night with your partner or your dog at most of these places, and often if someone looks drunk, he or she is denied entrance.

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Moreover, the current homeless shelter system is unable to accommodate most of the people who you see on the streets: people with psychological problems cannot go to a shelter with 50 people, and the social workers neither have the training nor the necessary tools to deal with their problems. The people who go to shelters are usually those who – either temporarily or for a longer period – cannot afford to pay the rent of an apartment. The people who are on the streets need much more assistance than that.

**And what do those people who criticise the anti-homeless laws see as a solution?**

Our critics often claim that we are fighting for the right to live on the street. But in reality, leaving people on the streets is not our goal at all. We know that those who live on the streets don't do this out of convenience, but because they ended up in a bad situation, and lost their homes. Therefore, the aim of our organisation is to fight for a right to housing: we want to protect people, as much as possible, from having to lose their homes, and we would like to assist them in finding a place to live, in case they have lost their homes. Therefore, we see neither shelters nor penalties as a solution.

Shelters should be seen as a temporary measure during times of crisis: in a normal, even if not ideal situation, people would stay in shelters for a few weeks while they try to normalise their living situation.

**So the solution would be a subsidy scheme, and the building of new homes?**

On the one hand, we need more public housing, as this is constantly decreasing. The municipalities keep selling what they have, and what remains is in a really bad condition. It wouldn't even be necessary to build new ones; there is a concept of so-called social housing agencies, which would allow the state to manage private apartments and offer them to those in need, for a reduced rent, while the owner would get the market price. This would be a kind of social housing system that wouldn't require us to build new housing – in Hungary, there is no shortage of housing, but the problem is that existing housing is not available for low-income people.

In addition, we have a proposal that would stop the eviction of families with children without any alternative placement, which we see as a minimum requirement. Later we would also like to propose a ban on evicting people with disabilities, as well as sick and old people and anyone who needs protection from losing their homes. More and more groups of people should have the right to housing: even if they are evicted, they should be provided a new place to live. And of course, for this we need subsidies. Until 2015 there was a normative subsidy for housing maintenance, which was only 5000-8000 Hungarian forint per month (less than 20-30 euros), but now even that is gone. And also, the provision of debt emission subsidies is now left to the discretion of municipalities, while previously they used to be mandated to help citizens with the management of their private debts. Thus, today it is basically impossible to find any form of public assistance that would help people who encounter problems when maintaining their housing.

**Is there some field where you would say that the government is doing a good job?**

On the issue of housing and homelessness, there is nothing we could mention as positive. But I would add that none of the post-transition governments have done anything notable in the field of preventing homelessness, except that in the 1990s, due to the initiative taken by homeless people themselves, the government started financing shelters. Ever since, all the governments have done was to maintain these shelters, even if the amount allocated to this effort has not even been adjusted to inflation in the last years.

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In the meantime, there is no law that would mandate municipalities to provide and maintain social housing. The current government has cut subsidies for those in need, and started supporting middle-and high-class house owners instead. This is classic class-politics: they take away from the poor, and provide more and more support for those who live under better conditions, and wouldn't need the support as much. My housing, for example has been supported by the state, while the homeless activists who are working with me are completely neglected and are not eligible for any public support for housing.

**Why is it so important for the Hungarian government to target homeless people?**

There might be many reasons. On the one hand, the government needs to produce enemies. In 2011-2012, when they actively started targeting homeless people, we could feel that they were looking for someone to demonise. Later they found a similar enemy in the form of NGO workers and refugees. But we could also mention the poor, the Roma, and many others. There is always a group of people that they can hate. Homeless people are an easy target in this sense, because it is easy to find people who have aversions against them. On the other hand, in an ideological sense, this government makes a clear distinction between those who deserve to be seen as full members of society, and those who don't. The deserving get a wide range of benefits, while the rest are left behind.

**And what about the idea of promoting a clean city that is attractive to tourists and investors alike?**

This argument is brought up quite often against homeless people, but this is not new at all. I have been working on the issue of homelessness since 2002 and I wrote my Master's thesis about the anti-homeless policies of the liberal city government that ran Budapest between 1990 and 2010. Back then, the criminalisation of homelessness was indeed about keeping the image of the city clean and middle-class residents happy, and it was not part of such a broad policy of social oppression as it is today. The Fidesz politician who introduced the 7<sup>th</sup> amendment of the constitution to the public was saying that the homeless people are causing problems to the rest of the population, which is a clear message that the government wants some people to feel at home here, while the rest are not welcome.

**How successful is this politically? Can Fidesz win new voters by cracking down on the homeless?**

I am not sure if Fidesz is able to increase their voter base by criminalising homelessness, but it is definitely a good way to reinforce the support of those who are already with them. And that seems to work, even if this is not an issue that could mobilise the masses. There has been a recent public opinion survey which showed that the majority of people disagree with the idea of punishing the homeless people; instead they support the idea of giving them jobs and a place to stay. Of course, most of them don't want to see homeless people on the streets, but we can work with this: we also want to see homeless people in homes instead of in the streets. This is exactly what we are fighting for.

**Do we see similar trends in other countries of the region?**

I don't know of any other country in the world where homelessness is made illegal by the constitution. And in most countries, there are no laws that criminalise them either. The informal harassment of homeless people is common all over world, the same way we used to have it prior to 2010: you see this dynamic in which the police start to question people they find living in the street, tell them to leave the public spaces, give them fine them minor offences, send them to the outskirts, and so on. For a short time they are gone, then homeless people come back, and the harassment starts again. But such a strong legal foundation for the harassment of homeless people is not common at all. Rather, in some cases we see the exact opposite: the Czech authorities, for example, are trying to give homes to the people, and they also provide assistance to them, so that they don't lose their homes right away. This is the kind of approach we need: homes and not prisons for homeless people.

[1] In addition, the 7<sup>th</sup> amendment to the Constitution states that 'foreign populations cannot be settled' in the country and that state bodies must protect Christian culture. A translation of the complete text of the Seventh amendment of the Basic Law of Hungary (by the Hungarian Helsinki Committee) can be found here: <https://www.helsinki.hu/wp-content/uploads/T332-Constitution-Amendment-29-May-2018-ENG.pdf>

[2] The City is for All is a movement that was founded in 2009 to mobilise for housing rights. Its members are currently or formerly homeless people, those experiencing housing poverty and their allies.

[3] A group of pro bono lawyers, who work together with the members of The City is for All (AVM) movement and are providing free legal aid for people living in housing poverty (e.g. people who have problems paying their rent or utilities, run the risk of eviction, etc.) as well as for homeless people.

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