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LIFTING THE CLOAK OF
INVISIBILITY: LOOKING AT
HOMELESSNESS THROUGH THE
HUMAN RIGHTS LENSE.

A Study on Human Rights as an Instrument to End Homelessness.

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Abstract

Defining and measuring homelessness is one of the most difficult tasks in the European Union: numbers are twisted, the extreme poverty which permeates through society is underestimated - its victims blamed and made invisible. Social and economic structures fail some of our most vulnerable people in society, while gross distorted images and stigmas surrounding homelessness severely impact progress in this realm, leaving them hopeless. The definition of homelessness includes groups of people who live in inadequate housing, in institutions, on the streets, as well as the 'hidden homeless'. Human life is not only about survival, but to lead a dignified existence and without adequate housing this is not possible. Alternative approaches are necessary as homelessness in Europe is on the rise. The focus of this thesis is how to apply human rights law and human rights principles to create one or more viable solutions to end homelessness. Hope wastes away in prison-like shelters for the homeless, as other solutions are ignored and the traditional system persists; Poland's city of Poznan will be used as a case study.

FEANTSA European Federation of National Organisations working with the Homeless

ETHOS European Typology on Homelessness and Housing Exclusion

EU European Union

UN United Nations

UDHR Universal Declaration of Human Rights

ICESCR International Convention on Economic, Social and Cultural Rights

ICCPR International Convention on Civil and Political Rights

CEDAW Convention on the Elimination of All Forms of Discrimination Against Women

CERD Convention on the Elimination of Racial Discrimination

CRC Convention on the Rights of the Child

ESCR Economic, Social and Cultural Rights

CPR Civil and Political Rights

HRC Human Rights Council

RESC Revised European Social Charter

ECHR European Convention on Human Rights and Fundamental Freedoms

ECtHR European Court of Human Rights

CESCR Committee for Economic, Social and Cultural Rights

HR Human Rights

HF Housing First

HFB Housing First Belgium

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Thank you mamma, without you none of this would have been possible.

General Introduction

"Housing can be seen to help safeguard the rights to privacy, self-determination and the right to development. It facilitates a range of freedoms including freedom of speech, to religious practice and other cultural expression ... [it] allows us security from cruel, inhumane or degrading treatment ... [it] is a primary means of protecting health and well-being, offering a space to prepare and cook foods hygienically, to shelter from weather, and to store clothing and other substantive possessions connected with our satisfactory functioning ... [it] is an essential adjunct to the rights of education and work, and it supports a range of other activities necessary for survival — providing a place to eliminate bodily wastes, to sleep and to relax ... The right to adequate housing is a right with far reaching implications for the fulfilment of other rights and therefore our quality of life."¹

Housing is of pivotal importance for human life and for a dignified existence². It is beyond discussion that adequate housing is a Human Right which is interconnected with the enjoyment and protection of dignity of the human person and other rights be they civil, cultural, economic, social or political. Reflecting on Austin's words, it is easily deducible that a lack of adequate housing can implicate multiple violations of Human Rights as well as prevent some rights from being exercised. Homelessness³ is “perhaps the more visible and most severe symptom of the lack of respect for the right to adequate housing.”⁴. Homelessness affects the most vulnerable members of society; research strongly implies it is a product of poverty⁵ and creates social exclusion⁶. It is an issue too often overlooked and not taken into consideration enough by governments, so much so that no reliable data are available on the number of people affected by homelessness in any EU Member State⁷.

¹ Austin, 1996.

² Hohmann, 2014.

³ A comprehensive definition is given by FEANTSA, the ETHOS definition.

⁴ UN Doc., A/HRC/4/18.

⁵ "In the light of the International Bill of Human Rights, poverty may be defined as a human condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights" [Committee on Economic Social and Cultural Rights, E/C.12/2001/10, 10/05/2001].

⁶ FEANTSA, 2010.

⁷ European Observatory on Homelessness, December 2014.

Homelessness is largely disregarded because of the negative image and stigma attached to people who experience it⁸, they are seen as dirty, stinking, lazy, addicted people who have brought their situation upon themselves⁹. The feelings evoked by this discourse in people affected by homelessness are that of 'being invisible' and 'not being a member of society'¹⁰, often the very feelings which make them spiral into depression and which disempower them. Time and time again governments fail to address an issue which affects hundreds of thousands of individuals under their protection¹¹. Policies based on this stigma result in the penalisation or punishment of individuals who are already vulnerable and at risk, by forcibly removing them from public areas, by fining them for carrying out life sustaining activities in public, and even by sending them to prison to clean up the streets¹². Persons experiencing homelessness are discriminated against on a daily basis, they are blamed for being poor and consequently, assistance for this group of individuals is limited (it is, in fact, mostly charity-based). Discrimination against the homeless population is so deeply entrenched in society that it hinders progress and creates systems of aid (i.e. night shelters or homeless shelters) which act as a place to contain homelessness rather than to exit it. We must change our delivery of assistance from one of emergency relief to one of pathways out of homelessness. Traditional shelters which use a 'staircase model' do not view housing as a right and only give housing as a reward after years of 'treatment', when the individual is 'housing ready'. This approach is being challenged strongly across the world; a new method, Housing First, has been experimented with the past 25 years and is currently being experimented in the EU. The Housing First method¹³ is currently one of the best solutions to exit homelessness that exists, however despite the clear evidence which points to a 90% success rate¹⁴, many

⁸ During my research I encountered many individuals who asked me not to call them 'homeless people' because the status of not having a house should not determine their identity. I have taken that into account.

⁹ <http://blog.practicaethics.ox.ac.uk/2015/04/apparently-most-people-dont-see-homeless-people-as-human-beings/> ("Homeless people were portrayed as professional beggars who make tons of money collecting our 50 cents. And they don't use their fortunes to improve their lives, but to buy drugs or alcohol.")

¹⁰ Blanton, 'The Year I was Homeless', TEDGlobal, 2009.

¹¹ 4.1 million people are homeless in the EU [<https://www.theguardian.com/society/2014/feb/23/europe-11m-empty-properties-enough-house-homeless-continent-twice>]

¹² Fernandez Evangelista and Jones, 2013.

¹³ <http://www.housingfirstguide.eu/>

¹⁴ Housing First Belgium, 2016.

still reject it, because - to put it simply - people suffering from homelessness are often not seen as worthy, deserving people.

The scope of the thesis is to raise awareness about the state of neglect of individuals affected by homelessness and to stress the need for Human Rights mainstreaming in public policy-making in order to reduce human suffering, create a more equal society and evolve as human kind. Human Rights are a valuable instrument for the protection of individuals. The fundamental basis of the Human Rights rationale is deeply rooted in the notion of inherent human dignity¹⁵. A Human Rights based approach treats the individual as a right-holder and the State as a duty-bearer, this dichotomy empowers individuals to protect and claim their rights. This thesis will attempt to answer the research question: can International Human Rights Law and Human Rights principles be applied to policy making in the fight to end homelessness? A philosophical argument will illustrate the concept of a dignified existence cannot exist without adequate housing. The conceptual framework on the right to adequate housing will be analysed and jurisprudence from the European Court of Human Rights will be investigated in order to find avenues to legally protect the right to adequate housing. Qualitative and quantitative literature concerning homelessness in the European Union will be scrutinised; and once the stage has been set, the state of homelessness in Poland and three homeless shelters in Poznan will be examined.

Chapter 1 presents an in-depth research on the issue of homelessness in the European context, closely looking at the causes (such as the housing market, governmental structural failures - illustrating connections between inadequate housing, social and housing exclusion and homelessness) as well as an analysis of inclusive and exclusive measures adopted by European Member States. Chapter 2 explores the notion of human dignity as the fundamental basis of Human Rights, highlighting the importance of equal human worth. Chapter 3 develops the conceptual framework by analysing Human Rights instruments, particularly the International Covenant on Economic, Social and Cultural

¹⁵ UN General Assembly, *Universal Declaration of Human Rights*, 1948.

Rights¹⁶ which protect the right to adequate housing at the international level. Chapter 4 focuses on European Law and the European system of protection of Human Rights, including jurisprudence on the right to housing, whilst searching for legal avenues to claim the right to housing. Chapter 5 is a case study on the situation of homelessness in Poland, firstly delving into an analysis of factors leading to homelessness, then looking at inclusionary and exclusionary measures adopted by Poland on homelessness. The chapter concludes with a shift from a theoretical analysis to a practical one through interviews carried out in shelters for the homeless in the Polish city of Poznan. Finally Chapter 6 offers some good practices and solutions to homelessness: the European Structural Fund is illustrated as a possible financial contributor; the Housing First model is presented as an alternative effective solution for individuals to exit homelessness and the Homelessness etc. (Scotland) Act 2003 is offered as a legal framework for an enforceable right to housing. The conclusion reflects the challenges of ending homelessness and to give recommendations on how including human rights in the narrative of homelessness could lead to winning the fights against homelessness.

As children, for some of us, to shed us from the horrors our society produces, we were told homelessness was a way of life, a conscious choice made by people who did not want to be in society. They could not have been more misled. Homelessness is a direct result of poverty, bad government policies, a poor housing market, wealth inequality, mental and physical health issues. What hinders progress is the stigma attached to homelessness - any solution we decide to opt for must challenge this stereotyping and treat housing as a human right.

¹⁶ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 1966.

CHAPTER 1 – Homelessness

Chapter 1 gives a comprehensive definition and outlook on the structural causes of homelessness in the European context. It then moves on to explore both inclusionary measures adopted by EU Member States, with a view to assisting individuals affected by homelessness as well as the exclusionary measures which penalise and punish these individuals. Finally, data collection issues are discussed, concluding with the results from the latest EU census.

1. Homelessness

At the end of 2015 the Special Rapporteur on Adequate Housing, Leilana Farha, published a report on homelessness¹⁷, calling it a global crisis and an issue which is set aside even by international bodies. Farha claims that homelessness is not treated as matter of urgency or priority and points out the marginalisation of the issue in strategies that are developed for sustainability and adequate living conditions. She states that homelessness has been excluded from the Millennium Development Goals¹⁸ and Sustainable Development Goals¹⁹, and that it is “rarely mentioned in preparatory work for the UN Habitat III”²⁰. In her report, homelessness is highlighted as a phenomenon that occurs in both developed and developing countries, as it is present in both prosperous and disadvantaged areas of the world. Contrary to popular belief, homelessness does not solely affect a specific group of people and can affect groups in different ways, albeit with common features. Homelessness is recognised as “symptomatic of the failure of governments”²¹ – on all levels, be it municipal, regional or countrywide– to address inequalities in income and wealth and access to land and property and failure to respond to challenges of migration and urbanisation²². Ms Farha also recognises individuals’

¹⁷ UN Doc., A/HRC/31/54.

¹⁸ G.A. Res. A/RES/55/2.

¹⁹ G.A. Res. A/RES/70/1.

²⁰ G.A. Res. A/RES/67/216.

²¹ UN Doc., A/HRC/31/54, p.3.

²² *Idem*, para 2.

experiences of being vulnerable members of society as the causes of homelessness. Care should be taken not to limit the term homelessness to exclusively describe the state of not having a house, as 'homeless' also represents a social group which is subject to stigma, social exclusion and criminalisation²³. The Special Rapporteur finds that the term 'homeless' must include the physical aspect and the notion of a 'loss of a sense of belonging'. In her research, homeless people told her "often through tears, that more than any material security, what they yearn for is to be "seen", to be recognized and treated by society as human beings with inherent dignity and respect"²⁴. For this to happen, the problem needs to be understood so that policies can be better targeted at individuals' needs, monitoring should be improved so that reliable data are available, stigma and social exclusion must stop, and including a Human Rights based approach in policy development and strategies is fundamental. Furthermore, something of pivotal importance, is the need of a change in attitude, where housing is treated as a right and homeless people as right-bearers, for: "homelessness occurs when housing is treated as a commodity rather than a human right"²⁵.

1.1 Defining Homelessness

A comprehensive definition of homelessness is given by the European Federation of National Organisations working with the Homeless (FEANTSA) through ETHOS (European Typology on Homelessness and Housing Exclusion) which identifies three domains that constitute a home (see Annex 2):

- The physical domain: an adequate space over which an individual can exercise exclusive possession;
- The social domain: where maintaining privacy and enjoying relationships is possible;
- The legal domain: where the individual has a legal title to occupation.

²³ Idem para 3.

²⁴ Idem para 22.

²⁵ Idem para 2.

By taking into account what domains constitute a home, it becomes evident what constitutes a lack of a home. Living on the streets, or in night shelters, or in hostels, or on the floors or couches of relatives or friends, is living in a state of homelessness. People who are awaiting discharge from institutions, and have no accommodation to go to, fit this definition too. Individuals living in unsecured accommodation such as squats or slums are homeless; people living in overcrowded abodes, where national density standards for floor-space are exceeded, are homeless. According to the ETHOS definition, homelessness also affects people who live under the threat of violence or eviction, along with those whose mortgages have an order to repossess, or those living in temporary or non-conventional residence.

1.2 Interpreting the Causes of Homelessness – New Orthodoxy

In the 1970s, research on the causes and characteristics of homelessness focused on explanations based on the individual, stressing the pathology of the person and attributing homelessness primarily to substance addiction or mental-illness. This led to research strategies (and government policies) which focused on “vagrants, not vagrancy”²⁶. However, as the number of people experiencing homelessness increased during the 1980s, researchers started to look into possible structural explanations for the phenomenon. In 1986, an EU-level seminar was held in order to explore services for homeless people across Europe²⁷. One of the outcomes of the seminar was the identification of two main categories of homelessness²⁸:

1. homelessness caused by structural reasons: i.e. homelessness due to "a lack of material availability, generally due to a discrepancy between the supply of housing and demand"²⁹.
2. homelessness caused by individualistic reasons: homeless primarily due to the needs and characteristics of the individual; persons suffering from a “psycho-social incapability to take up occupancy of an independent dwelling deriving from the fact that, even if

²⁶ Archard, 1979.

²⁷ FEANTSA, 2010.

²⁸ Idem, p. 11.

²⁹ Idem.

material access were possible, those in this category would be unable to settle there in an independent and/or permanent fashion because of various psycho-social difficulties”³⁰.

These two categories allow us to identify the interactions between socio-political elements and the individual needs of certain members of society. This approach has been named ‘New Orthodoxy’³¹ and takes into consideration “the significance of personal factors and attempt[s] to integrate these causes within a structural framework”³². In the early 2000s, this approach became predominant and it now represents the framework which is used by most researchers and agencies working to combat homelessness – this paper shall adopt the same approach. Fitzpatrick explains this new interpretation by stating that: “Structural factors create the conditions within which homelessness will occur; and people with personal problems are more vulnerable to these adverse social and economic trends than others; therefore the high concentration of people with personal problems in the homeless population can be explained by their susceptibility to macro-structural forces, rather than necessitating an individual explanation of homelessness”³³. Furthermore, the new orthodoxy interpretation shifts away from the ‘passive victim’ view of persons experiencing homelessness and offers a concept which takes into account the complexity of the circumstances which lead to homelessness³⁴. Four main areas have been identified by research as causes of homelessness: housing structures; economic structures, interpersonal structures and individual attributes³⁵.

1.3 European trends that can lead to housing exclusion and homelessness

“The general condition of the housing market is a major driver of structural homelessness, and access to mainstream affordable housing for vulnerable people is a major concern even in countries with the strongest welfare protection”³⁶. In order to shed light on the current housing trends across the Union, the European housing situation in general will

³⁰ Idem, p. 11

³¹ Pleace, 2000.

³² FEANTSA, p. 12-13, 2010.

³³ Fitzpatrick, 2009.

³⁴ Cloke et al., 2010.

³⁵ FEANTSA, p. 13, 2010.

³⁶ FEANTSA, p. 89, 2010.

be analysed, touching upon some of the main issues which can lead to housing exclusion and homelessness.

Housing availability in the EU is scarce; sources indicate that the construction of houses does not follow demographic trends, thus resulting in housing shortages. This is particularly the case in urban areas and economically attractive areas. In 2012, it was reported that in England, 245,000 social houses were required to fulfil demand; however only 100,100 dwellings were built in that year³⁷. Likewise, data shows that in 2012, London needed 53,000 houses but only 27,000 were built; whilst in Munich and Hamburg such high demand has led to a notable increase in sales prices and in rent³⁸.

A shortage of housing invariably translates into less affordable housing. A study by Housing Europe illustrates how, in the period from 2009 to 2012, housing became more expensive new social housing production decreased in most EU countries in this period. Only in France did production increase - from 98,000 in 2009 to 116,000 in 2012³⁹. In Europe, waiting lists for social housing have been constantly on the rise: in England alone there are 1.8 million⁴⁰ people waiting for social housing, two thirds of whom have been waiting for over a year⁴¹. As social housing is not available in reality, people have no other choice but to rent privately owned dwellings. Unfortunately, this type of accommodation is often not secure for vulnerable households, because of short-term rent contracts, unpredictable rent rises, or a lack of security (in some cases landlords can evict tenants by serving a mere month's notice)⁴². It must be noted that it is extremely difficult, if not impossible, for individuals who are unemployed, who have debts or who are subject to social stigma, to access this sort of accommodation.

Another trend which affects the affordability of housing across the EU is the high level of mortgage indebtedness which, combined with the crisis of the housing market, has

³⁷ Housing Europe, p.20, 2015.

³⁸ Idem.

³⁹ Idem.

⁴⁰ UK government, December 2014.

⁴¹ Shelter, http://england.shelter.org.uk/campaigns/_why_we_campaign/Improving_social_housing/Why_we_need_more_social_housing. Shelter analysis of English Housing Survey 2010/11

⁴² Idem.

resulted in a negative equity and defaulting mortgages⁴³. In EU-28 we can notice a significant increase in outstanding residential loans to the average GDP ratio, from 43% in 2004 to 52% in 2014. Furthermore, the total outstanding residential debt to disposable income of households surged from 66% in 2004 to 81.8% in 2012. This, combined with other factors, such as the rise in unemployment, has led to housing repossessions (and thus evictions), particularly in Spain. In 2012, a staggering 65,778 foreclosures were reported in Spain, 74.8% of which were the households' primary residence⁴⁴.

The general picture of the European housing situation is one tainted with rent or mortgage arrears, increasing evictions and homelessness. Longer waiting lists for social housing and an increase in demand for homeless services is particularly evident, especially in countries heavily affected by the 2008 economic crisis. Lastly, there is a growing indebtedness in relation to basic utilities such as heating and water⁴⁵. All of these factors must be taken into consideration and borne in mind when analysing the European housing situation, and consequently when making policies concerning housing, as they all influence housing exclusion and homelessness.

1.4 EU Member States Structures and the Policies That Seem to Influence the Size and Nature of Homelessness

Having briefly touched upon the economic and housing situation in Europe, it is opportune to look at what governments across the Union do, firstly, to prevent persons from becoming homeless, and secondly to help those who already experience homelessness.

Government social protection is through welfare systems where help is usually given in the form of income support, healthcare, childcare, housing support, or through the implementation of active labour market policies⁴⁶. When individuals are homeless, help can be in the form of shelters and counselling centres. To gain a full picture of the State's involvement in the issue of social exclusion, an important contradiction should be

⁴³ Housing Europe, 2015.

⁴⁴ Observatorio OESC, p. 12, 2013.

⁴⁵ CECODHAS Housing Europe, 2012.

⁴⁶ FEANTSA (b) p. 15, 2010.

highlighted: while the welfare system positively encourages social inclusion, the criminal justice system can often have “long-term exclusionary effects”⁴⁷ if used to exclude persons from public places or from participating in society.

1.4.1 Inclusionary Measures – the Welfare State

It must be recognised that instruments for social inclusion, such as the aforementioned forms of government help, vary considerably across the EU⁴⁸.

Despite the limited knowledge available on homelessness, due to States failure to effectively monitor it at the domestic level, the evidence that is to hand suggests that inclusive welfare regimes have a wider range of protection for those at risk of homelessness. Stephens and Fitzpatrick⁴⁹ state that the “nature and scale of homelessness is likely to be related to welfare regimes and their interacting with housing systems. Welfare regimes that produce high levels of poverty and inequality, not only produce high levels of homelessness, but the resulting homeless population is made up primarily of households facing access and affordability problems rather than particular individual ones.”⁵⁰ In addition, they claim that “the provision of housing subsidies targeted on lower income households, such as housing allowances, and the availability of social rented housing will also reduce the level of homelessness.”⁵¹ Thus, in States where there is a strong social protection, individuals are less at risk of becoming homeless, however, it is crucial not to underestimate the central role of social housing, or affordable and accessible housing. An excellent example of the correlation between the two factors can be currently found in England. On one hand, England has a liberal regime, which offers a good level of protection for those in need; on the other hand, the recent housing crisis has made it so that there is simply not enough affordable housing to meet the needs of every individual, hence the increased numbers of people experiencing homelessness in the country.

⁴⁷ FEANTSA (b), p. 30, 2010.

⁴⁸ See annex 3 for European families of welfare regimes based on Esping-Andersen, 'The Three Worlds of Welfare Capitalism', 1990.

⁴⁹ Stephens and Fitzpatrick, 2014.

⁵⁰ Stephens and Fitzpatrick, , pp 209-210, 2007.

⁵¹ FEANTSA (a), p 33, 2010.

Under International Law (see Chapter 3), States have an obligation to provide adequate housing for those who are not self-sufficient⁵². Across the EU, local authorities or NGOs are the main providers of assistance. They provide three main types of services: prevention aid, emergency relief or alleviation support, exiting help⁵³. With regards to assistance aimed at preventing homelessness, existing services offer mediation in cases of domestic conflicts, assumption of rent arrears, counselling and advice. Whilst services for emergency help and alleviation aid are usually in the shape of emergency shelters, food and clothing delivery and temporary accommodation. Lastly, assistance to exit homelessness includes education, training and employment services, immediate housing allocation and welfare payment services. Among the services that are available to the general population, services that homeless people may benefit from are health and social care services, psychiatric counselling services, rehabilitation programmes and services focused on sub-groups such as former offenders, young people, victims of domestic violence and so on⁵⁴. Many more specialist service areas have emerged which render the services less directly accessible⁵⁵: in fact, when the service eligibility criteria is too specific it renders it less efficient by creating barriers for those who do not meet the predefined criteria, thereby limiting access.

1.4.2 Exclusionary Measures – the Punitive State

Homelessness is not solely influenced by States' social inclusion practices, but also by practices which lead to social exclusion. Often, the punitive system, more specifically prisons, is used as a means to regulate 'social marginality'⁵⁶. In a study on homelessness and incarceration, Dyb⁵⁷ found that the rate of homelessness tends to increase after individuals are released from prison, making imprisonment a gateway to homelessness.

In some towns, cities, regions or even states in Europe, homeless people are penalised for carrying out life-sustaining activities in public places. The use of the criminal and

⁵² Article 11, International Covenant on Economic Social and Cultural Rights, 1966.

⁵³ Idem, p. 43, 2010.

⁵⁴ Idem, Table 4.1, 2010.

⁵⁵ Idem p. 44, 2010

⁵⁶ Beckett and Western, 2001.

⁵⁷ Dyb, 2009.

administrative justice system on homeless people, can be a tool to minimise their visibility or to drive them out of certain areas, like city centres. The presence of homeless people – which for many it is an uninvited reminder of extreme poverty – can trouble business owners whose shop windowsills are slept on; or residents who feel unsafe or uncomfortable about people begging near their homes; or politicians who promise, in vain, to solve the problem. So governments strategize measures, both formal and informal, that limit where homeless people can gather or that punish those who engage in essential human functions in public . The types of measures taken are:

- Legislation that makes it illegal to sleep rough or to store belongings in public places (eg. Vagrancy Act 1824 in the UK, still currently in force)
- Ordinances that punish people for begging (eg. Article 407 of the Greek Penal code, begging punishable with 3,000 euro fine or a 6-month prison sentence)
- Measures that limit food distribution in public (eg. soup kitchens moved out of the centre on the basis of ‘anti-social behaviour’ by its users)
- Selective enforcement of neutral laws against homeless people (eg. laws such as consuming alcohol in public places, jaywalking, urinating in public places)
- Prohibiting the removal of objects from public rubbish bins (eg. anti-scavenging ordinances passed by the 8th district in Budapest in 2010: “taking out garbage from garbage cans placed in public spaces or jointly used by residents”⁵⁸ is punishable with a fine of up to 50,000 Forints (or approximately 178 Euros))

These measures often violate International Human Rights treaties. Criminalising and penalising people for their involuntary status can be considered a contravention of several Articles of the International Covenant on Civil and Political Rights (ICCPR), such as: the right to be free from cruel, inhuman and degrading treatment (Article 7); the right to liberty and security of the person (Article 9); the right to privacy (Article 17); the right to family life (Articles 17 and 23); the right to freedom of assembly (Article 21) and the right to vote (Article 25). In response to a report submitted by the U.S. Interagency

⁵⁸ Jones, p. 107, 2013.

Council on Homelessness, ‘Searching Out Solutions’⁵⁹ (2012), the Committee Against Torture (CAT) responded stating that the criminalisation of homelessness “may constitute discrimination and cruel, inhuman, and degrading treatment or punishment in violation of the ICCPR and CAT”⁶⁰. Prior to this shadow report, the UN Human Rights Council (HRC) condemned the criminalisation of homelessness in the United States as a violation of Article 7 ICCPR on 27th March 2014; this concern was echoed by the Committee on the Elimination of Racial Discrimination (CERD) on 29th August 2014⁶¹. Since all EU Member States have signed the same UN treaties as the USA, all are equally bound by the recommendations of the UN.

Besides, finding avenues to penalise homelessness can be dangerous. For instance, in the United Kingdom the situation has been progressively worsening. A new legislation called the Anti-Social Behaviour, Crime and Policing Act 2014, which entered into force in October 2015, has defined anti-social behaviour in a very broad manner, “conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises or conduct capable of causing housing-related nuisance or annoyance to any person.”. This has resulted in homeless people being harassed, persecuted or threatened by the police just because they sit in a public space . This legislation makes homeless people even more vulnerable, they risk fines or imprisonment if a police officer deems their presence to be a nuisance to others. Pavement Publications, which supports homeless people living the UK, has been monitoring the situation and has accessed information from the London Metropolitan Police on the number of people arrested for begging in London in the month of August⁶². They have found that in August 2011, 375 people were arrested; in August 2012, 514 were arrested and in August 2013 the total number 700⁶³. These measures are blatantly inadequate as they only “cure” the symptoms but not the cause of homelessness; they simply cause more hardship for groups who are already vulnerable, violate their HR and allow authorities to exercise discriminatory

⁵⁹ United States Interagency Council on Homelessness, 2012.

⁶⁰ National Law Center on Homelessness and Poverty, para. 17, 2014.

⁶¹ Idem.

⁶² MintPress News, 15/12/2014.

⁶³ Idem.

behaviour. It is despicable to treat homeless people as criminals, when they are forced to live on the streets, as poverty is not an autonomous choice, if a choice at all.

1.5 The Struggle of Persons Affected by Homelessness in Claiming Their Rights

People experiencing homelessness are often prevented from claiming their rights and seeking assistance. This can occur because of societal power structures, which keep the socially excluded in a state of disadvantage. I believe, however, that the main reasons which lead authorities (and others) to mistreat persons living in homelessness are discrimination, stigma and prejudice. Consequently, homeless people come to mistrust public authorities, or even to fear them, resulting in them not seeking the help they are entitled to. This state of affairs calls for a change in attitude and in policies⁶⁴.

The criminalisation of homelessness and associated activities are founded on fears for public safety, health or security. HR law imposes stringent conditions for restrictions on individual rights. These limitations must be determined by law and be non-discriminatory, proportionate and necessary in a democratic society; furthermore, they must have a legitimate aim. It is the State's burden to prove that the limitations comply with the aforementioned safeguards. Limitations on HR are only acceptable if they are imposed to promote general welfare.

Adopting a Human Rights-Based approach entails measures to be non-discriminatory and for the persons concerned to be involved in the decision-making process, "the empowerment of persons living in poverty through participation is also a means to promote the social inclusion"⁶⁵. In order to fulfil their HR obligations, States ought to take positive measures to allow those living in extreme poverty to enjoy all their HR and to be part of an inclusive community, equal to the rest of the population. Rather than dedicating resources to penalising the poorest, States should provide for a minimum essential level of an adequate standard of living by using the maximum available resources at their disposal. Apart from abolishing these punishing legislations, adequate

⁶⁴ Jones, pp. 33-49, 2013.

⁶⁵ Council of Europe, 2013.

housing should be ensured, so that no individual suffers degradation by having to carry out life-sustaining activities like eating, sleeping and necessary bodily functions in public spaces. After all “homeless people must be defended from arbitrary measures, humiliating police harassment, penal fines and incarceration just as the principle of equal worth of citizens must be defended from unconstitutional, discriminative legislation”⁶⁶.

1.6 Homelessness in the European Union – an Issue with Data Collection

The Special Rapporteur on adequate housing (2000-2008), Miloon Kothari, has called homelessness “perhaps the more visible and most severe symptom of the lack of respect for the right to adequate housing.”⁶⁷ Recent reports carried out by EU agencies allow us to identify an increase in the number of people affected by homelessness on the continent. The European Observatory on Homelessness⁶⁸ found that the reasons for this increase include: higher levels of unemployment (particularly youth unemployment); unaffordability of housing for many (especially in metropolitan areas); cuts in welfare benefits, health care services and other social cutbacks due to the last economic crisis in 2008. The number of homeless people living in Europe is unknown and hard to estimate, as data released on the subject by governments of EU Member States never seem to match the numbers estimated by other actors. What is more, States hardly ever gather data on the homeless using a correct methodology, hence unreliable and broken data are generally the outcome⁶⁹. This is perhaps one of the biggest problems in combatting homelessness in Europe: data are scarce and inaccurate. There are many ‘hidden homeless’ who couch surf at the homes of friends or relatives or who constantly relocate. This group of people stays hidden because when censuses are carried out, information is gathered only on those who live in shelters or who receive government aid⁷⁰. The fact that there is no unique accepted definition of homelessness in the EU, results in data being impossible to aggregate. Indeed, the lack of a standardised definition of homelessness across European countries is not an issue to be underestimated – its impact is considerable. The main

⁶⁶ Missetics, Fernandez Evangelista and Jones (eds.), 2013.

⁶⁷ UN Doc., E/CN.4/2005/48.

⁶⁸ Set up by FEANTSA, engaged in policy-focused and academic research.

⁶⁹ European Observatory on Homelessness, 2014

⁷⁰ Idem p. 41.

problem with definitions of homelessness employed by EU Member States is that they are not comprehensive and tend to exclude many homeless groups⁷¹. Consequently, censuses on the homeless population are far from efficient, as they measure something different in every country due to the varying definitions. Not only does a lack of a uniform European definition render understanding the scale, nature and impact of the phenomenon difficult, but comparisons between countries are virtually unachievable. This seems a squandered opportunity for cross-country recommendations and collaboration, and an unexploited chance to assess how homelessness is influenced by policies and contexts.

1.6.1 The Domestic Impact of Data Collection Issues

Besides the effects of a non-standardised definition of homelessness at a European level, broken data collection (i.e. lacking in consistency and comprehensiveness) at a domestic level also has severe impacts. Homelessness is usually not looked at as a whole, or as a single social problem but, rather, it is considered at the individual level⁷². This greatly ignores structural problems and avoids facing the issue at large. There ought to be national databases on homelessness which regard the problem as *one*. Failure to do so results in situations such as the one the United Kingdom experiences, where there are different databases depending on the definition of homelessness⁷³. It is true that some aspects of homelessness are inherently difficult to measure: this can be because it is hard to gather data on those who are not in States' database systems, since they have not accessed welfare or health services, have not been inserted into the criminal justice system or have not used services for the homeless⁷⁴. The individuals affected by homelessness who are unlawfully present in the country, are often not entitled to any of the above mentioned services and therefore are unknown and are not considered in statistics or data collection. It is also hard to gather data on those individuals who experience a certain type of homelessness and do not identify themselves as being homeless – those who sleep over at friends' places or stay with family members for example. This difficulty calls for

⁷¹ *Idem.*

⁷² *Idem.*

⁷³ European Observatory on Homelessness, p. 90, December 2014.

⁷⁴ *Idem.*

innovative methods of reaching out to people in these situations, either through social media or by raising awareness through social adverts on the internet, television or radio, as well as in schools and universities, and even on the streets.

1.7 Identifying Persons Experiencing Homelessness in the EU

In Europe, it appears as though ethnicity and migration status are linked to homelessness; this could be by reason of economic disadvantage certain ethnicities or migrants face, or due to barriers in accessing healthcare and welfare services, social housing or homeless services⁷⁵. What is more, there is a clear indication that the numbers of young homeless people are on the rise and an ever increasing number of those figures is female. On this point, EOH found that there is a notable dissimilarity between homeless women and homeless men, both in terms of the causes of homelessness and reactions to it. The agency found that a large number of women who become homeless, end up so because of gender-based violence in the household (i.e. domestic violence). These women will usually stay with friends and family and have a greater chance of receiving help from the government, particularly if they have children⁷⁶. Not only is there an obvious need for a greater protection of women and children who experience abuse at home, but it is also beyond question that individuals living under the threat of domestic violence, also fall within the category of homeless. When it comes to long-term or recurrent homelessness, research indicates that this mostly affects individuals who suffer from severe mental illness or alcohol and drug abuse⁷⁷. This situation is almost always difficult to solve as shelters and homeless services often require the client to be ‘clean’ in order to make use of the services.

⁷⁵ European Observatory on Homelessness, p. 93, December 2014.

⁷⁶ Idem.

⁷⁷ Idem.

1.7.1 2011 EU Census on People Experiencing Homelessness

In 2011, the EOH coordinated an EU census on homelessness, using 15 countries to evaluate the extent of the issue in Europe⁷⁸.

Despite the little data the EOH managed to collect, some conclusions from their study may be drawn. Firstly, the reaffirmation that homelessness is increasing across many EU Member States; secondly, that the patterns across the different States are much alike and, finally, that poverty and homelessness are associated. The study also reveals that there are clear advantages to improving data collection on people experiencing homelessness, as research was carried out in certain areas where it had never been done before, allowing thus for those living in that area to receive attention for the first time. Although, any indication or statistics is valuable for a better understanding of the phenomenon, progress must be made in this sphere.

Table 1 EOH⁷⁹ :

Country	Number Provided	Rate per 1000 inhabitants	Remarks
Czech Republic	11 496	1.10	Only people in overnight shelter and accommodation for homeless people we covered. Rough sleepers were not covered.
France	16 339	0.25	Rolling national census (conducted January 20-28, 2011), covering 8% of the population living in municipalities with more than 10 000 inhabitants. This number is almost certainly an underestimate. INSEE/INED surveys on homelessness indicated some 86 000 homeless people in 2001 and 141 500 in 2012.
Ireland	3 808	0.82	All people found in the 928 properties providing accommodation to homeless people on an emergency, transitional or long-term basis on census night were covered. Rough sleepers were also included.
Italy	34 653	0.58	Only people registered as having no fixed address at which to be contacted were included as homeless people in the census.
Poland	8 699	0.23	Rough sleeper and residents in accommodation for homeless people (collective living quarters), based on lists provided by local governments.

⁷⁸ Idem.

⁷⁹ European Observatory on Homelessness, p. 40, Table 5.1, December 2014.

			The number of properties on which this total was based is lower than that reported in other countries.
Portugal	696	0.07	Data derived from a street count of rough sleepers and from a survey covering mainly overnight shelters for homeless people
United Kingdom	240	No data	The census was based on an estimate from service providers in England and Wales as to how many people were sleeping rough. The data are almost certainly unreliable. The CHAIN database showed that 1 908 British citizens slept rough in London during 2010/2011 and street counts suggested a rough sleeping population of some 1 800 people in England (at any one point in time during the same period). Data were not collected on other forms of homelessness in the UK census.

It is evident from the data that there is a lack of common standards and that poor methodology is employed in censuses and data collection on the homeless situation. The United Kingdom submitted a census that states there are 240 homeless people in the whole country, which can hardly be accurate. Poland's census says there are 8,699, whilst Polish NGOs⁸⁰ report about 300,000 homeless people. There appears to be a lack of consideration and engagement in solving the issue of homelessness, as surveys are clearly not taken seriously, nor carried out in a proper manner. Whilst politicians deny the scale of the problem, political collaboration on this issue (at least on identifying a definition of homelessness to be used across Europe) is not on governments' agendas.

⁸⁰ <http://netaware.ue.katowice.pl/wp-content/uploads/2012/05/Social-exclusion-of-homeless-people-in-Poland.pdf>

CHAPTER 2 – Homelessness and Human Rights

The purpose of chapter 2 is to explore the notion of human dignity in the HR context and more specifically in the context of the right to adequate housing. The chapter explores the notion of a dignified life and advances a HR-based approach as a framework for public policy-making, advocating for HR mainstreaming to end homelessness.

2.1 The Concept of Dignity in Human Rights

At the very basis of Human Rights is the concept of human dignity: this concept can be found in International Law mainly through HR instruments, at both international and regional levels. The Universal Declaration of Human Rights [hereinafter UDHR] talks about “inherent human dignity”⁸¹; the preamble of the UN Charter mentions “faith in fundamental rights, human dignity and worth of the human person”⁸². At the regional level, the earliest HR convention which recognised “the inherent dignity of the human person” was the American Convention on Human Rights⁸³ under Article 5. Later, the African (Banjul) Charter referred to “dignity and genuine independence”⁸⁴ in its preamble. Additionally, the concept of dignity can also be found in the preamble of the Arab Charter where it is mentioned that a “belief in dignity”⁸⁵ of the human being is shared. Dignity is not explicitly mentioned in the European Convention on Human Rights and Fundamental Freedoms [Hereinafter ECHR], but nonetheless can be found in its Protocol No. 13⁸⁶ on the abolition of capital punishment in the words: “the full recognition of the inherent dignity of all human beings”. A further reference to dignity is made in the ASEAN Declaration under the General Principles, which echoes the UDHR, “all persons are born free and equal in dignity and in rights”⁸⁷.

⁸¹ Universal Declaration of Human Rights, 1948.

⁸² The Charter of the United Nations, 1945.

⁸³ The American Convention on Human Rights, 1969.

⁸⁴ The African Charter of Human and Peoples Rights, 1981.

⁸⁵ The Arab Charter on Human Rights, 1994.

⁸⁶ Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances, 2002.

⁸⁷ The ASEAN Human Rights Declaration, 2012.

Human dignity is the cornerstone of HR conferring its very basis and reason; it is what HR seek to defend. During the drafting of the UDHR, the representative of South Africa⁸⁸ questioned whether the term ‘dignity’ ought to be included, to this Eleanor Roosevelt answered that it was indeed necessary “in order to emphasise that every human being is worthy of respect [...] it was meant to explain why human beings have rights to begin with.”⁸⁹

Defining human dignity is a very arduous, if not an impossible task. It is clear that at the individual level we all have a feeling, if not a definition, of what human dignity means to us, or at least we are aware when it is violated. However, thinking at a more global level, finding a common understanding of dignity is hard, to say the very least, mainly due to the vague and abstract notion it represents, but also because of different notions of its source and due to cultural relativism.

2.1.1 The History of the Notion of Human Dignity

Historically, human dignity can be traced back to Roman times. In Roman thought, *dignitas hominis* meant ‘status’; this was not something possessed by everyone but only by those who had a social role that would evoke respect. This concept of dignity was reflected in the legal system where it protected status, reputation or privileges. In the international sphere on the other hand, dignity denoted the status of sovereign States and consular staff⁹⁰. Nevertheless, in Classical Roman writings one can find a second type of dignity, that of the human person. Cicero wrote that persons have “worth by virtue of being human”⁹¹ and for this reason are distinguishable from animals. Cicero claimed that it is “vitally necessary for us to remember always how vastly superior is man’s nature to that of cattle and other animals; their only thought is for bodily satisfactions [...] Man’s mind on the contrary is developed by study and reflection”⁹². Cicero opined that a human mind is superior to that of other species because of human beings’ ability to reflect. This

⁸⁸ McCrudden, 2008.

⁸⁹ Glendon, p. 146, 2001.

⁹⁰ Resnick and Suk, 2003.

⁹¹ McCrudden, 2008.

⁹² Cicero, *De Officiis*, I, p. 30, 1560.

view is shared by other philosophers who have stated that what makes “humans *persons* rather than *things*, is their rational nature”⁹³. Further developing this rationale, one can say that humans have “natural capacities for conceptual thought, deliberation, and free choice, that is the natural capacity to shape their lives”: in other words, autonomy⁹⁴. So one could reach the conclusion that to treat people with dignity is to treat them as autonomous beings (and thus free beings) capable of deciding what their destiny shall be⁹⁵.

In history one can observe that dignity has played an important role throughout time: it has been central to religions⁹⁶ and to social movements such as the abolition of slavery – in 1848 the French Republic abolished slavery on the grounds that it was an “affront to human dignity”⁹⁷ – and the movement of Communitarianism or Republicanism⁹⁸ and, more recently, to HR.

2.1.2 Human Dignity as a Global Concept

In order to come closer to a global understanding of dignity, we shall move East and look at some examples of other understandings of dignity. A notion of dignity exists in Confucianism; although this understanding differs from the Western, the concept exists and some common ground can be found. While the Western approach distinguishes man from animal on the grounds of rationality, the Confucian perspective holds morality to be the distinguishing characteristic. However, it is difficult to consider the concept of morality without rationality. In fact, Xunzi (a very distinguished follower of Confucius) writes:

“Water and fire have vital energy (qi 氣), but not life (sheng 生); plants and trees have life, but no consciousness (zhi 知); birds and beasts have consciousness, but no sense of appropriateness/rightness (yi 義). Humans have vital energy, life, consciousness, and, in

⁹³ Lee and George, p. 174, 2008.

⁹⁴ Idem p. 174.

⁹⁵ C. McCrudden, 2008.

⁹⁶ For example in Catholicism at the end of the 19th century with Pope Leo XIII and Pius X or in Islam with the contribution of Mawlana Mawdudi.

⁹⁷ Decree of 27 April 1848.

⁹⁸ See Jean-Jacques Rousseau for example.

addition, a sense of appropriateness/rightness. This is why humans are the most valuable beings under the heaven.”⁹⁹

Appropriateness and rightness is essential to a human society as it keeps order: in fact, this term could also be interpreted as ‘morality’ - knowing what the right thing or the appropriate thing is. Confucian philosophers believe that human beings “possess the potential to be morally excellent”¹⁰⁰ and that everyone has this potential. They also believe that the more this potential is developed, the more dignity the person has. This notion strongly contrasts the Western concept of dignity which asserts that no one person can have more dignity than another, as we all have the same dignity stemming from the simple fact that we are human beings. In sharp contrast to Western philosophy, dignity or moral value is attributed according to properties, as Mencius states “Slight is the difference between human beings and the brutes. The common man loses this distinguishing feature, while the exemplary persons retain it”¹⁰¹. Another patent difference is that in Confucian thinking dignity is not transcendent, but is born from the inner person¹⁰². Dignity in Confucianism seems to be close to a sense of morality or moral worth of the human, which is also a notion present in Western philosophies regarding dignity.

The concept of dignity can also be found in Islam, it is in fact a very strong pillar of the religion and can be found explicitly in the Qur’an: “We have bestowed dignity on the children of Adam and conferred upon them special favours above the greater part of Our creation”¹⁰³. Iraqi Islamic scholar, al-Alusi stated that, “everyone and all members of the human race, including the pious and the sinner, are endowed with dignity, nobility and honour, which cannot be exclusively expounded and identified”¹⁰⁴. Furthermore, in Islam it is believed that God bestowed men with reason – this is yet another case where it is

⁹⁹ Xunzi 9.16a; Knoblock pp. 103-104, 1990.

¹⁰⁰ Piemin Ni, p. 180, 2014.

¹⁰¹ Mencius 4B19; Lau, p. 131, 1970.

¹⁰² Piemin Ni, p. 185, 2014.

¹⁰³ Qur’an al-Isra’, 17:70.

¹⁰⁴ Mahmud al-Alusi, 1802-1854.

claimed that rationality distinguishes humans from other species. Similarly to Western thinking, in Islam dignity belongs to everyone and attributed from the moment of birth.

Although only analysed at a relatively superficial level, it can be noted that despite differences in the origin, it appears that the concept of dignity is present in other ideologies around the globe, albeit not identical in nature.

2.1.3 Human Dignity in the UDHR

In the time leading up to the drafting of the UDHR, controversies arose around the source of human dignity. While Westerners were more inclined towards the natural law tradition, where rights were endowed either by nature or by a supernatural being, Non-Western countries leaned towards the theory of positive law which states that rights are determined by the behaviour of human beings and not by extra-human laws¹⁰⁵. The philosophical notion which dominated the drafting of the Declaration and which supported the concept of human dignity, was that of personalism, mainly guided by Jacques Maritain. Personalism places the person at the centre of philosophy and postulates value in the human person. It considers personhood as a fundamental notion which “carries with it an inviolable dignity that merits unconditional respect”¹⁰⁶. Doron Shultziner once wrote that “human dignity is used as a linguistic symbol that can represent different outlooks, thereby justifying a concrete political agreement on a seemingly shared ground”¹⁰⁷, this explains how the seemingly opposite views of Jacques Maritain’s dignity (stemming from a theological source) and Jean Paul Sartre’s dignity (as achieved through existentialism) have in fact the same objective, i.e. the belief in human dignity. During the second international conference of UNESCO¹⁰⁸, Jacques Maritain remarked: “How, is an agreement conceivable among men assembled for the purpose of jointly accomplishing a task dealing with the future of the minds who come from the four corners of the earth and who belong not only to different cultures and civilizations, but to different spiritual families and antagonistic schools of thought? Since the aim of UNESCO is a practical

¹⁰⁵ Glenn, pp. 42-43, 1998.

¹⁰⁶ Stanford Encyclopaedia of Philosophy, Personalism, 2013.

¹⁰⁷ McCrudden, 2008.

¹⁰⁸ General Conference of the United Nations Educational, Scientific and Cultural Organization, Mexico November-December 1947.

agreement among its members can be spontaneously achieved not on common speculative notions, but on common practical notions, not on the affirmation of the same conception of the world, man and knowledge, but on the affirmation of the same set of convictions concerning action.”¹⁰⁹ This reflects my personal stance which disregards the contrasting opinions concerning the *origin* of human dignity and focuses instead on the notion itself, so as to find commonalities.

2.1.4 Finding a Minimum Core of the Concept of Dignity

So, we may ponder whether there is a minimum core of dignity across various nations, philosophies and cultures. There are three main elements which constitute dignity¹¹⁰:

- Firstly, there is the ontological claim that humans possess an inborn worth based solely on the fact they are human beings;
- Secondly, there is the relational claim that intrinsic worth must be recognised and respected;
- Thirdly, there is the limited state claim that States should exist for the individual and not vice versa.

However, even if we can agree on these three elements, the understanding of 'intrinsic worth' can vary.

At this point, I would like to put forward my own understanding of dignity: dignity comes from the fact that humans have a rational nature, which means they act not only to avoid pain and seek pleasure, but are also based on autonomous thinking: the “capacity to be lord of his fate and the shaper of his future”¹¹¹ is what gives humans an intrinsic worth. This leads me to think that inherent human value can only depend on the fact that we are *homo sapiens*. Thus, once established that humans have dignity, this dignity must be respected and protected, therefore no person can be used as a *thing* or merely as a means to a personal objective, or as Kant wrote “act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an

¹⁰⁹ Maritain, 1953.

¹¹⁰ McCrudden, 2008.

¹¹¹ Idem.

end, but always at the same time as an end.”¹¹² Furthermore, to hold that all humans possess inherent dignity is to believe that we are all equal in dignity. If we are to protect this notion, equally for every human, we must ensure States respect and protect the dignity of all individuals: hence the need for a supranational entity which monitors and reacts to States' actions or omissions in order to protect inherent human dignity of all people living in its jurisdiction is born.

2.1.5 The Concept of a Dignified Existence

In the 18th century, there were debates over whether the State should provide welfare, especially to the poor. In those times in England, Malthus and other economists were of the idea that poverty was inevitable and that it was in fact a consequence of the inferiority or weakness of the poor¹¹³. Discussions arose among those who were anti-Malthusians, such as Thomas Paine who instead believed that the right to subsistence was indeed a case of fairness. Although a significant amount of his work focuses on unfair wealth distribution, governments and unjust taxation, welfare rights discourse can be found in his writings¹¹⁴. He spoke of modes of relief for the poor, taking into consideration both the young and the more aged, advocating for financial aid to families to enable them to get out of poverty¹¹⁵. In the case of 18th century England, the focus was on justice as it was evident there was an unfair system in place whereby the poor were not poor because they did not work, but rather because of power relations in society and a classist system which privileged aristocrats and over-taxed the middle and lower classes, rendering them poor. Although this is often still the case in our contemporary world, our attention ought to be directed at how human dignity comes into play when considering Economic and Social rights.

Survival is not the only essential need of a human being, it should be accompanied by a dignified existence, respecting the very dignity every individual possesses. This concept has been named ‘vida digna’ or ‘dignified life’¹¹⁶. The Inter-American Court of Human

¹¹² Kant, 1785.

¹¹³ Marangos, 2005.

¹¹⁴ Read for example Thomas Paine’s *Agrarian Justice* of 1797.

¹¹⁵ Paine, pp. 104-114, 1999.

¹¹⁶ Inter-American Court of Human Rights, 2005.

Rights has developed jurisprudence which recognises this right¹¹⁷ in relation to the right to life, enshrined in Article 4 (1) of the American Convention on Human Rights. In the case *Sawhoyamaxa Indigenous Community v Paraguay*, Judge Serio García Ramírez stated that in the Court's vision the obligations with regard the right to life go well beyond non-interference. He said that, "action is required to create conditions to guarantee a decent existence. In this view, the right to life is restored to its original status as an opportunity to choose our destiny and develop our potential. It is more than just a right to subsist, it is a right to self-development, which requires appropriate conditions."¹¹⁸

Here, we see the link the Court has made with life and the material needs for the enjoyment of it¹¹⁹. In the *Yakye Axa*¹²⁰ case, the Court spoke about "minimum living conditions that are compatible with the dignity of the human person"¹²¹. The Inter-American Court makes it clear that in their view, the State has a positive obligation towards individuals who cannot access minimum living conditions by themselves.

Following a similar line of thought, Amartya Sen has introduced a new way of looking at the dignity of the human person in relation to poverty - 'capabilities approach'. This theory states that capabilities are what allow individuals to do or be what they want. In this light, poverty can be defined as the inability to make choices, taking away autonomy and freedom, which are both pillars of our understanding of dignity. Sen shifts the discourse of poverty from a language of welfare to one of rights¹²² and leads us to redefine poverty as "deprivation of the capabilities essential for a person to live his or her life in dignity"¹²³.

In order to respect and protect our intrinsic human worth we must have a system which enables us to be free and autonomous beings and thus live in dignity. Poverty alleviation is not a new concept, already centuries ago egalitarian social movements made a case for States to have obligations towards the least affluent individuals: States were called upon to "improve the situation of the lower classes, who had fallen into poverty and starvation,

¹¹⁷ Hohmann, p. 87, 2014.

¹¹⁸ Judge García Ramírez, Separate Opinion in *Sawhoyamaxa Indigenous Community v Paraguay*.

¹¹⁹ Hohmann, p. 88, 2014.

¹²⁰ *Yakye Axa Indigenous Communities v Paraguay*.

¹²¹ *Idem*, para 162-164.

¹²² Council of Europe, 2013.

¹²³ *Idem*, p. 60.

and thus provide a true humane existence for everyone”¹²⁴. More than two hundred years later, we find ourselves battling over the same topic, still trying to persuade governments that “overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life.”¹²⁵

To live a dignified existence individuals must have an adequate standard of living (i.e. a basic minimum level of health care, shelter, food, clothing and social services) ¹²⁶, to form a basis for building their lives and for developing. There is no doubt that “human dignity, freedom and equality, [...] are denied to those who have no food, clothing or shelter”¹²⁷.

2.1.6 The Right to Adequate Housing and Dignity

A lack of adequate housing conflicts with the principle of a dignified existence as it clearly brings destruction to an individual’s life, because it restricts their freedom, undermines their equality and most certainly jeopardises their dignity. For instance, without adequate shelter a job cannot be secured, health is at great risk, education cannot be accessed, personal security is endangered and general basic needs cannot be met. Not having adequate housing reduces people to live in unsafe places where their human integrity is threatened. Vulnerable groups such as women, children and disabled individuals are most at risk. Without adequate housing women are more vulnerable to gender-based violence and harassment; children’s development (both physical and psychological) is negatively affected; disabled persons are more likely to be exposed to abuse. The privation of adequate housing means not having access to a secure and peaceful life in dignity¹²⁸. An absence of adequate housing can affect anyone and is hardly ever the fault of the person affected, but rather it can be a result of government policies, State economic situations, unlawful forced evictions or even as a result of individuals’ poor physical or mental health. If we are to strive for equality, dignity and freedom, there must be a system in place in societies which upholds these values. That

¹²⁴ Lassalle in Kretzmer and Klein (eds.), 2002.

¹²⁵ Mandela, Speech at Trafalgar Square, London, 2005.

¹²⁶ Universal Declaration of Human Rights, Article 25 (1), 1948.

¹²⁷ J., Yacoob, *Government of the Republic of South Africa v Grootboom and others*, 2000.

¹²⁸ UN Habitat, Factsheet No. 21/rev 1., p. 3, May 2014.

system of protection can be Human Rights instruments and principles created in International Law.

2.2 Human Rights as a Framework to Solve Homelessness

A Human Rights-Based Approach (HRA) was first construed in the context of international development policies. Its conceptual framework is for the process of human development, based on International Human Rights Law and aimed at the enhancement and protection of Human Rights¹²⁹. The rationale behind the construction of a HRA is that the Human Rights perspective ought to be included in every type of policy design, implementation and enforcement. It is a new perspective for the conception and design of public policies which places emphasis on the rights of individuals, as opposed to the needs of individuals¹³⁰. The difference is that rights imply duties, whilst needs do not. In fact, “an approach based on Human Rights identifies right-holders and what they are entitled to as well as the corresponding duty-bearers and the duties they have to fulfil.”¹³¹ In International HR Law, States are the main duty-bearers and their obligations are to Protect, Respect and Fulfil HR (see Chapter 3).

2.2.1 Why use a Human Rights-Based Approach to Homelessness?

In the context of homelessness, we can notice how a rights-approach varies significantly from a needs-approach in that: a needs-approach will emphasise meeting needs, its basis for assistance is that people ‘deserve’ help and so its focus is on immediate causes of the problem; while a rights-based approach, on the other hand will emphasise realising rights, its basis for assistance is that individuals are entitled to help and thus its focus is on structural causes and their manifestation¹³². A rights-based approach does not view individuals who need assistance as victims, nor does it appeal to people’s sense of morality or pity to deliver the assistance¹³³. It empowers individuals to claim their rights

¹²⁹ Kenna and Fernàdez Evangelista, p. 36, 2013.

¹³⁰ UN Doc., HR/PUB/06/8.

¹³¹ UN Doc., HR/PUB/06/12.

¹³² Kirkemann and Martin, 2007.

¹³³ Kenna and Fernandez Evangelista, 2013.

and to claim what they are entitled to and puts clear obligations on States to provide assistance.

2.2.2 HR Principles That Should Guide Public Policy

A Human Rights-Based Approach relies on certain principles, which are enshrined in International HR Law, namely¹³⁴:

- i. Universality and inalienability: every individual in every part of the world has HR and these rights cannot be taken from him or her.
- ii. Indivisibility: all HR have the same status and same importance, the realisation of a right often depends on the realisation of other rights and cannot be looked at individually.
- iii. Equality and non-discrimination: all human beings are equal in dignity and in worth and thus they are entitled to their HR without any type of discrimination, be it due to race, ethnicity, nationality, gender, sexuality, age, political ideology, religious belief, language, disability, economic status or any other status.
- iv. Participation and inclusion: every individual has the right to participate in and have information on decision-making which will affect their HR. Decisions should be bottom-up, thus enabling inclusion and participation.
- v. Accountability and rule of law: duty-bearers must comply with legal norms and standards set forth in International Human Right Law. If they fail to comply, those affected have access to remedies (such as courts and other adjudicators).

Poverty is now understood as a product of social exclusion and disempowerment. “Poverty is not only a lack of material goods and opportunities, such as employment, ownership of productive assets and savings, but the lack of physical and social goods, such as health, physical integrity, freedom from fear and violence, social belonging, cultural identity, organizational capacity, the ability to exert political influence, and the ability to live a life with respect and dignity. HR violations are both a cause and a

¹³⁴ <http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies#sthash.9t9jp6GV.dpuf>

consequence of poverty”¹³⁵. Poverty violates HR, since it is not a free choice of an individual, but rather a condition resulting from “cumulative social, political and economic processes (caused by shortages and inequalities) that exclude extremely poor people from the real and effective exercise of HR and fundamental freedoms”¹³⁶. Poverty has also been identified as an expression of social structures which recurrently violate HR, as the benefits of economic growth and public resources are not directed towards the most disadvantaged. Thus, it appears evident that there is a direct connection between HR and poverty – in fact, “individuals whose rights are denied are more likely to be poor”¹³⁷.

When considering poverty reduction strategies, a HRA requires the strategies to follow the subsequent elements and principles¹³⁸:

- i. Action to improve the situation of the poorest must be identified and prioritised;
- ii. The root causes of discrimination and power relations must be analysed;
- iii. The process and poverty reduction targets must be consistent with International HR Law;
- iv. Transparency and accountability must be ensured in macroeconomic design, sectoral initiatives and governance;
- v. Participation must be ensured through guaranteeing basic civil and political rights such as freedom of assembly and freedom of information;
- vi. Clear indicators and benchmarks must be set out in order to monitor the progressive realisation of economic, social and cultural rights.

According to both sets of principles described above, applying a HRA to homelessness would have the following format: (a) people on the brink of or already experiencing homelessness are identified; (b) States recognise relevant HR legislation at the domestic level; (c) equality and non-discrimination are ensured in every aspect of policies, strategies and measures developed and implemented to solve homelessness; (d) individuals affected by homeless are consulted and included in the decision making process; (e) States ensure they are taking all possible steps towards a progressive

¹³⁵ OHCHR, p. 9, 2006.

¹³⁶ Kenna and Fernàdez Evangelista, p. 40, 2013.

¹³⁷ Idem.

¹³⁸ OHCHR, p. 9, 2006.

realisation of economic and social rights (see Chapter 3); (f) the situation is monitored and accountability ensured.

2.2.3 Homelessness and Human Rights

Homelessness “can be described as a continuum of situations of exclusion from adequate housing”¹³⁹. In order to eliminate homelessness we must focus on the promotion, protection and respect of the right to adequate housing. This right is understood as a human right which is based on the principle of *human dignity*. People experiencing homelessness have their dignity thwarted and their equality threatened; they carry with them social stigma and dehumanised conditions which gravely affect their dignity.¹⁴⁰ I hence advocate that an effective and efficient way to end housing exclusion and homelessness is to rely on HR Law and a HRA. Relying on HR norms enables us to invoke “the rights directly in order to hold states and other actors to their obligations to protect, respect, fulfil economic, social and cultural rights. The experience of some countries and jurisdictions clearly shows that this is possible.”¹⁴¹

Thus, using a Human Rights framework for combatting homelessness can be a normative tool which can defend the rationale of the right to housing; give rise to obligations and be mainstreamed in policies directed at poverty, social and housing exclusion and more specifically, homelessness.

¹³⁹ Fernandez Evangelista, 2010.

¹⁴⁰ Muñoz et al., 2000.

¹⁴¹ COHRE, p. 8, 2003.

CHAPTER 3 – The Right to Adequate Housing in International Human Rights Law

Chapter 3 introduces the right to adequate housing in the framework of International Human Rights Law. Article 11 of the ICESCR and legal obligations under the Covenant are the prime focus of this chapter. Forced evictions and homelessness are discussed as violations of the right to adequate housing . Finally other treaty-based protection mechanisms of the right to adequate housing are explored.

3. The Right to Adequate Housing in International Human Rights Law

In the international realm, the right to housing has long been included in HR instruments. Today, the right to housing is enshrined in the UDHR, a non-binding treaty now part of international customary law, under Article 25 (1) where it is included in the more holistic right to an adequate standard of living, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” This Article reflects the drafters’ acknowledgement that basic material needs are a precondition for the fulfilment of other HR, as well as for the dignity of individuals. The right to adequate housing can also be traced back to Franklin Roosevelt’s Four Freedoms, it can be understood in the *Freedom From Want*, as an absence of adequate shelter can be an indication of poverty.

3.1 The Right to Adequate Housing in the Covenant on Economic, Social and Cultural Rights

The right to adequate housing is enshrined in the International Covenant on Economic Social and Cultural Rights [hereinafter the ICESCR] of 1966 under Article 11 (1), (binding in International Law) and it reads as follows:

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing

and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.”

It is important to bear in mind that this Article is to be read in conjunction with Article 2 (2) of the Covenant which states that all rights enumerated in the treaty must be exercised without discrimination.

3.1.1 Understanding and Defining ‘Adequate Housing’

In International HR Law, adequate housing contains freedoms and entitlements¹⁴². The freedoms are namely: the right to be free from arbitrary interference with one’s family, privacy and home; the right to freedom of movement which comprises the right to choose one’s residence and decide where to live. Among the entitlements there are: security of tenure; housing, land and property restitution; equal and non-discriminatory access to housing; participation in housing-related decision-making¹⁴³.

The Committee for Economic Social and Cultural Rights [hereinafter CESCR] views the term adequate housing as an all-encompassing term which is not shy of including other HR. It sustains that the right to adequate housing should not be interpreted as a “roof over one’s head”¹⁴⁴, but rather be seen as “the right to live somewhere in security, peace and dignity”¹⁴⁵. Moreover, UN Habitat has asserted that adequate shelter is:

“adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities: all of which should be available at an affordable cost. Adequacy should be determined together with the people concerned, bearing in mind the prospect for gradual development. Adequacy often varies

¹⁴² The key aspects of the right to adequate housing are clarified in the Committee’s General Comments No. 4 (1991) and No.7 (1997).

¹⁴³ UN Habitat, Factsheet No. 21/rev 1., p. 3, May 2014.

¹⁴⁴ UN, General Comment No. 4, E/1992/23, 1991.

¹⁴⁵ *Idem*.

from country to country, since it depends on specific cultural, social, environmental and economic factors. Gender-specific and age-specific factors, such as the exposure of children and women to toxic substances, should be considered in this context.”¹⁴⁶

What is more, General Comment number 4 of the CESCR further sets out States’ obligations with regards to the core guarantees of the right to adequate housing. It includes: Legal Security of Tenure; Availability of Services, Materials and Infrastructures – individuals must have access to basic services such as water, electricity, heating etc.; Affordable Housing - tenants must also be protected from unreasonable rent rises; Habitable housing – the inhabitants should have enough space and be protected from natural conditions as well as be physically safe; Accessible housing – individuals with particular requirements or in ‘vulnerable groups’ should be prioritised and housing laws and policies should take these groups into account; Location – housing should be provided in areas which allow access to education, employment, healthcare and other social facilities; Culturally Adequate Housing – the expression of cultural identity and diversity should be taken into consideration¹⁴⁷, “development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed”¹⁴⁸.

Under the obligation to respect, States and State agents must refrain from interfering with individuals’ housing. Whilst under the obligation to protect States must prevent homelessness and forced evictions, as well as protect individuals under its jurisdiction from non-State agents, such as private companies and corporations. Lastly, under the obligation to fulfil, States must adopt national housing policies or plans targeted at vulnerable sectors of society, these must set out clear objectives, identify the resources available and monitor the results – under this obligation “States must also, progressively and to the extent allowed by their available resources [...] provide the physical infrastructure required for housing to be considered adequate [...]; or ensure adequate

¹⁴⁶ The Habitat Agenda, A/CONF.165/14, 1996.

¹⁴⁷ “In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States to ensure the availability of such materials” [see Kenna, p. 6, 2005.]

¹⁴⁸ Kenna, 2005.

housing to individuals or groups unable, for reasons beyond their control, to enjoy the right to adequate housing, notably through housing subsidies and other measures.”¹⁴⁹.

3.1.2 Forced Evictions and Homelessness as a Violation of the Right to Adequate Housing

Forced evictions are a large contributor to violations of the right to adequate housing. In fact, this phenomenon affects at least 2 million people every year across the globe¹⁵⁰.

Forced evictions are defined as:

“Permanent or temporary removal against the will of individuals, families and/or communities from homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection. The prohibition of forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights”¹⁵¹

For evictions to be carried out without amounting to HR violations they must be carried out in a lawful, reasonable and proportional manner. The government should consult other feasible alternatives and only carry out an eviction as a last resort, while ensuring that those involved are included in the decision-making process and that procedural guarantees and due process be afforded them. In circumstances where individuals must be moved in order to carry out development plans, there are conditions and procedural limits imposed by the right to adequate housing and there is a duty to provide protection for vulnerable groups. The right not to be forcibly evicted is not solely linked to property, it includes any type of tenure of land or housing. It protects people from being displaced, rendered homeless, abused or harassed in the process, or entering extreme poverty. Discrimination often plays a role in forced evictions, as it is usually minorities or the poorest who are affected, because of social exclusion. People who have been forcibly

¹⁴⁹ UN, General Comment No. 4, E/1992/23, 1991.

¹⁵⁰ UN-Habitat, 2007.

¹⁵¹ UN, General Comment No.7, E/1998/22, para 4, 1997.

evicted are put in a position where they need to find alternative housing and this renders them vulnerable to homelessness.

Homelessness in itself is a violation of the right to housing and other HR such as, the right to health because without adequate housing an individual is considerably more vulnerable to illness, disease and malnutrition and often informal settlements have limited safe drinking water; the Right to Vote as without a registered domicile or proof of residency one cannot vote; the Right to Privacy; the Right to Social Security; the Right to Education - either because children are constantly moved or because the settlement in which they live does not have an official status, therefore preventing them from enrolling in schools; and the Right to Work as employment opportunities are scarce when living in inadequate accommodation. Persons experiencing homelessness may also be deprived of other HR, like in the case when States have laws prohibiting rough sleeping or which criminalise homelessness, thereby impacting their physical and mental integrity as well as their dignity. Besides, homelessness makes individuals more likely to be exposed to abuse, harassment or violence often as a result of discrimination.

3.1.3 Legal Obligations under the Covenant of Economic, Social and Cultural Rights

Following the enumeration of rights included in Article 11 ICESCR on the right to an adequate standard of living we find the phrase which is, in essence, one of the distinguishing features of the nature of Economic, Social and Cultural rights [hereinafter ESCR] - i.e. the State party must "take appropriate steps to ensure the realisation of this right"¹⁵². Contrary to Civil and Political rights [hereinafter CPR], where once a State party has ratified a treaty, its obligation is to immediately adopt legislative action to ensure the protection and fulfilment of such treaty, ESCR involve an obligation of a progressive realisation of the rights. The reason being is that, firstly it is argued that ESCR cannot be realised immediately as they require substantial resources to be allocated for their fulfilment. A second point which is often maintained, is that whilst CPR are negative rights, meaning that the primary obligation for the State is not to interfere, ESCR are

¹⁵² Article 11, International Covenant on Economic, Social and Cultural Rights, 1966.

positive rights in the sense that States must enact legislation and allocate financial resources to fulfil their obligations. What must be remembered, is that ESCR are of a progressive nature, in other words the concept of continuity is fundamental: there is no set aim but rather a constant duty to keep improving the conditions for the rights to be realised¹⁵³.

It is therefore important to consider how the obligations embedded in the ICESCR function if we are to understand the role of the State in ensuring the right to housing and, more importantly, if we seek to identify when violations occur. Article 2 (1) of the Covenant shapes the legal obligations of State Parties to the treaty:

“Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

From the moment of drafting this Article, it was agreed that States’ obligations vis-à-vis ESCR ought to be determined in accordance with the State’s economic wealth¹⁵⁴. The phrase ‘to the maximum available resources’ is to be understood as the Lebanese representative Mr Azkoul stated, “the reference [to resources] was to the real resources of the country and not to budgetary appropriations”¹⁵⁵. Mrs Roosevelt gave further clarification with the words: “a State was not required to use all its resources without exception but only in the maximum which could be expended for a particular purpose without sacrificing essential services”¹⁵⁶. This also includes resources provided by other States.

Article 2 (1) provides an obligation for State Parties to “achieve progressively” the rights contained in the Covenant: a State party must allocate financial means and create a long-term strategy whereby each right is further developed. Neither a stagnation point where

¹⁵³ UN Doc. EN/CN.4/SR.236, 1951.

¹⁵⁴ Alston and Quinn, p. 177, 1987.

¹⁵⁵ U.N. Doc. E/CN.4/SR.271, Mr Azkoul, Lebanon.

¹⁵⁶ U.N. Doc. E/CN.4/SR.271, Mrs. Roosevelt, USA.

nothing improves, nor a regression where the State has lower standards than previously is acceptable. It is often reiterated that the duty to achieve progressively “should not be invoked by States as grounds for failing to implement a right when resources were available”¹⁵⁷. Progressively bettering the enjoyment of the rights set forth by the Covenant can be extremely thorny when a State experiences a financial crisis. In austerity times, measures must be temporary, necessary and proportionate; policies should not be discriminatory and, finally, these measures must identify and respect the minimum core content of ESCR. In ratifying the Covenant State Parties have minimum core obligations, specifically they must ensure the minimum essential level of each of the rights.

Article 2 (1) ICESCR further instructs State Parties to achieve the full realisation of the rights set forth in the treaty by “all appropriate means, including particularly the adoption of legislative measures”: this is to be understood as including different methods, not necessarily of a legislative nature, although it appears to be recommended. However, it is imperative that legislative action be taken when an already existing legislation violates the obligations assumed under the Covenant¹⁵⁸.

Notwithstanding the concept of progressive realisation, it is conspicuous that certain elements be immediately ensured such as: the elimination of discrimination in health, education, the workplace or for instance the right to join and form trade unions. This is often seen as a legislative change which can be carried out without substantial economic resources and in a short period of time, and is hence not subject to progressive realisation. It is noteworthy that a duty to prioritise the most vulnerable is also an immediate obligation under the Covenant.

More generally, as seen previously, a State’s obligations to realise HR under International Law are threefold: a State must respect, protect and fulfil the rights set forth in HR treaties. The general obligation to respect entails States refraining from interfering with individuals’ enjoyment of rights whether directly or indirectly and this includes interference from State agents. The obligation to protect requires States to protect individuals from non-State actors: the State must prevent, investigate, prosecute and

¹⁵⁷ Juvigny, France, 8 U.N. ESCOR C.4 (307th meeting), at 5, U.N. DOC. EN/CN.4/SR.307, 1953.

¹⁵⁸ Alston and Quinn, p. 167, 1987.

ensure redress for harm caused. Finally, the obligation to fulfil demands that States ensure the realisation of HR through budgetary, judicial, legislative and financial engagements¹⁵⁹.

3.1.4 Monitoring

The Committee for Economic, Social and Cultural rights was established in 1985¹⁶⁰; the Treaty Body is comprised of 18 independent experts, elected by ECOSOC, who serve a 4-year term and are eligible for re-election if nominated. Its principle function is to monitor the implementation of the rights set forth in the Covenant by State Parties. This is done through two procedures: reports¹⁶¹ and the individual communications procedure¹⁶².

Whilst it is true that the two above-mentioned procedures help with the monitoring of ESCR enshrined in the Covenant, the most effective way of protecting these rights is dependent on the measures taken by Governments. On this subject, “the Committee has recognized the essential importance of the adoption by States of appropriate legislative measures and the provision of judicial remedies, indicating the very real legal nature of economic, social and cultural rights”¹⁶³. For the facilitation of the enjoyment of ESCR in the Convention, domestic law should be interpreted in a manner than conforms with a State’s obligations stemming from international treaties it has ratified¹⁶⁴. Furthermore, courts should consider Covenant rights “where this is necessary to ensure that the State’s conduct is consistent with its obligations under the Covenant”¹⁶⁵.

¹⁵⁹ Amnesty International Publications, p. 19, 2005.

¹⁶⁰ ECOSOC Resolution 1985/17.

¹⁶¹ As required by Art. 16 and 17 ICESCR.

¹⁶² UN General Assembly, A/RES/63/11710.

¹⁶³ OHCHR, Fact Sheet No.16 , May 1996.

¹⁶⁴ General Comment No. 9, E/C.12/1998/24, para 14, 1998.

¹⁶⁵ Idem para 15.

3.2 The Right to Adequate Housing in the Covenant on Civil and Political Rights and in Other UN Human Rights Treaties

The right to adequate housing can be – and has been – protected by the International Covenant on Civil and Political rights [hereinafter ICCPR], even though housing is not explicit in the Covenant. Because of the strength of the ICCPR’s voice, people have been bringing individual complaints regarding housing which are related to other HR protected by the Covenant. The HRC has tried to resist efforts which sought to imply the right to housing into the Covenant, however one can link economic-social conditions (such as housing) of certain communities to the ICCPR through the use of Article 27 which protects minority communities¹⁶⁶. Also, if the loss of housing is a result of a discriminatory act, policy or measure, Article 26 entitles individuals to non-discriminatory and equal protection of the law and thus a case concerning economic-social rights can be litigated under the article. In a number of cases related to property restitution in the Czech Republic, a violation of Article 26 was found on the grounds that the prerequisite for seeking compensation was that the individual had to be a Czech national¹⁶⁷. Article 17 of the Covenant also provides avenues to protect the right to housing as the Article’s scope is the protection of individuals from unlawful interference with privacy, family life, home or correspondence. A case well worth taking into consideration, is *Vojnovic v Croatia*¹⁶⁸ where an ethnic Serb who had been living in Croatia was assaulted by authorities on numerous occasions, either at the police station or in his own home. Eventually, after receiving anonymous death threats, he and his family were driven out of Croatia,. Six month after having been forced out of Croatia, the State deprived the Vojnovic family of the tenancy rights of their state-owned apartment where they had been living for 36 years prior to their forced removal. In Croatian domestic law, this action is lawful if for a period of 6 months the tenants are absent from the property without a ‘justified reason’. Upon their return, they found that the apartment had been sold. The Committee found that the termination of the tenancy was

¹⁶⁶ Hohmann, pp. 32-37, 2014.

¹⁶⁷ *Vojnovic v Croatia* 1510/2006.

¹⁶⁸ *Idem*.

discriminatory albeit a lawful termination under domestic law. This depicts how Article 17 has the scope to protect the enjoyment of housing rights.

The destructions of homes in the West Bank and East Jerusalem, by the State of Israel has appeared in the HRC concluding observations¹⁶⁹ as a violation of Articles 17, 26, 7 and 23. It was recognised as a tool for social control or even torture. It can be said that “housing or home is the locus within which discrimination and interference are experienced”¹⁷⁰ and thus must be protected, especially when vulnerable groups or minorities are concerned. Hence, the HRC has started to recognise the violation of rights through interconnections between each right, be it: social, political, cultural, civil or economic¹⁷¹.

Certain aspects of the right to adequate housing are also recognised in other international Human Rights treaties¹⁷²:

- Convention relating to the Status of Refugees, art. 21, 1951
- ILO Convention No. 117 art. 5(2), 1962
- CEAFRD, art. 5 (e) (iii), 1965
- ICCPR, art. 17, 1966
- CEDAW arts. 14 (2) and 15 (2), 1979
- CRC, art. 16 (1) and 27 (3), 1989
- ILO Convention No. 169, arts. 14,16 and 17, 1989
- CMW, art. 43 (1) (d), 1990
- CRPD, arts. 9 and 28, 2006.

¹⁶⁹ UN Human Rights Committee, Concluding CCPR/C/ISR/CO/3/CRP.1, July 2010.

¹⁷⁰ Hohmann, 2014.

¹⁷¹ Hohmann, p. 35, 2014.

¹⁷² UN Habitat, Factsheet No. 21/rev 1., p 11, November 2009.

CHAPTER 4 – The Right To Housing in the European Legal Systems of Protection of Human Rights

The purpose of this chapter is to analyse provisions related to housing, in relevant documents and case law of the European Human Rights system; namely in the EU Charter of Fundamental Rights, the Revised European Social Charter and the European Convention on Human Rights. The indirect protection of the right to housing through the European Court of Human Rights is presented and its case law examined. The jurisprudence shows that the cases usually include factors such as forced evictions and discrimination (particularly against Traveller communities).

4. The European Regional Protection of the Right to Housing

The right to housing is enshrined in regional HR instruments. For the purpose of this thesis, the focus shall be placed on the European system of HR protection.

The European Human Rights system is comprised of two main treaties: the European Convention for the Protection of Human Rights and Fundamental Freedoms [hereinafter ECHR] and the European Social Charter, now updated and revised to include the Revised European Social Charter [hereinafter RESC]. The right to housing is mainly enshrined in the RESC under Articles 31 and 16, however, the ECHR has also been used to protect some elements which constitute the right to housing. Furthermore, the assimilation of the Charter of Fundamental Rights of the EU [hereinafter EU Charter] into the Treaty of Lisbon in 2009, “makes the right to social assistance – including housing – legally operational in the EU”¹⁷³.

¹⁷³ Hohmann, p. 50, 2014.

4.1 The EU Charter of Fundamental Rights

The EU Charter is consistent with the ECHR and the RESC in that it protects civil, cultural, economic, political and social rights enshrined in the aforementioned treaties. Accordingly to Article 51 (1) of the EU Charter, its provisions are addressed to EU institutions and Member States when implementing EU Law. The EU Charter has a provision relating to social security (Art. 34) which includes housing, however, it is important to note that the Charter "does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties"¹⁷⁴. This implies that Article 34 does not provide a basis to extend the Community competence in the field of social security¹⁷⁵. The Article's impact is on standard-setting and policy-making where EU institutions already have competence¹⁷⁶. Article 34 reads:

"(1) In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the procedures laid down by Community law and national laws and practices. (2) Everyone residing and moving legally within the EU is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices. (3) In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices."

In essence, the Article imposes recognition and respect for the entitlement to social security as well as to social and housing assistance, when proposals for EU legislation are made.

If an individual feels that their rights have been breached through the implementation of an EU law, they can take the case to their national court or ombudsman; if unsatisfied

¹⁷⁴ Article 51(2) European Charter of Fundamental Rights, 9/12/2009.

¹⁷⁵ Tooze, pp. 161-192, 2003.

¹⁷⁶ *Idem* p. 164.

with the result, a complaint can be made to the European Commission which, if it finds a breach, can start the infringement procedure¹⁷⁷.

4.2 The Revised European Social Charter

The rights protection system under the RESC is characterised by a so called ‘pick and mix’ approach, which means that State Parties to the Charter are not required to be bound by all of the articles present. In accordance with Article A(b), State Parties must choose to be bound to 6 core rights, out of the 9 enlisted (including Articles: 1,5,6,7,12,13,16,19 and 20); according to Article A(c) State Parties must choose a total of 16 articles (or 63 numbered paragraphs) out of the 31 set forth in the Charter, including the 6 core rights. The European Committee of Social Rights (i.e. the Social Committee), has claimed that the RESC is “guided by the principle of progressiveness”¹⁷⁸, much like the ICESCR. Its aims include to facilitate “economic and social progress” and to ensure “improvement in standard of living and social wellbeing”¹⁷⁹.

In order to comply with the RESC, States must¹⁸⁰:

- Adopt any necessary legal, financial and other operational methods to work steadily towards achieving the aims sets forth in the Charter;
- Keep appropriate and ‘meaningful’ statistics;
- Compose periodic reviews of the implementation of the Charter;
- Put in place a timetable for the achievement of each right they are bound to and not defer indefinitely its realisation;
- Consider the effects of the programmes adopted, especially for the most vulnerable groups of society.

When measuring States compliance concerning “expensive or difficult to achieve rights” the Social Committee in *Autism v France* set out three criteria: firstly, States must act within a reasonable timeframe; secondly, States must make measurable progress towards

¹⁷⁷ http://ec.europa.eu/justice/fundamental-rights/charter/rights-breached/index_en.htm

¹⁷⁸ *COHRE v Italy*, 58/2009.

¹⁷⁹ *Idem*.

¹⁸⁰ Hohmann, pp. 53-54, 2014.

the realisation of this right; and thirdly, States must show evidence that the financing for the right to housing is consistent with the State's maximum available resources.

The Social Committee monitors compliance in two ways: one is through periodic State reports and the other is through a collective complaints procedure. The former mechanism, produces regular State reports on the *de jure* and *de facto* implementation of the Charter; the reports are then submitted to the Social Committee which decides whether the situation described in the report complies with the Charter. Decisions adopted by the Social Committee, called conclusions, are published every year, and although they are not enforceable in domestic law, they are to be respected by the State concerned. In fact, they are declaratory statements which set out the law and require national authorities to take measures to give the conclusions effect under domestic law¹⁸¹. The second monitoring mechanism was introduced in 1995 thanks to the Additional Protocol Providing for a System of Collective Complaints¹⁸². The Protocol was introduced to increase "the effectiveness, speed and impact of the implementation of the Charter"¹⁸³. Complaints can be submitted by Trade Unions and certain NGOs¹⁸⁴, through these complaints the Social Committee assesses the general application of the Charter in the State concerned, however, as it is a collective complaints procedure, there is no requirement for a 'victim' as it is not meant to assess violations of an individual case¹⁸⁵. The Committee forwards the decisions on the complaints to the parties concerned and, in view of its follow-up, to the Committee of Ministers of the Council of Europe¹⁸⁶. Interestingly, cases concerning housing are very widespread.

¹⁸¹ Council of Europe, European Committee of Social Rights, The Reporting System.

¹⁸² CETS No. 158, entry into force 1/07/1998, 15 ratifications .

¹⁸³ Council of Europe, States and Implementation, Collective Complaints Procedure.

¹⁸⁴ For more see: <http://www.coe.int/en/web/turin-european-social-charter/non-governmental-organisations-entitled-to-lodge-collective-complaints>

¹⁸⁵ Hohmann, p. 51, 2014

¹⁸⁶ Council of Europe, Collective Complaints Procedure.

4.2.2 The Right to Housing in the Revised European Social Charter:

The right to housing is enshrined in Article 31 and it states:

"With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. To promote the access to housing of an adequate standard;
2. To prevent and reduce homelessness with a view to its gradual elimination;
3. To make the price of housing accessible to those without adequate resources."

Regrettably, Article 31 constitutes a non-core right and as such suffers a low number of subscriptions with 12 of a possible 43 State Parties accepting obligations under Article 31 (1) and Article 31 (2) and 9 State Parties accepting obligations under Article 31(3)¹⁸⁷. When State Parties have chosen not to be bound by Article 31, Article 16 – a core right – is often used to protect the right to housing as the notions of adequate housing and forced evictions are identical and both Articles give rise to overlapping obligations¹⁸⁸. Article 16 states:

"With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provisions of family housing, benefits for the newly married and other appropriate means."

Additionally, the right to housing also enjoys protection, albeit limited, through other articles of the RESC:

- Article 15 protects the right to housing of physically and mentally disabled individuals;
- Article 19 protects the right to housing for migrants workers;
- Article 23 protects the right to housing for the elderly;

¹⁸⁷ Hohmann, p. 52, 2014.

¹⁸⁸ European Roma Rights Centre (ERRC) v Greece, 15/2003.

- Article 30 protects individuals from poverty and social exclusion and includes an effective right to housing;
- Article E ensures the enjoyment of the rights set forth by the Charter without discrimination.

4.2.3 The European Social Committee's Case Law on the Right to Housing

The cases brought to the Social Committee, by way of the Collective Complaints procedure, address three main issues in the realm of violations of the right to housing. The first, is that States fail to address situations of vulnerability. In the case *ATD v France*¹⁸⁹ and *FEANTSA v France*, the two NGOs submitted the complaints under Article 31, on the grounds that French housing policies fail the most disadvantaged and marginalised communities. They highlighted the inadequate living conditions experienced by many of the poorest residing in France, focusing on those who lack basic amenities and essential services, on those who live in overcrowded dwellings and on those experiencing homelessness. France enacted legislation to fulfil its obligations under Article 31, but did not implement this legislation, resulting in a solely theoretical approach. The Social Committee had previously remarked that “the rights recognised in the Social Charter must take a practical and effective [...] form.”¹⁹⁰. What is more, the legislation enacted did not take into consideration the most disadvantaged citizens. The State failed to fulfil its obligations under: Article 31 (1), as insufficient social housing had been built; Article 31 (2) as homelessness had not been reduced; Article 31 (3) as basic amenities to a considerable part of the population and above all to the most marginalised had not been provided housing; and Article E as Travellers, Roma and migrant families were discriminated against when seeking access to housing. The Social Committee unanimously found a violation of Article 31 (1), (2) and (3).

The case *FEANTSA v France* has shed some light on the definitions of adequate housing and affordable housing. The Committee held that adequate housing ought to be: “a dwelling which is safe from a sanitary and health point of view , that possesses all basic

¹⁸⁹ International Movement ATD Fourth World v France, ESCR 33/2006.

¹⁹⁰ *Idem*, para 59.

amenities, such as water, heating, waste disposal, sanitation facilities and electricity; is structurally secure, not overcrowded; and with secure tenure supported by law”¹⁹¹. It defined affordable housing, for those with limited financial resources, as “affordable if the household can afford to pay, first initial costs such as a deposit or advance rent; secondly, current costs such as rent or mortgage and added expenses such as utilities on a continuing basis; and thirdly, can afford to fulfil these first two needs without compromising minimum standards of living as defined within the society in question”¹⁹². This has helped defining the right to housing in a ‘tangible and quantifiable way’¹⁹³.

4.2.3.1 Roma, Sinti and Travelling Communities – Discrimination in the Context of the Right to Housing:

Many complaints brought to the Social Committee refer to allegations of violations of the right to housing for Traveller communities. Through these cases a growing concern has arisen for the housing conditions of these groups and for discriminatory practices adopted by States in relation to Roma and Sinti communities in the area of housing. The Social Committee has contrived innovative measures to deal with States’ discriminatory behaviour towards these communities. These measures include: the concept that neglecting protection based on discriminatory practice amounts to an aggravated violation of the Charter and the Committee’s use of Article 31’s standards of forced evictions and adequate housing to further States’ obligation under Article 16¹⁹⁴. The Committee explained that an aggravated violation takes place when:

- a. measures which violate HR specifically target vulnerable groups are taken,
- b. public authorities are passive and/or do not take appropriate action against perpetrators of these violations and/or also contribute to such violence¹⁹⁵.

¹⁹¹ FEANTSA v France, para 76.

¹⁹² Hohmann, p. 55, 2014.

¹⁹³ Kenna and Uhry, 2008.

¹⁹⁴ Hohmann, p. 61, 2014.

¹⁹⁵ Idem pp. 64-65.

Furthermore, certain ‘repeat offender States’¹⁹⁶ (e.g. France and Italy) have been subject to follow up complaints. This situation illustrates a struggle to enforce the rights enshrined in the Charter.

(a) European Roma Rights Centre v Greece

ERRC v Greece¹⁹⁷ was the first complaint brought to the Social Committee on Roma housing rights¹⁹⁸. The international organisation alleged a violation of Article 16 of the Charter, on the grounds that Roma communities in Greece were denied adequate housing, were discriminated against and were often forcibly evicted. Greece was further accused of racial segregation and social exclusion of these communities, as they were confined to inadequate camping sites. The Committee found that Greece was in contravention of Article 16 on all grounds. The Committee stated that the housing available to the Roma communities was overcrowded and did not fulfil the criteria of adequate housing, it should be “of a suitable size considering the composition of the family in residence”¹⁹⁹. It further held that under Article 16, the “obligation to promote and provide housing extends to security from unlawful evictions”²⁰⁰.

(b) European Roma Rights Centre v Bulgaria

The ERRC brought this complaint²⁰¹ against Bulgaria to the Committee alleging a violation of Article 16 alone or in conjunction with Article E. The complaint concerned a large portion of the Roma population living in shacks, where forced evictions and lack of secure tenure were common place, where Roma people were physically segregated by metal fences and concrete barriers. This case is worth consideration because Bulgaria, in its defence, pointed out that it is not bound by Article 31 as they chose not to ratify it and stated that Article 16 is more limited in housing protection. The Committee, however,

¹⁹⁶ Idem p. 61.

¹⁹⁷ ERRC v Greece, 15/2003.

¹⁹⁸ Hohmann, p. 61, 2014.

¹⁹⁹ ERRC v Greece, para 16.

²⁰⁰ Idem.

²⁰¹ ERRC v Bulgaria, 31/2005.

affirmed that the protection of housing is *identical* in both Article 16 and Article 31, thus strengthening the Charter's housing protection²⁰².

(c) European Roma Rights Centre v Italy²⁰³ and Centre On Housing Rights and Evictions v Italy

The allegations against Italy concerned the inadequate living conditions of Roma communities²⁰⁴; the accusations spoke of systematic – and often violent – evictions of Roma from illegally occupied sites and a lack of permanent accommodation for Roma who wanted to settle. The Committee found Italy to be in contravention of Article 31 on all grounds. Italy failed to address the situation and took retrogressive steps, which is contrary to the principle of a progressive realisation of the rights set forth in the Charter, by reinforcing xenophobic attitudes and practices against Traveller Communities. The COHRE filed a follow-up complaint to the Social Committee arguing that Italy had violated Article 16 and Article 31 alone or in conjunction with Article E. The COHRE argued that Italy had, *de jure* and *de facto*, socially excluded Roma communities by: segregating them; denying them their legal status and denying them access to adequate housing by ghettoising them. Furthermore, the situation was aggravated by the media who disseminated racist and xenophobic propaganda claiming that Traveller communities were a threat to national security. COHRE documented the destruction of Romani camps along with forced evictions and even expulsions from the country. These acts were carried out by public authorities who gave no prior notice to the evicted nor found suitable replacement accommodation. What is more, other camps had also been the target of arson or vandalism based on racial hatred. State authorities have failed to investigate these crimes and the perpetrators have rarely been prosecuted²⁰⁵. The Committee found no evidence of improvement since the ERRC v Italy complaint and found the State had once again violated Article 31.

²⁰² Hohmann, p. 62, 2014.

²⁰³ ERRC v Italy, 37/2004.

²⁰⁴ COHRE v Italy 58/2009.

²⁰⁵ <https://www.escri-net.org/caselaw/2011/centre-housing-rights-and-evictions-cohre-v-italy-collective-complaint-no-582009>.

What is noteworthy in the case of *ERRC v Italy*, is that the Social Committee found Article 16 to include the right to family protection against undue interference in family life, to be interpreted similarly to Article 8 (the right to respect for private and family life) of the ECHR²⁰⁶. Furthermore, it found that the denial of identity documents to Roma and Sinti communities not only impacted on the right to housing, but also on the right to vote as well as residency and citizenship rights enshrined in the ECHR and its Protocols.

(d) COHRE v France and ERTF v France

In July 2010, the French President, Nicolas Sarkozy, implemented a policy which allowed for the destruction of illegal Romani camps and for their repatriation, on the grounds that they were unlawfully present in the country. This policy resulted in forced evictions and mass deportation. Consequently, international organisations brought complaints on HR violations to the Social Committee. COHRE argued that the expulsions and forced evictions clearly indicated intentional discrimination. Furthermore it alleged that “the evictions have been implemented with a high degree of coercion and abuse. For instance, evictions have occurred in the early hours of dawn and families have been forcibly separated.”²⁰⁷. In the Committee’s view the reason of eviction (illegal occupation) in itself was based on a valid lawful ground²⁰⁸, nonetheless, the way they were carried out contravened Article 31, as it did not take place in “accordance with the rights of the people concerned, in conditions which respect their dignity, and with procedural guarantees”²⁰⁹. In fact the Committee stated that the evictions took place “against a background of ethnic discrimination”²¹⁰ and concluded that France had committed an aggravated violation of Article 31(2) and noted that measures adopted by France failed to respect the values of the Charter especially that of human dignity²¹¹.

²⁰⁶ Hohmann, p. 64, 2014.

²⁰⁷ COHRE v France, 63/2010.

²⁰⁸ Hohmann, p. 66, 2014.

²⁰⁹ Idem.

²¹⁰ COHRE v France, Para 47.

²¹¹ Idem para 54.

4.3 The Indirect Protection of the Right to Housing Under the ECHR

The ECHR is responsible for the protection of civil and political rights in States within its jurisdiction. The Convention is equipped with a permanent court (the European Court of Human Rights, hereinafter ECtHR or Court), situated in Strasbourg and deals with individual or State applications of alleged HR violations. The Convention is often referred to as a ‘living instrument’²¹² due to its ever evolving case law which sets standards and precedents that are not always coherent to previous judgements, but that indeed reflect the Court’s opinions progressing in time.

Applications have been made and adjudicated on the merits of social rights, including the right to housing. Due to the notion and reality of the indivisibility of HR, the Court has indirectly protected social rights in many occasions. The Court has shown that the rights enshrined in the ECHR are capable of interpretations which extend to the realisation of the right to housing²¹³. One of the first cases where the Court interpreted a social right into a civil political right was *Airey v Ireland*²¹⁴ where the Court held,

“Whilst the Convention sets forth what are essentially civil and political rights, many of them have implications of a social and economic nature. The Court therefore considers [...] that the mere fact that an interpretation of the Convention may extend into the sphere of social and economic rights should not be a decisive factor against such an interpretation; there is no water-tight division separating that sphere from the field covered by the Convention.”²¹⁵

The Convention indirectly protects various social rights such as the right to health, the right to work and so on, however for the purpose of this thesis only the Court’s indirect protection of the right to housing shall be explored.

²¹² “The Court must also recall that the Convention is a living instrument which, as the Commission rightly stressed, must be interpreted in the light of present-day conditions.” [*Tyrer v United Kingdom* para 31, 5856/71].

²¹³ Hohmann, p. 67, 2014.

²¹⁴ *Airey v Ireland*, 6289/73.

²¹⁵ *Idem*, para 26.

4.3.1 The Indirect Protection of the Right to Housing Under Article 8 ECHR

Article 8, the right to respect for private and family life, has a textual basis for the protection of the right to adequate housing and reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”²¹⁶

Article 8 (1) imposes a negative obligation on States not to interfere with individuals’ private and family life, while Art 8 (2) provides for certain limitations where interference is allowed. This negative duty includes the State refraining from carrying out arbitrary evictions, and public authorities refraining from destroying people’s houses –as for example the deliberate burning of the applicant’s home in the case *Prokopovich v Russia*²¹⁷ . The central importance of a ‘home’, considered as “the notion of a private space into which no-one can is entitled to enter”²¹⁸, is evident in the Convention’s interpretation of this article. For instance in the *Menteş v Turkey*²¹⁹ case, the European Commission stated that the unlawful destruction of houses "brought within it the entire personal sphere of Article 8"²²⁰. Furthermore, the Court held that the home need not be legally established for the occupant to enjoy protection under Article 8, such as in the *Buckley v UK*²²¹ case, nor does it need to be owned by the applicant – in the case of an arbitrary eviction the tenant is protected by Article 8²²². The Court opines that even when

²¹⁶Article 8, European Convention of Human Rights, 1950.

²¹⁷ *Prokopovich v Russia*, 58255/00.

²¹⁸ Hohmann, p. 68, 2014.

²¹⁹ *Menteş and Others v Turkey*, European Commission No. 58/1996/677/867.

²²⁰ Hohmann, p. 68, 2014.

²²¹ *Buckley v United Kingdom*, 20348/92.

²²² *Prokopovich v Russia*.

occupants do not have a legal right to be there, such as in the case of *Kay v UK*²²³, Article 8 still grants some protection, even if limited, such as the right to a fair trial²²⁴.

Article 8 does not generally tend to be interpreted as involving a positive obligation for the State; Courts have not interpreted it as giving rise to an obligation to provide housing, but rather as a duty to respect it²²⁵. However, under certain circumstance the Court has recognised some minimal positive obligations on the State, such as providing alternative housing solutions or shelter when a State is directly responsible for taking the housing away. This has been called a ‘remedial obligation’²²⁶ and has been used in the case of *Fadeyeva v Russia*²²⁷ where the applicant lived near one of the biggest iron smelters in Russia and protested that the plant endangered her health and well-being and after exhausting domestic remedies, lodged an application under Article 8. The Court found Russia in violation of Article 8 on the basis that it had failed to strike a balance between the applicant’s individual right to an enjoyment of private and family life and the interest of the community at large by not providing alternative housing solutions to those affected by the plant. What is more, positive measures are required by States when the individuals involved are recognised as vulnerable²²⁸, such as people with serious illness or with disabilities: in these situations States have to ensure that the housing provided to them is adequate to meet their needs²²⁹. Nonetheless, Courts have not interpreted a right to housing in Article 8, thus excluding homelessness²³⁰ from its protection.

4.3.2 The Indirect Protection of the Right to Housing Under Article 3 ECHR

There are number of cases in the realm of housing²³¹ that have been lodged under Article 3, which prohibits torture or inhuman and degrading treatment or punishment. The

²²³ *Kay v United Kingdom*, 37341/06.

²²⁴ Hohmann, p. 69, 2014.

²²⁵ While usually the right to housing has been recognised to involve a positive obligation, to respect and fulfil the right.

²²⁶ Clements and Simmons, 2008.

²²⁷ *Fadeyeva v Russia*, 55723/00.

²²⁸ Hohmann, p. 70, 2014.

²²⁹ See for example *R (on the application of Bernard) v Enfield LBC*.

²³⁰ Hohmann, p. 69, 2014.

²³¹ Brems, p. 149, 2007.

applications either concern the destruction or demolition of persons' homes - which have been carried out or incited by State agents - or situations where the deplorable housing conditions of persons is a direct repercussion of the acts of State agents²³². So far, Article 3 has only been applied with regards to the State's negative obligation, in that a State must refrain from causing damage to an individual's home²³³. In a series of cases in Turkey, certain individuals who were suspected of being PKK supporters, had their houses destroyed by State agents, at times in presence of the occupants. Later, these individuals were forced to leave their village without receiving any form of State help²³⁴. The Court's decision that the violation "constituted inhuman treatment was based on the circumstances of the destruction as well as on the personal circumstances of the applicants"²³⁵.

In *Moldovan v Romania*²³⁶, State agents incited the destruction of some Romani people's homes, later, as 'compensation' from the government, they were given alternative accommodation in which they lived for several years. Description of the accommodation included that "they had been forced to live in hen-houses, pigsties, windowless cellars, or in extremely cold and deplorable conditions: sixteen people in one room with no heating; seven people in one room with mud floor [...]"²³⁷ The State's responsibility was engaged because the appalling living conditions were a direct repercussion of the acts of State agents²³⁸. In this case the Court found a violation of Article 3 saying that it "considered treatment to be "inhuman" because, inter alia, it was premeditated, was applied for hours at a stretch and caused either actual bodily injury or intense physical and mental suffering. It has deemed treatment to be "degrading" because it was such as to arouse in the victims feelings of fear, anguish and inferiority capable of humiliating and debasing them"²³⁹.

²³² *Idem*, p. 152.

²³³ *Idem*, p. 151.

²³⁴ Cases such as, *Bilgin v Turkey* App No. 23819/94, Judgement on 16/11/2000, or *Dulas v Turkey* App No. 25801/94, Judgement on 30/01/2001.

²³⁵ *Brems*, p. 151, 2007.

²³⁶ *Moldovan & Others v Romania*

²³⁷ *Idem*, para 69.

²³⁸ *Idem* para 95

²³⁹ *Moldovan and Others v Romania*, para 101.

4.3.3 The Indirect Protection of the Right to Housing Under Article 1 Protocol 1 ECHR

Article 1 Protocol 1²⁴⁰ concerns the protection of individuals possessions and protects individuals from unlawful State interference with their property. There are three scopes within this Article: the protection of a peaceful enjoyment of private possessions; the control of deprivation of possessions and the State's right to control the use of property²⁴¹. This provision includes cases regarding the destruction of homes and houses by the State²⁴². In the complaint *Akdivar v Turkey* "the applicants alleged that on 10 November 1992 State security forces launched an attack on the village of Kelekçi, burnt nine houses, including their homes"²⁴³. The Court found this to be in contravention with Article 8 and Article 1 Protocol 1 and "maintained that the burning of their houses amounted to a very serious violation of their rights under Article 1 of Protocol No. 1"²⁴⁴

Besides the negative right interpretation of Article 1 Protocol 1, through the case *Öneryildiz v Turkey*²⁴⁵, the Court interpreted the positive obligation of States to protect property²⁴⁶. The applicant's allegation was that the State had failed to take preventative measures and to properly compensate victims of an explosion that took place in a rubbish tip which destroyed property and took away 9 persons' lives.

Article 1 Protocol 1 has also been used in situations regarding States' non-provision of social housing to individuals who are entitled to it by domestic law²⁴⁷. In the case *Teteriny v Russia*²⁴⁸, the applicant alleged that the State had not enforced a judgement on the applicant's entitlement to housing which had been ordered by a domestic court in 1994. The judgement could not be enforced because local authorities neither had available housing, nor financial resources to enforce it. The Court found that, because the applicant

²⁴⁰ Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, Paris, 20/03/1952.

²⁴¹ Hohmann, p. 71, 2014.

²⁴² *Akdivar and Others v Turkey*, 21893/93.

²⁴³ *Idem* para 15.

²⁴⁴ *Idem* para 85.

²⁴⁵ *Öneryildiz v Turkey*, 48939/99.

²⁴⁶ Brems, p. 151, 2007.

²⁴⁷ Hohmann, p. 71, 2014.

²⁴⁸ *Teteriny v Russia*, 11931/03.

had had a legitimate expectation that he would receive housing for over 10 years, his claim to a “social tenancy agreement” was enough for it to constitute a “possession” falling within the ambit of Article 1 Protocol 1²⁴⁹. The Court holds that “a ‘claim’ – even to a particular social benefit – can constitute a ‘possession’ within the meaning of Article 1 Protocol 1 if it is sufficiently established to be enforceable”²⁵⁰, and it repeats that the concept of ‘possessions’ is not limited to owning physical goods, “certain rights and interests constituting assets can also be regarded as property rights, and thus ‘possessions’ for the purpose of this provision”²⁵¹. Finally the Court found that there was indeed a violation of Article 1 Protocol 1 as the inability of the applicant to obtain the execution of the judgement of 1994 for over 10 years constituted an interference with his right to peaceful enjoyment of his possessions²⁵².

4.3.4 Conclusion of the Indirect Protection of the Right to Housing Under the ECHR

On one hand, the European Court of Human Rights has a clear mandate to focus on civil and political rights; however, on the other hand, the reality of the indivisibility and interdependence of HR makes it so that it is difficult for the Court to draw a clear cut line with regard to its competence to deal with applications concerning the protection of social rights²⁵³. Professor Brems comments on how the experience of the Court shows that the justiciability of CPR can lead to what she terms “collateral benefits for social rights”²⁵⁴. Furthermore, what can be learnt from the Court’s judgements on cases concerning social rights is that, these ‘benefits’ can be materialised via the guarantees of the right to a fair trial (Article 6 ECHR), in that when social rights are guaranteed at the domestic level, access to just and fair proceedings allows for social rights to be enforceable²⁵⁵.

²⁴⁹ Idem, Para 50.

²⁵⁰ Burdov v Russia, 594980/00.

²⁵¹ Teteriny v Russia, Para 45.

²⁵² Idem, para 51.

²⁵³ Brems, p. 165, 2007.

²⁵⁴ Idem p. 163.

²⁵⁵ Idem.

CHAPTER 5 – Case Study on the Republic of Poland

Chapter 5 analyses and discusses homelessness in the Republic of Poland. In order to gain a broader understanding of where Poland stands on this issue, the social assistance structure will be examined, together with Poland's housing situation. It is impossible to talk about Poland without acknowledging its transitional period which has shaped the policies and the economy of today. Services available to people affected by homelessness are presented and scrutinised. Persons living in shelters in the city of Poznan, kindly offered to share their real life experiences so as to shed light on the subject, allowing us to move away from a purely theoretical analysis.

5.1 The Polish Legal Framework on the Right to Housing

The right to housing is a value protected in the Polish Constitution. It can be found under Article 75: "public authorities shall pursue policies conducive to satisfying the housing needs of citizens, in particular combating homelessness, promoting the development of low-income housing and supporting activities aimed at acquisition of a home by each citizen. Protection of the rights of tenants shall be established by statute."²⁵⁶ This provision calls for the protection of tenant rights to be specified in statutory provisions²⁵⁷. Article 76 expands the scope of public authorities' duties, "public authorities shall protect consumers, customers, hirers or lessees against activities threatening their health, privacy and safety, as well as against dishonest market practices. The scope of such protection shall be specified by statute."²⁵⁸ These two provisions ought to be interpreted in conjunction with the general concept of a welfare State enshrined in Article 2 of the Constitution²⁵⁹, pursuant to which "the Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice."²⁶⁰ Generally speaking, constitutional principles alone cannot guarantee nor provide "any independent legal basis

²⁵⁶ Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., Art. 75.

²⁵⁷ Panek, 2014.

²⁵⁸ Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., Art. 76.

²⁵⁹ Panek, 2014.

²⁶⁰ Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., Art. 2.

for actionable claims"²⁶¹; one must rely instead upon statutory acts which feature the provision, for the case in hand this would be the Tenants Protection Act²⁶² (TPA). Besides the TPA, the Social Welfare Act of 2004 provides protection for people to live in dignity²⁶³. What is more, other legislation relating to the right to housing include the Act on the Financial Support for the Creation of Communal Housing units, Protected Housing Units, Shelters and Houses for the Homeless 2006²⁶⁴. This statute allows Municipalities which cannot afford to assist those under their protection to be entitled to subsidies from "a special fund"²⁶⁵.

As seen previously (see Chapters 3 and 4), the right to housing is protected under International Law and at European level. Poland is a State Party of the UDHR and is bound by Article 25 which provides for adequate housing. Poland has also signed and ratified the ICESCR²⁶⁶ and is therefore bound by Article 11 on housing; it has signed and ratified²⁶⁷ the European Social Charter²⁶⁸. Poland has only signed the RESC²⁶⁹ and so is obliged, in good faith, to refrain from acts that contravene the principles set out in the treaty - such as Article 31 on housing²⁷⁰. Poland has undertaken other duties regarding housing which stem from International Law, such as the duty to "work to expand the supply of affordable housing by enabling markets to perform efficiently and in a socially and environmentally responsible manner, enhancing access to land and credit and assisting those who are unable to participate in housing markets"²⁷¹, found under paragraph 9 of the Istanbul Declaration on Human Settlements. Furthermore, as a State party to the CRC, Poland has undertaken, under Article 27 (3) to "take appropriate

²⁶¹ Panek, 2013.

²⁶² Ustawa z dnia 21 czerwca 2001 r. o ochronie praw lokatorów, mieszkaniowym zasobie gminy i o zmianie kodeksu cywilnego.

²⁶³ Panek, 2013.

²⁶⁴ Ustawa z dnia 8.12.2006 r. o finansowym wsparciu tworzenia lokali socjalnych, mieszkań chronionych, noclegowni i domów dla bezdomnych,

²⁶⁵ Panek, 2013.

²⁶⁶ Signed on 2/03/1967, ratified on 18/03/1977.

²⁶⁷ Signed on 26/11/1991, ratified on 25/06/1997.

²⁶⁸ Which only includes a provision which protects housing in the context of family life, Article 16, this provision was accepted by Poland.

²⁶⁹ Signed on 25/10/2005.

²⁷⁰ Which expresses a more holistic protection of the right to housing than the European Social Charter and explicitly mentions homelessness (see chapter 4).

²⁷¹ GA Res., 51/177 and 53/242.

measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing".

In the Polish context, individuals cannot assert a claim against the State based on their right to housing²⁷² as Polish law is restricted to defining the directions of State policy - *id est* the State is obliged to sustain policies which take into account and provide for citizens' right to housing²⁷³.

5.2 The Housing situation in Poland

The Transition process which took place in Central and Eastern Europe after the collapse of the Soviet Union, started in Poland in June 1989. Although the Polish transformation can generally be considered successful, some repercussions were felt - particularly in the housing realm. The privatisation process, alongside a very fast and deep restructuring of the Polish industry, resulted in a high number of redundancies and structural unemployment²⁷⁴. Often, when States go through a transition process, less focus is placed on social assistance, thus it is not surprising that Poland saw a decrease in social benefits. The simultaneous increase in taxes heightened destitution²⁷⁵. The housing sector was also negatively impacted: more people had trouble accessing housing as rents increased, unemployment grew and benefits shrank²⁷⁶. Besides, the liquidation of working class housing (hotel robotyczny)²⁷⁷ and the purchase of blocks of flats with a low price to value, generated an increase in evictions and in homelessness²⁷⁸.

Nowadays in Poland, housing exclusion, housing standards and homelessness are still an issue not to be underestimated. The underlying causes of these problems remain rooted in the social and economic decisions taken by the State during the transition period. Currently, there is a major lack of housing: in 2013, the number of dwellings averaged

²⁷² Wilczek, 2010.

²⁷³ Panek, 2013.

²⁷⁴ Termiński, 2011.

²⁷⁵ Idem.

²⁷⁶ Idem.

²⁷⁷ Residents were often forced to move out because of the increasing and unaffordable rent prices.

²⁷⁸ Termiński, 2011.

360 per 1000 persons, the lowest in the EU²⁷⁹. Depending on the source of the data, the number of people experiencing homelessness range from 30,000 to 300,000 people²⁸⁰. According to estimates from the University of Wroclaw, homelessness increases by 13 to 17% every year²⁸¹. The 2008, the Polish Ministry of Health report²⁸² suggested that the principle reasons for homelessness are: family breakdowns; evictions; prison or hospital release where the individual does not have accommodation to rely on upon their exit; domestic violence; no fixed income; addiction issues and the liquidation of working class hotels. In a survey carried out in 2010, the three main reasons for homelessness according to the public were "they are suffering from addiction" - 43%; "they have lost their job and cannot find another one" - 41% and "they cannot afford to pay the rent" - 34%²⁸³. Terminiński writes, "the major social catalyst for homelessness [in Poland] seems to be alcoholism"²⁸⁴. Given that circumstances like a job loss or a family breakup often happen to coincide with alcoholism, the former factors are often neglected when looking at causes of homelessness (see subchapter 5.5). In surveys carried out to measure the homeless population across the country, researchers found that "social workers usually marked alcohol dependency as the 'reason for homelessness' not as a 'support need'"²⁸⁵; in fact, alcoholism is often wrongly understood as the leading cause of homelessness. Literature suggests that homelessness is a critical social problem in Poland and one that stems from a low standard of social housing, a waiting period of up to five years and the minimal wage which is one of the lowest in the EU (PLN 1750/month²⁸⁶, circa Euro 390 compared to the EU average of circa Euros 750²⁸⁷). Alas, there is a profound lack of discourse concerning the subject, particularly in the political arena.

Another worrying trend that affects homelessness and housing exclusion is the high cost of the housing market in Poland. Since the country's accession to the EU, "real estate

²⁷⁹ Housing Europe, p. 74, 2015.

²⁸⁰ The number of people experiencing homelessness in Poland has been estimated to be about 300,000 by MONAR, the leading Polish organisation working with the homeless.

²⁸¹ Furmankiewicz, Rodak and Piosik, 2012.

²⁸² Terminiński, 2011.

²⁸³ Special Social Eurobarometer Report Survey, 2010.

²⁸⁴ Terminiński, p. 236, 2011.

²⁸⁵ Wygnańska, 2015. (European Journal of Homelessness)

²⁸⁶ <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20140001220>

²⁸⁷ <https://www.reinischfischer.com/minimum-wages-european-union-2014>

prices in Poland [have] drastically increased"²⁸⁸. In just over a year (June 2006 - July 2007) house prices increased by almost 65% in Warsaw. In 2009, Poland had one of the highest house-price to income ratio in the EU²⁸⁹.

The report on the 'Synthesis of National Reports on the Implementation of the Habitat Agenda' states that, "In countries with economies in transition where social protection has declined considerably, there is a strong need to address the situation of tenants, as housing markets are becoming increasingly commercialised [...]. In Poland, the rents and service charges are too high for poor people. Notwithstanding the housing allowances, some households cannot afford such expenditures, which, in extreme cases, lead to evictions."²⁹⁰ Polish people have experienced severe difficulties with evictions, so much so that it has been estimated that between the period of 1992 and 2004, up to 60,000 people were evicted²⁹¹. Legislative action was taken to counter the problem and from 5 February 2005 an amendment was made to the Code of Civil Procedures where evictions which render individuals homeless is prohibited²⁹². The law may have had a positive impact as in 2011 researchers found that the number of evictions had decreased²⁹³.

5.3 Welfare Measures

Welfare measures involve any actions or policies the government takes to resolve, ameliorate or prevent homelessness. This usually takes the form of social assistance, allowances and housing incentives along with services for the homeless (both emergency and reintegration-based services). The following considers Poland's social welfare system and services directed at individuals affected by homelessness.

5.3.1 Social Housing in Poland

²⁸⁸ Termiński, 2011.

²⁸⁹ Idem.

²⁹⁰ UN Habitat, Synthesis of National Reports on the Implementation of the Habitat Agenda in the Economic Commission for Europe (ECE), para 22, 1/09/2000.

²⁹¹ Termiński, 2011.

²⁹² Please see the order of Ministry of Justice of 26 January 2005 for detailed conditions to carry out an eviction in Poland.

²⁹³ Gerull, 2014.

In Poland, the major provider of assistance to the homeless is the gmina²⁹⁴, which is in charge of allocating resources to people suffering housing exclusion. Their role is determined by the Law on Local Government of 8 March 1990²⁹⁵: "among their responsibilities in satisfying the collective needs of the gmina community, the gmina's own responsibilities include [...] municipal housing". Gminas manage both social dwellings and dwellings owned by Public Building Societies²⁹⁶. Gminas create and regulate individual housing policies which must, nonetheless, comply with the national housing plan and laws.

In Poland, a social dwelling is defined as a space fit for human living with all the necessary amenities such as water, heating, electricity and so on. The standard of such a dwelling may be lower (so the dwelling could have a communal bathroom, no connection to sewage and/or water-line system, no central heating, etc.) The rental fee for the social dwelling cannot exceed half of the lowest obligatory rental payment in the housing stock owned by the gmina. The rooms cannot be smaller than 5 square metres for a household of more than one person and for a single person the household must be at least 10 square metres²⁹⁷.

The beneficiaries of social housing are: individuals on a low income; individuals suffering from severe health conditions and disabilities; individuals with family or social problem and; individuals with eviction orders from municipal, co-operative or private dwellings. Many individuals experiencing homelessness fall within the category of social housing beneficiaries listed above, however the gmina is not obliged to provide them with housing: it has been suggested that this is due to the fact that there are not enough housing units available or because of "the numerous stereotypes connected with homelessness" and the fact that "giving independent flats to the homeless with hardly any conditions to

²⁹⁴ Gmina is the municipal level of governance.

²⁹⁵ Ustawa z dnia 8 marca 1990 r. o samorządzie terytorialnym.

²⁹⁶ FEANTSA, p. 17, 2008.

²⁹⁷ USTAWA z dnia 21 czerwca 2001 r. o ochronie praw lokatorów, mieszkaniowym zasobie gminy i o zmianie Kodeksu cywilnego, (Dz.U. 2014 poz. 150).

be fulfilled by them might be met with a wave of protests and reluctance on the part of the Polish population"²⁹⁸ as it would be seen as a social injustice.

5.3.2 Social Assistance in Poland

The Law of 12 March 2004 on Social Assistance²⁹⁹ regulates social assistance in Poland - including assistance related to housing. Central and local administration work alongside NGOs, charities, the Catholic Church and others to provide aid. While the creation of social assistance strategies is centralised (managed by the Minister of Labour and Social Policy), services are decentralised and provided for at the municipal level. Regional social policy focuses on cooperating with those who provide and those who organise social assistance³⁰⁰. As for services for the homeless, the burden to provide shelters falls mainly on NGOs³⁰¹.

Social assistance may be given to persons legally residing in the country, that is Polish nationals, non-nationals who hold a residence permit, citizens of the EU and persons who possess a refugee status. Social assistance is provided when at least one of the following conditions are met: being orphaned, homelessness, poverty, unemployment, disability, long-term illness, alcoholism, drug addiction, incomplete large families, difficulty adjusting to life after prison discharge and after natural disasters have occurred³⁰². According to the Ministry of Family, Labour and Social Policy³⁰³, the main beneficiaries of social assistance are the homeless, the unemployed, disabled persons, the poor, the elderly, families and children and victims of natural disasters³⁰⁴.

There are various categories of social assistance that do not necessarily rely directly upon financial support, such as health benefits. The financial assistance provided to those who fulfil the criteria of eligibility is called 'cash benefits' and consists of three main types of financial benefits: permanent allowance (*zasilek stały*, which entitles beneficiaries to a

²⁹⁸ FEANTSA, p. 31, 2008

²⁹⁹ Ustawa z dnia 12 marca 2004 r. o pomocy społecznej.

³⁰⁰ <http://www.mpips.gov.pl/en/social-assistance/>

³⁰¹ Idem.

³⁰² Idem.

³⁰³ Ministerstwo Pracy i Polityki Społecznej

³⁰⁴ <http://www.mpips.gov.pl/en/social-assistance/>.

minimum of PLN 30 per month - circa 6 Euros), periodic allowance (*zasilek okresowy*, which entitles beneficiaries to a minimum of PLN 20 per month - circa 4.50 Euros³⁰⁵) and the special needs allowance (*zasilek celowy*, which is a lump sum of money for individuals to meet particular subsistence requirements³⁰⁶). A further criteria to fulfil in order to receive cash benefits is the minimum income criterion. As stipulated by Article 8 of the Act on Social Assistance, in order to be entitled to any cash benefits, an individual's income must not exceed the minimum income criterion, which is PLN 477 (circa 107 Euros) for a person in a single household and PLN 351 (circa 80 Euros) for a person in a family³⁰⁷.

Long-term social assistance may be granted to any age group: the main eligibility criterion is the state of health - i.e. the individual must be suffering either from a severe disability or be older than 75 years of age³⁰⁸. Long-term social assistance awards cash benefits which are subject to income levels, and benefits in kind which include health, invalidity and old age benefits. For older persons, the social pension has been a fixed amount of PLN 698.17 per month (circa 158 Euro) since March 2013³⁰⁹. The agency which regulates the aforementioned benefits is the Social Insurance Institute ZUS (*Zakład Ubezpieczeń Społecznych*) which employs physicians to evaluate the individual's physical health. This means that ZUS have a vested interest when assessing who is eligible for the benefits they grant.

What can be noticed in this brief analysis of the social assistance situation is that the amount of money granted is very low compared to the average living expenses in Poland (in 2011 they were estimated at PLN 1317/month, circa Euro 300 per person³¹⁰). Furthermore, a lack of coordination between the key players who provide housing assistance has been reported³¹¹.

³⁰⁵ Idem.

³⁰⁶ European Commission, 'Your Social Security Rights: Poland', p. 30, 2013.

³⁰⁷ Idem.

³⁰⁸ Idem p. 31.

³⁰⁹ Idem.

³¹⁰ <http://www.mojportalfinansowy.pl/artukul/koszt-zycia-w-polsce/>

³¹¹ Terminski, 2014.

5.3.3 Services exclusively aimed at persons affected by homelessness

Services exclusively directed at assisting persons experiencing homelessness are night shelters and homeless shelters. "The conditions as well as the specification of service provision for the homeless offered by shelters and night shelters are not clearly defined in Poland"³¹²: this creates uncoordinated and dispersed centres of assistance. The most commonly used form of assistance are shelters which offer a 24/7 service of care. In total, 70% of services is provided by shelters, 25% by night shelters, and around 5% in the form of protected flats³¹³. The strong position of the shelter may be the result of this paradigm present in the social security sphere - i.e. the belief that exiting homelessness requires individuals to 'progress gradually'³¹⁴, with the shelter being one of the steps on the long road towards independent living. The paradigm influences the choice of the predominant service offered and is also known as a staircase or spiral approach. Persons experiencing homelessness are only given housing once they have been through the whole system: rather than housing being perceived as a human right or an entitlement, it is considered a type of 'reward'.

Besides a negative mind-set, people affected by homelessness face other barriers to access housing: these are institutional barriers, system barriers and personal barriers³¹⁵. Institutional barriers are mainly due to a lack of trust in the effectiveness of an approach based on independent housing, resulting in a general reluctance on the part of organisations to co-finance or fund this type of project³¹⁶. System barriers, instead, reflect problems related to the availability of housing stock, the absence of concrete housing policy, a lack of cooperation between institutions or NGOs or the fact that assistance is generally targeted towards emergency help and relief rather than towards ending

³¹² FEANTSA, p. 20, 2008.

³¹³ Idem

³¹⁴ Idem.

³¹⁵ Idem.

³¹⁶ Idem.

homelessness³¹⁷. Finally, personal barriers include individual difficulties such as health problems, disabilities, addictions and debts³¹⁸.

5.4 Punitive measures

Information gained via the media, personal experience or direct observations forms the discourse of how people view others in society. This perception will influence how individuals, who are part of a group, are treated by society and affect their inclusion in society, their experience of societal life, the help they will receive as well as the punishment to which they will be subjected.

The concept of a homeless person³¹⁹ is deeply rooted in physical stereotypes³²⁰. "The image of a homeless person as scruffy and unkempt, smelly, abusing alcohol, failing to comply with social norms and resorting to begging - is the stereotypical description of a homeless person"³²¹. This view of persons affected by homelessness is not based on the fact that they do not have a home (which in essence is the characteristic that makes an individual homeless), but rather on their appearance and behaviour; it is an approach based on value-judgement³²². This kind of judgement emphasises the aesthetic aspect and behaviour thereby ignoring the social problem that is linked to homelessness; it dehumanises the homeless and can lead to a justification of inhuman actions towards this group of people. "The image we get is appalling: 'the homeless drink, smoke, defecate and urinate on seats later taken 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 stay in the shelter at Starażka Street they have to be sober. 'And they clearly have a problem with that' say PKP [the Polish national railway service] passengers".³²³ This leads us to what I believe to be the biggest flaw in the Polish national homeless strategy: i.e. abstinence is a prerequisite to

³¹⁷ Idem.

³¹⁸ Idem.

³¹⁹ As the majority of the people will come across street homeless people in their daily life, this is the category of homeless people referred to (ETHOS category 1 - roofless)

³²⁰ Browarczyk, Fernández Evangelista and Jones (eds.) 2013.

³²¹ Browarczyk, 2010.

³²² Browarczyk, Fernández Evangelista and Jones (eds.) 2013.

³²³ Rusek, 2011.

accessing help. Facilities which accept residents under the influence of alcohol or drugs are practically non-existent. The main type of accommodation available is night shelters or 24 hour shelters³²⁴, both of which require the resident to be sober³²⁵. Programmes which assist people affected by homelessness who have substance addiction issues are simply not available, thus leaving them to live in public spaces, such as train or bus stations and shopping centres, where they can make use of public facilities. However, as illustrated in the previous quote by a PKP passenger, the presence of people experiencing homelessness in stations and shopping malls disturbs passengers and customers. In the Polish legal system, homelessness itself is not criminalised, however, activities often carried out by people who sleep rough, like begging on the streets³²⁶, urinating on the streets³²⁷ and drinking on the streets³²⁸ are penalised. Public authorities will not intervene unless the individual has committed an offence, so managers of stations and malls hire private companies to remove persons affected by homelessness who are perceived as a nuisance. The problem is that there is no common understanding of what being a nuisance means; in addition, it is not always that straightforward to tell who is homeless - especially if we merely rely on an aesthetic image to make a judgement. Also, there are no common standards on how to "remove" these people and doing so does not solve the problem because all it does is move the people on for a while whilst infringing on their right to freedom of movement and assembly. This strategy puts staff policing the problem in difficulty as they find themselves obliged to send people experiencing homelessness outside into fierce winter conditions. It is a punitive measure; an attack on people affected by homelessness who have no other choice but use the sites as safe havens: the alternative is to die outside in the freezing cold.

The real problem is a lack of services available to people suffering from homelessness: believing they are at fault for not accepting assistance offered to them because they cannot refrain from taking alcohol or drugs, is an enormous and insulting oversimplification. It

³²⁴ Often to access these shelters you need to have been referred to it.

³²⁵ Browarczyk, Fernández Evangelista and Jones (eds.), 2013.

³²⁶ Ustawa z dnia 20 maja 1971 r. Kodeks wykroczeń (Dz.U. 1971 nr 12 poz. 114), art. 58.

³²⁷ Ustawa z dnia 20 maja 1971 r. Kodeks wykroczeń (Dz.U. 1971 nr 12 poz. 114), art. 140.

³²⁸ Ustawa z dnia 26 października 1982 r. o wychowaniu w trzeźwości i przeciwdziałaniu alkoholizmowi (Dz.U. 1982 nr 35 poz. 230), art. 43.

is a clear and undisputed fact that people suffering from substance addiction are often not able to seek the help they require, because of many psychological factors affecting that individual. Mental health and substance addiction are not treated simultaneously, so assistance will be given for either one condition or the other; this means a person with both mental health issues and substance addiction will most likely be treated solely for their addiction. A considerable number of people affected by homelessness are not aware of the help that is available to them. Once excluded from society, it can be daunting to seek help from institutions or people. Research shows that if individuals have been on the outskirts of society for years, they lack motivation or even a reason for seeking help. The psychological impact and trauma that experiencing homelessness has on people should not be underestimated: hence, to reason as a non-addict, a non-homeless person, a non-socially excluded person brings no intelligent or useful contribution to the situation. Finally, before going to a shelter for support in the form of rehabilitation or counselling, an individual needs a referral which entails many visits to various institutions to evaluate the person's specific needs.

Changing the views and attitudes towards people affected by homelessness is an essential step towards solving homelessness. Government policies will be of no assistance if we continue to oversimplify the solution (i.e. 'stop drinking and taking drugs') and underestimate the hardships these individuals go through on a daily basis (i.e. 'they are lazy and choose to live on the street').

5.5 Results from Interviews Carried out in the City of Poznań

Interviews with people affected by homelessness in Poznań are an essential part of the analysis on housing exclusion and homelessness in Poland³²⁹. Working within a HR framework includes the notion of empowerment and a bottom-up approach; interviewing persons who experience the issue first hand not only helps with understanding the phenomenon, but also gives individuals a voice and weight to their opinions. In order to ensure trust and anonymity, the interviewees and the shelters have not been named. The interview questions were previously prepared in Polish both for the staff of the shelter

³²⁹ See Annex 4 and 5 for interview questions and answers from the shelters in Poznań.

and the shelter users. The shelter clients were interviewed in small groups (the decision was theirs as to how they wanted to be interviewed; many wanted to be with a friend or another person using the shelter, but some also wanted to be interviewed alone - their choices were respected). I was personally present together with a Polish translator to ensure no subtleties or innuendos were missed during the interviews. The total number of interviewees was 37 persons who are currently staying in one of Poznań's three main homeless shelters. The staff were also interviewed in order to gain an understanding of how the shelters work and to hear their opinions on the issue of homelessness in the country. All three shelters can be reached by public transport from the city centre and they are all run by charities. Conditions for accessing these shelters are: the person must be referred by MOPR³³⁰ or other similar institutions; the person must be from the area (in this case the voivodship of Wielkopolska); the person must be abstinent and will be evicted after a certain number of times they relapse (one shelter had one warning, whilst the other two gave two warnings before evicting persons). Of the people living in the three shelters, 16% have been homeless more than once; however, the other 84% have been homeless just once and yet have not been able to return to independent living. What is more, 55% of the interviewees have been homeless for one to six years, 21% have been homeless for seven to nine years and 24% have been homeless for more than ten years. The person who has been experiencing homelessness for the longest time has been without housing for 30 years.

Shelter 1 offers the most amount of support and activities: it has psychologists, counsellors and therapists for support, and offers many activities ranging from those aimed at social integration (such as going to the theatre, city festivals or other social events), to activities aimed at improving skills for employment. The shelter works almost like an 'activity camp', to use the words of an interviewee; the whole day is taken up by activities such as cooking, sport, art, surfing the web, job hunting and so on. I found the experience of the shelter positive: the interviewees said they feel that even though the shelter is a much better alternative to the street or other centres they have stayed in, the constant surveillance they are subjected to is overwhelming and makes them feel like they

³³⁰ Miejski Ośrodek Pomocy Rodzinie - the City's Centre for Family Help

are 'not independent adults'. The average profile of the shelter users is between 40 and 60 years of age and predominantly male, although females are also present³³¹. Between 50% and 60% of them have or have had substance addiction issues.

The questions asked led to personal reflections which provoked intense emotions. One of the hardest questions was 'In your view, what led you to this situation?', and the answers varied considerably in Shelter 1. The common causes were evictions, family breakups, being released from prison with nowhere to go, health issues which rendered them unable to work and they could not maintain a household on the allowance the State gave them. In most of the cases poverty was part of the reason, if not the main reason, why they had become homeless. Many of the interviewees mentioned that the financial assistance they received from the State (because they were unable to work or were sick or disabled) was simply not enough to survive on - the allowances received were either PLN 300 every 4 months or PLN 600 (circa Euro 136) every 6 months or PLN 600 per month: amounts of money that evidently cannot enable a person to support themselves.

Some interviewees initially answered that they were homeless because of alcohol, however, after a few minutes of conversation, they would mention an eviction, or an operation, or a divorce that happened around the time they started to abuse alcohol. Two interviewees had experienced hardship because they were disabled and therefore unable to work, but received a small allowance which allowed them to be self-sufficient; however, when they were tested by ZUS, the physicians working for the insurance company found them fit to work and stopped their financial benefits. As they were genuinely unable to work, they ended up on the streets.

Other questions included, 'What was the first thing you did when you became homeless?' to which the majority answered that they sought help in their municipality. This answer was repeated for the question 'What would be your advice to people who find themselves in a situation like yours?'. Interestingly, the advice that echoed through the shelters is the need to *accept* help, and not to try and make it on the streets on your own. The use of the term 'accept' is noteworthy; some interviewees said it was not easy to ask for help because

³³¹ The staff at Shelter 1 told us that mixing the two genders was a conscious choice, they found that having both genders brought balance and better relations among the users

it meant giving up their independence. Personally, I think this is the major drawback of this type of assistance: leaving a life on the streets equates to individuals having to renounce their freedom and dignity (see Chapter 2 for the relationship between freedom and dignity).

The last question posed in the interviews was open-ended and read 'What do you think is the main problem regarding homelessness in Poland?' The answers varied considerably: 'the government does not care about the weakest'; 'there is not enough social assistance' (in general and especially for those suffering from bad health conditions); 'the labour market is not good'; 'the health sector is deplorable'; 'pensions are too low'; 'people do not know their rights'; 'there is a prejudice against people affected by homelessness' (they are considered drunkards and so are to blame for living in a state of homelessness).

As seen in the analysis presented above, the problems the interviewees mention reflect the economic reality as well as the welfare reality of the State. In this shelter more than half the people had alcohol addictions and many of them, social workers included, believed it was the reason they had become homeless. The prejudiced belief that people who experience homelessness are drunkards or that people become homeless because of alcohol, is a gross understatement of the issues which lead to homelessness. This mindset is harmful both for the person experiencing homelessness who sometimes unjustly feels they 'let a substance destroy their lives' and for the fight to end homelessness, as it puts the blame solely on the individual and ignores the structural issues which lie at the heart of the phenomenon. Without addressing these issues, we can never even start to envision strategies to end homelessness.

Shelter 2 had a different atmosphere: perhaps this was due to the fact that the shelter only housed males or perhaps that the shelter users were repeatedly breathalysed upon their entrance. The profile of the shelter clients (apart from the age range - 18 to 60 years of age) was not very different from Shelter 1. The interviewees were familiar with Shelter 1, yet preferred Shelter 2 as they are free to do what they want and choose their daily routine. The reasons stated for being homeless by this group were: release from prison with no forwarding fixed abode; health problems; alcohol addiction; the transition to Capitalism; unemployment and family breakup. One person's house had burnt down and,

not being insured, he was left homeless. By contrast to the interviewees in Shelter 1, some individuals who resided in Shelter 2 had not chosen a shelter when they became homeless. Some went to hospital initially, others tried surviving on the streets or stayed in train or bus stations, whilst a few tried cheaper renting options. The interviewees believed that the main problem concerning homelessness, particularly in Poland, is the lack of a concerted effort to both prevent and resolve homelessness.

Shelter 3, run by a church charity, is understaffed, lacks funding and is in ruins - it is, in fact, expected to be closed in the near future, a fact which really worries the staff there as they do not know what will happen to the shelter users. The profile of the people residing in Shelter 3 is slightly different to the other two shelters, in that their state of health is extremely precarious. There are 33 persons staying in the shelter among whom approximately 30% are severely disabled and 30% have severe health issues due to alcohol or drug abuse. The remaining 40% have poor physical and/or mental health. Shelter 3 only hosts males and the majority of the shelter clients are older than 40 years of age. The shelter does not offer any form of counselling, rehabilitation service or therapy: the staff, mainly nurses, only offer medical support. Of the interviewees, 20% claimed to be homeless due to HIV; 35% because of alcohol or drug abuse; 15% because of debts; 15% due to illness and 10% as a result of a family breakup. One shelter-user told us that his land had been repossessed by the Church during the Transformation period. All the interviewees receive some financial support and, similarly to the other interviewees from Shelter 1 and 2, the largest sum of money received is PLN 600 per month. Many of the interviewees were bedridden and required demanding assistance. One of the nurses called this shelter 'hospicjum' (a hospice) because, in her experience, the people there 'only leave the shelter in a coffin'.

In conclusion, what is evident from this analysis is the presence of structural issues on so many levels that in order to improve the situation of homelessness, enormous changes need to be made in policy development, public opinion and social assistance schemes. As mentioned previously, social assistance to those in need is very scarce in Poland, and even when it is available, it is such an insignificant sum of money that it does not allow for survival, let alone for living a dignified life - a fundamental human right. Whilst I agree

with findings³³² that corroborate the effectiveness of a decentralised system of care for people experiencing homelessness, I find the lack of a national strategy in Poland unacceptable as it contravenes treaties to which Poland is a State party. Prevention is an essential element of the fight against poverty and homelessness, nevertheless, Poland has not made prevention a targeted focus and this has resulted in a growth of the homeless population, which puts a strain on the State's financial resources. However, the true blight of Poland's state of homelessness is the stereotyping, the sweeping generalisations and the negative image attached to people experiencing homelessness, both at the public and government level.

Housing is not perceived to be a human right and social assistance to those in need is, paradoxically, seen by the public to be a social injustice. There is a wide spread myth that homelessness is exclusively the result of alcohol abuse and laziness and this is very detrimental to the people who are affected by this phenomenon and to the system in general. This belief disempowers individuals and stalls progress³³³. Furthermore, the lack of political will to resolve the problem is reflected in the gmina's lack of commitment in allocating housing or assisting people affected by homelessness. The Supreme Chamber of Control gave a negative evaluation of the municipal housing policies, in 2008³³⁴; the Chamber found that "municipalities showed very weak commitment to preparing sites for housing and measures to streamline the process of starting and implementing housing projects were inadequate"³³⁵. When it comes to services for the homeless, there is a scattered, unorganised and uncoordinated variety of services which are mostly run by charities or NGOs and have no standardised system of assistance. The State concentrates its funding on night shelters or homeless shelters which have been proven to be an ineffective strategy to ending homelessness. In fact, they are more like places to confine the homeless - where they are out of sight, therefore out of mind. Research shows that

³³² Keller, speaker at FEANTSA Conference, Brussels, 2016.

³³³ For example the programme named 'National Programme for Transitioning from Homelessness and Developing Social Housing 2009 - 2015, which was not accepted in its final stages by the Prime Minister who did not give consent because of the financial crisis of 2008. (Ministry of Labour and Social Policy, Pomeranian Forum in Aid of Getting Out of Homelessness, November 2010 report)

³³⁴ http://porady.domiporta.pl/poradnik/1,127301,5657099,NIK_negatywnie_ocenil_polityke_mieszkanio_wa_gmin.html

³³⁵ <http://www.socialwatch.eu/wcm/Poland.html>

once a person becomes homeless, there are scarce chances of being reintegrated into society and of exiting homelessness. The shelters pose conditions on access and so they are not open to each and every individual, given the need for different types of care. The emphasis on alcohol addiction as a cause of homelessness is highlighted even in centres of assistance, again disempowering individuals and shifting the blame to concentrate exclusively on individual reasons for homelessness. The shelters give very little autonomy to the individual, they take away their independence believing, in good faith, that this strategy is effective, but forgetting that it is a clear infringement of inherent human dignity. Certain shelters are in such a bad condition that, in Poznan alone, there have been cases of women whose children were taken away from them because the state of the shelter was deemed unfit for human settlement. Also, after a recent inspection by the fire brigade, one shelter was deemed as a unsafe living place and so will be shut down, with no replacement for the shelter users³³⁶.

The current situation is in dire need of change. In the next chapter good practices and different methods of assisting the homeless will be explored with a view to addressing some of the main gaps in the Polish approach to homelessness.

³³⁶ <http://www.gloswielkopolski.pl/artykul/3787845,poznan-ze-schroniska-sw-brata-alberta-na-bruk-czy-to-czeka-chorych,id.t.html>

CHAPTER 6 – Potential Solutions

In Chapter 6, methods that can contribute to solutions for ending homelessness are presented. There are many projects and programmes in Europe and around the world which contribute to winning the fight against homelessness and which empower individuals affected by homelessness and which protect their HR. However, for the purpose of this thesis, three have been presented: the European Social Fund as financial aid, Housing First as a successful method to rehouse the homeless and the Homelessness etc. (Scotland) Act 2003 as a way to ensure an enforceable right to housing.

6.1 The European Social Fund

The European Social Fund (ESF), created in the Treaty of Rome in 1957, is a EU structural fund set up in order to improve employment opportunities and raise the standards of living in EU Member States with the aim of promoting social and economic cohesion across the Union. The ESF is a needs based funding which address gaps and supplements domestic funding. The ESF strategy and budget are decided cooperatively with the European Commission, EU governments and the European Parliament³³⁷. The operational programmes are 7 years long and are planned by Member States governments and approved by the European Commission. Public bodies, private companies and civil society are the main organisations who receive the funding. The main objectives for the ESF (2014-2020) are: to train people and help them get into work; to promote social inclusion; to improve education and training and to improve the quality of public services in Member States. The funding available for this 7-year cycle (2014-2020) is Euros 80 million. Like other EU financial and policy instruments, the ESF operates in support of the Lisbon Strategy which, in 2000, aimed to transform the EU into "the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion"³³⁸. Among the 2014-2020 ESF objectives, the Social Inclusion aim is the most pertinent to the subject of poverty

³³⁷ European Commission, How the ESF works, <http://ec.europa.eu/esf/main.jsp?catId=525&langId=en>.

³³⁸ Lisbon European Council, Presidency Conclusions 23-24/03/2000.
http://www.europarl.europa.eu/summits/lis1_en.htm.

and social marginalisation, in that it finances projects that help people from disadvantaged groups to gain skills and jobs and to have equal opportunities as others³³⁹. It is believed that “employment is the most effective way of giving people independence, financial security and a sense of belonging”³⁴⁰.

Various projects funded by the ESF not only help get people into work, but also touch upon areas related to housing exclusion and homelessness. The report “European Social Fund in Action: Success Stories”³⁴¹ mentions four projects that deal with housing matters: Ho&Ruck (Austria); ‘Learning and Work Programme for Unemployed in Den Helder’ (The Netherlands), Resau RPM (Luxemburg) and ‘You Have a Ladder in You’ (Hungary).

The first project deals with reintegrating ex-prisoners into society and employment. The managers of the project note that because of stigma and prejudice towards ex-convicts, it is not easy for them to reintegrate in society without assistance. The project has been ongoing for more than 20 years and their goal is to “enable ex-prisoners to retain a working life”. They provide practical training – mainly based around carpentry, woodwork and furniture refurbishment – and offer social rehabilitation assistance to ensure they stay employed once they get a job. What is more, they offer help with finding suitable living arrangements as many of them are either homeless or inadequately housed. Mr Hanser-Mantl, who works for the project has stated that, “We also feel that our greatest success is not just finding them employment, it is simply helping them to avoid returning to a life of a crime and delinquency – often the hardest problem for trainees to overcome.”³⁴²

The second project is based in the Northern Dutch town of Den Helder. Due to forced cut backs, the largest employer of the geographically isolated town made 3,500 people redundant. The project focuses on a target group of unemployed people who suffer from addictions, emotional or psychological issues, poor health or who have housing problems, debts or a lack of education. The project tries to reintegrate people into the labour market by developing an individually tailored programme for each participant (in 2002 there

³³⁹ ESF, Giving a Chance to All, <http://ec.europa.eu/esf/main.jsp?catId=50&langId=en>.

³⁴⁰ Idem.

³⁴¹ European Commission, 2005.

³⁴² European Commission, European Social Fund in Action: Success Stories, p. 7, 2005.

were 82 participants and in 2004, 132). More than 40% of the participants move on to find jobs or go into further education³⁴³.

The third project gives special attention to those suffering social exclusion by offering them the necessary assistance to re-enter the job market. In order to meet individuals' requirements and to offer the best help possible, the project involves six associations which work together to offer a holistic programme that includes employment integration, housing for the homeless, counselling and therapy³⁴⁴. The project combines different empowerment methods: if participants commit to a three month programme of 40 hours per week, they will receive a small financial compensation. The programme has proved to be effective in over 70% of the cases.

The fourth project, based in Pecs, was aimed at poor people and strived to give them an opportunity to climb up the social ladder. The project was designed to rehabilitate an impoverished neighbourhood that was going to be demolished. The project helped locals to recuperate run-down businesses and helped children to perform better in school, and also restored many houses that were without water or electricity. Participants were trained, took vocational courses, were given career advice, were given employment. By the end of the two and a half year project, out of 65 individuals at a working age, 41 were permanently employed³⁴⁵.

There are many more projects that touch upon some of the most widespread issues in the EU, such as the marginalisation of Roma communities, unemployment, housing and social exclusion and poverty³⁴⁶. The funds are usually focused on small areas, such as towns or municipalities and with innovative ideas and the financial help of the ESF, many people are lifted out of poverty and given their life back in their hands.

³⁴³ Idem, p.14.

³⁴⁴ Idem, p. 36.

³⁴⁵ <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=1697>

³⁴⁶ For programmes and funds available in the region of Wielkopolska, please see: http://ec.europa.eu/regional_policy/opempl/detail.cfm?cci=2014PL16M2OP015&lan=en

6.2 Housing First

Housing First (HF) is an initiative which originated in the 1990s in New York, United States³⁴⁷. HF is designed to help extremely vulnerable people who have mental health issues, substance addiction and who are long-term homeless³⁴⁸. HF recognises individuals' right to housing and places emphasis on the allocation of housing as an initial step on the way to recovery. HF contrasts the more mainstream method of exiting homelessness, also called a staircase system³⁴⁹, for two principle reasons: HF allocates housing, as a *first* step, without conditions³⁵⁰ such as abstinence from drug or alcohol use; it also emphasises individuals' choices. Individuals have a choice of where they are housed (what neighbourhood and what type of accommodation); once they have been allocated housing, services for recovery are offered to the client, these services can be: counselling, psychological help, job coaching, educators assistance, nursing and medical help. The service intensity and frequency are determined by the user, as HF focuses on people's choices. HF is designed to give individuals autonomy to reshape their lives; rather than assisting people, the social workers accompany them through to their recovery.

HF seeks to reintegrate people into society, understanding that housing is the first step to end social marginalisation. In projects and research carried out in the USA, Canada and Belgium, those implementing HF have found that many people affected by homelessness (24%)³⁵¹ had not accessed the help they were entitled to; it is clear that for many, claiming rights is facilitated by having a stable home. In fact, it has been proven that HF fast tracks the process. Tenants of HF have a monthly rent, which they manage to pay thanks to state income support or welfare services. The houses used for HF in the Belgian project (HFB) were mainly social housing stock (57% of the housing used in the project), because of

³⁴⁷ Housing First is based on the Pathways model, developed by Sam Tsemberies.

³⁴⁸ In Housing First, homelessness is understood as defined by the ETHOS definition.

³⁴⁹ Whereby the first step is an emergency night shelter, followed by a homeless shelter and only when the individuals are deemed 'ready' can they have access to housing.

³⁵⁰ Although the service users have normal tenant rules to respect, like any other tenant.

³⁵¹ Conference Leveraging a European Consensus to End the Fight Against Homelessness, Brussels 2016.

some advantageous aspects such as affordability and tenure security; however, also the private housing market was used (23%) and Social Rental Agreements (13%)³⁵².

HF calls for a multidisciplinary approach and invites the collaboration of many sectors and different levels of governance among which: anti-poverty policy; social integration; urban policy; health; social action; well-being; housing; employment³⁵³. Evidence suggests that of the people who have been housed using this model, after a two year period, between 80 to 90% have been able to retain housing; compared to the 48% success rate of traditional models³⁵⁴.

HF works in line with eight core principles, which were originally taken from the Pathways model and then slightly readapted to fit the European setting³⁵⁵. The principles are the following:

- Housing is a human right: the model follows the guidelines in General Comment 4 ICESCR;
- Choice and control to the service users: the principle is to give autonomy to the individual;
- Separation of housing and treatment: allocation of housing is not conditional on their treatment;
- Recovery orientation: focused on the wellbeing of the person, in all aspects;
- Harm reduction: not abstinence or detoxification;
- Active engagement without coercion: users are engaged with in a positive manner;
- Person-centred planning: support and treatment is organised according to the person's needs;

³⁵² Housing First Belgium, 2016.

³⁵³ Conference, Brussels, 2016.

³⁵⁴ Housing First Belgium, 2016.

³⁵⁵ Housing First Guide, Unit 2, p. 3, 2016.

- Flexible support for as long as required: if the user is evicted or cannot cope with running their own home, HF continues to work with them (and in the case of eviction, although rare in the projects carried out so far, the individuals are rehoused).

Finally, HF has proven to be very cost efficient. The Canadian experience has shown that for every \$10 invested for high needs individuals, there was a saving of \$3.42; for every \$10 invested for very high needs individuals (about 10% of the group of people who were housed) \$21.72 was saved³⁵⁶. In the more recent Belgian experience³⁵⁷, it was shown how HF is less expensive for public authorities and puts less strain on public services. In fact, after just two years of HFB, hospital expenses per individual diminished by 46%. What is more, HFB shows that while for one night in a night shelter the cost is €55 per person, the expenditure for HFB support amounts to €17 per night, per person. This denotes a clear economic advantage to adopt the HFB strategy.

It is important to take into account that HF does not work for everybody: for instance, in the Canadian experience 5% went back to sleeping on the streets; however, it is imperative to give everyone the opportunity, nobody should be excluded from the HF service so that the principles of equality and non-discrimination can be respected. With regards to the financial side, as Cam Keller pointed out in his presentation (during the conference 'Leveraging on a European Consensus to Win the Fight Against Poverty')³⁵⁷, the solution is to place the available funds in the right place. HF needs a lot of funding to see the end results, but this need not be new government funding, just better placed allocated funding.

What HF shows us, is that as homelessness is the state of not having a house, to which housing is the solution. Solving homelessness is providing people with homes, not only curing their addictions.

³⁵⁶ This was worked out by taking a group (with similar needs to the one tried with HF) who used other types of support and comparing against the HF service users.

³⁵⁷ Conference, Brussels, 2016.

6.3 A Legally Enforceable Right to Housing - the Homelessness etc. (Scotland) Act 2003

The Homelessness etc. (Scotland) Act of 2003 has created an enforceable right to housing in Scotland. This was achieved through the implementation of the aforementioned Act alongside the Homeless Person (unsuitable accommodation) Order of December 2004. The latter requires councils to ensure that pregnant women and households with children are not placed in unsuitable temporary accommodation (such as Bed and Breakfasts)³⁵⁸, bar in exceptional circumstances. The Homelessness etc. (Scotland) Act imposes onerous duties on local authorities not only during the assessment of applications, but also for interim periods - on average 28 days after applications have been rejected. In this way, the conditions laid down by local authorities that should be met for housing, such as priority need and local connection are reduced. This generates an obligation for local authorities to temporarily house persons found to be in the category of 'intentionally' homeless; it also introduces housing-led solutions to homelessness and places a "significant emphasis on multi-agency working to support resettlement"³⁵⁹. The legislative changes were brought about to transform the services provided to persons affected by homelessness. Alongside legislative changes, the Housing Options model was introduced, thus enabling "a general move towards a more preventative approach to homelessness"³⁶⁰. The target of these policies and legislative changes was to have every homeless household which falls within the 'unintentionally homeless' category housed permanently by 2012³⁶¹.

Before the introduction of this Act, the statutory legal system was not designed to respond to those who were *not* in priority need: this left out a large percentage of persons affected by homelessness in need of support, especially single males. Organisations working in Scotland, such as the 'Rough Sleepers Initiative' found these individuals, who were not deemed to be in priority need were extremely vulnerable "in all sorts of ways"³⁶², yet were

³⁵⁸ Shelter (Scotland), April 2003.

³⁵⁹ Anderson, p. 175, December 2007.

³⁶⁰ Shelter (Scotland), January 2015.

³⁶¹ Anderson, p. 168, December 2007.

³⁶² Rough Sleepers Initiative (RSI), <http://www.gov.scot/Topics/Built-Environment/Housing/homeless/achievements/rsi>

not entitled to assistance as they did not fit the category of priority need. The change in law brought about the gradual elimination of the priority need condition by expanding the scope to the point where everybody fell into this category, thus making the term redundant by the year 2012³⁶³. The local connection condition, where persons who sought help needed to prove a local connection with the area where the household had become homeless, was also phased out. Lastly, the intentionality condition was not removed as such, but whereas in the past, if local authorities had found a person to be intentionally homeless (i.e. homeless as a result of the person's action or omission which s/he could have prevented, such as persistent non-payment of rent or serious breach of tenancy conditions) no housing was provided for them, now local authorities have the obligation to temporarily house these people for a minimum of 12 months³⁶⁴. By implementing these changes, the Homelessness etc. (Scotland) Act has created a legally enforceable right to housing that is claimable.

Besides the Act, the Scottish Government has worked intensely on prevention strategies and data collection obligations. Since April 2014, local authorities have a mandatory data collection duty on homelessness prevention and housing options (PREVENT)³⁶⁵. This has resulted in a facilitated analysis of the Housing Options process as well as an assessment of the effectiveness of the preventative work carried out by local authorities. This data greatly helps to understand the phenomenon of homelessness and the housing needs of the Scottish population.

Reports on the outcomes of Scotland's policy changes show a decrease in the number of homeless applications which fell by 34% over the period from 2009 to 2010³⁶⁶. Another improvement is the reduction in the amount of 'repeat applications' by single people, most probably thanks to the removal of the priority need category as which results in their

³⁶³ Shelter, January 2015.

³⁶⁴ Anderson, p. 167, December 2007.

³⁶⁵ Shelter, January, 2015.

³⁶⁶ Idem.

applications are reviewed and dealt with immediately³⁶⁷. All in all, figures show that the Scottish approach works, "with homelessness substantially reduced"³⁶⁸.

Although an exact replica of the Scottish experience may not work in other EU countries for a variety of reasons, amongst which financial resources and housing constraints, what it does show is that: increased duties for local authorities make a stronger argument for building new housing³⁶⁹; multi-agency cooperation and collaboration is essential; housing can be an enforceable right; housing-led programmes are more efficient than shelter-led ones; setting clear targets and political will can make a change in the fight to end homelessness.

³⁶⁷ *Idem.*

³⁶⁸ <http://www.gov.scot/Topics/Built-Environment/Housing/homeless>

³⁶⁹ <https://www.theguardian.com/uk/scotland-blog/2013/feb/01/scotland-homelessness-shelter>

General Conclusion

The conclusions which may be drawn from this paper are many and the recommendations that may be given to EU Member States several. Firstly, homelessness, adequate housing and housing exclusion are interconnected and should be considered so as one often leads to another. Secondly, not enough is being done to combat homelessness. There is an evident lack of interest and political commitment; so much so that we do not even have reliable statistics to record a problem that millions are facing at this moment in time. Thirdly, homelessness impacts on HR, but the reverse is also true: hence, by mainstreaming HR into policy making - i.e. placing a stronger emphasis on States' HR obligations and using a rights-based approach rather than a needs-based approach - positive results can be achieved in the fight to end homelessness.

What is striking is the visible and undeniable connection between poverty and homelessness, which clearly points towards countries' structural issues that can no longer be ignored. The negative image and stereotyping of people affected by homelessness is very damaging, impedes the development of strategies to combat homelessness and, above all, is a discriminatory practice that should cease as it disempowers individuals and hinders progress. As seen with the example of HF, there are methods which are much more efficient, saving not only resources, but individuals' lives. To date, these methods have been largely ignored, because of scepticism of their success or because they are viewed as a form of social injustice. There is a need for a shift in focus from resolving the symptoms of homelessness (e.g. substance addiction) to resolving the causes of homelessness by providing housing-led and rights-based solutions. Furthermore, respect for the right to adequate housing can reduce the number of people who are affected by homelessness, in that by ceasing discriminatory evictions on Traveller communities and ensuring everybody (especially vulnerable households) indiscriminately has access to adequate housing will reduce the number of people living in homelessness.

Punitive measures against people experiencing homelessness basically criminalise poverty and only put a bigger strain on the spending for prisons and public authorities, without reaching any improvement in the field of homelessness and poverty. The main

recommendations would be to respect the obligations laid down by international treaties to which EU Member States are party. This would involve: respecting the right to adequate housing by not interfering with persons' homes (for instance, refraining from evicting Traveller communities); protecting the right to adequate housing by preventing homelessness; fulfilling the right to adequate housing by adopting national strategies and national housing policies targeted at vulnerable individuals and monitoring the situation.

I personally call upon people working within the sphere of HR to take into consideration the phenomenon of homelessness and to initiate a discourse which depicts homelessness as a violation of HR.

To achieve a considerable reduction of homelessness we must focus on preventative measures by intensifying work in areas which have been recognised as contributing to homelessness: evictions (arrears or non-payment), lack of social assistance, mental health and substance addiction assistance and poor employment opportunities. To give people affected by homelessness access to housing and support them without conditions has proven to empower individuals to take back control of their lives and to exit homelessness. As seen in Poland, legal entities working in the homelessness arena or anybody who has a direct or indirect impact on homelessness must collaborate and work in accordance with a national strategy set out by the State to allow funds to be better allocated and services coordinated to reach one target. Finally, housing must be seen as a right to mobilise political action and policy-making.

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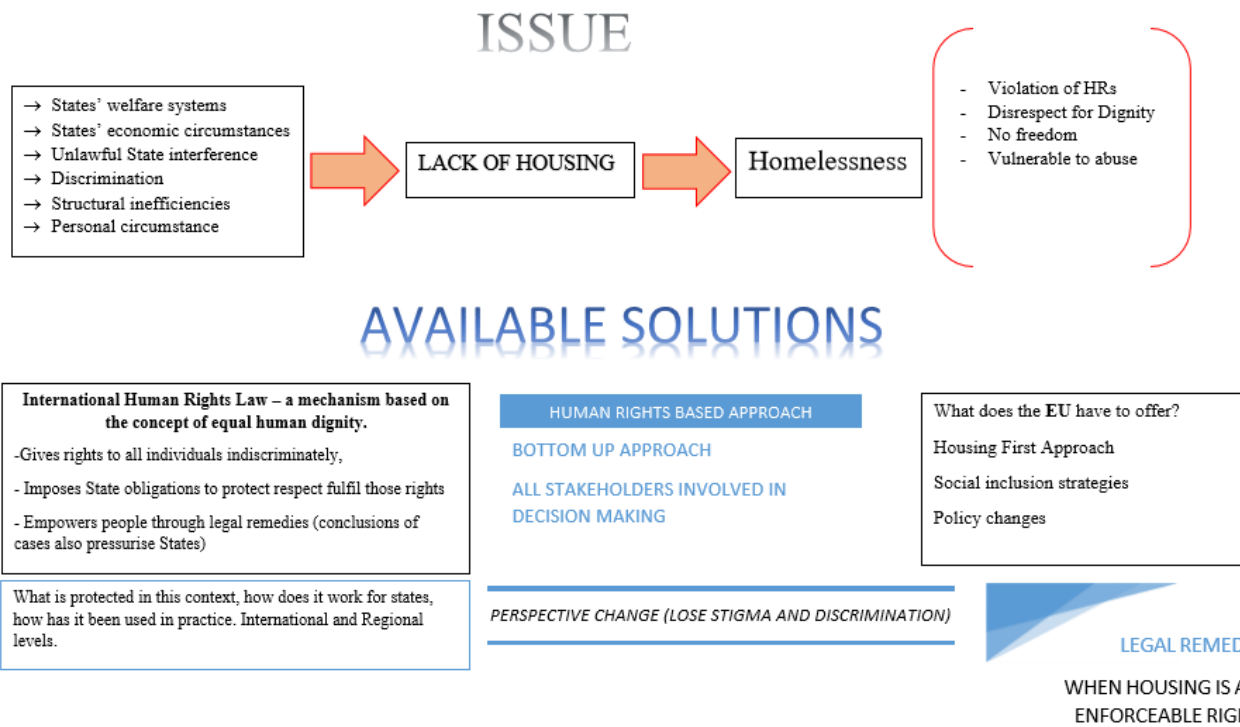
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Annex

Annex 1 - Conceptual Framework:



Annex 2: ETHOS Typology Definition of Homelessness

		Operational Category	Living Situation	Generic Definition
Conceptual Category	ROOFLESS	1 People Living Rough	1.1 Public space or external space	Living in the streets or public spaces, without a shelter that can be defined as living quarters
		2 People in emergency accommodation	2.1 Night shelter	People with no usual place of residence who make use of overnight shelter, low threshold shelter
	HOUSELESS	3 People in accommodation for the homeless	3.1 Homeless hostel	Where the period of stay is intended to be short term
			3.2 Temporary Accommodation	
			3.3 Transitional supported accommodation	
	4 People in Women's Shelter	4.1 Women's shelter accommodation	Women accommodated due to experience of domestic violence and where the period of stay is intended to be short term	
	5 People in accommodation for immigrants	5.1 Temporary accommodation / reception centres	Immigrants in reception or short term accommodation due to their immigrant status	
		5.2 Migrant workers accommodation		
	6 People due to be released from institutions	6.1 Penal institutions	No housing available prior to release	
		6.2 Medical institutions (*)	Stay longer than needed due to lack of housing	
		6.3 Children's institutions / homes	No housing identified (e.g by 18th birthday)	
	7 People receiving longer-term support (due to homelessness)	7.1 Residential care for older homeless people	Long stay accommodation with care for formerly homeless people (normally more than one year)	
		7.2 Supported accommodation for formerly homeless people		
INSECURE	8 People living in insecure accommodation	8.1 Temporarily with family/friends	Living in conventional housing but not the usual or place of residence due to lack of housing	
		8.2 No legal (sub)tenancy	Occupation of dwelling with no legal tenancy Illegal occupation of a dwelling	
		8.3 Illegal occupation of land	Occupation of land with no legal rights	
9 People living under threat of eviction	9.1 Legal orders enforced (rented) 9.2 Re-possession orders (owned)	Where orders for eviction are operative Where mortgagee has legal order to re-possess		
10 People living under threat of violence	10.1 Police recorded incidents	Where police action is taken to ensure place of safety for victims of domestic violence		
INADEQUATE	11 People living in temporary / non-conventional structures	11.1 Mobile homes	Not intended as place of usual residence	
		11.2 Non-conventional building	Makeshift shelter, shack or shanty	
		11.3 Temporary structure	Semi-permanent structure hut or cabin	
12 People living in unfit housing	12.1 Occupied dwellings unfit for habitation	Defined as unfit for habitation by national legislation or building regulations		
13 People living in extreme overcrowding	13.1 Highest national norm of overcrowding	Defined as exceeding national density standard for floor-space or useable rooms		

Note: Short stay is defined as normally less than one year; Long stay is defined as more than one year.

This definition is compatible with Census definitions as recommended by the UNECE/EUROSTAT report (2006)

(*) Includes drug rehabilitation institutions, psychiatric hospitals etc.

Annex 3: Esping-Andersen's six Families of Welfare Regimes in Europe

Six different families of welfare regimes have been developed from Esping-Andersen's "The Three Worlds of Welfare Capitalism", and they cover clusters of EU Member States as follows:

1. The social democratic regime, mainly present in Scandinavian countries, where importance is placed on redistribution, employment flexibility and generous social welfare which provides security to people. It also allocates adequate resources to persons, rendering them independent from the family or the market³⁷⁰.
2. The corporatist regime, present in Austria, France and Germany, places less emphasis on redistribution and frequently benefits depend on the individuals' insertion into the labour market.
3. The liberal regime, present in the United Kingdom and Ireland, focuses on the market leaving the State with a residual welfare role; social benefits are subject to means tests and are targeted towards those who are failing the market.
4. The Southern-European regime, existent in Greece, Italy, Portugal and Spain, has a poor and selective labour market, social benefits are low leaving individuals with no guaranteed minimum income provision, reliance on family for support is characteristic.
5. The conservative post-socialist regime, existent in the Czech Republic, Hungary and Slovenia, has a transfer-oriented labour market, modest employment protection and a higher rate of incarceration.
6. The liberal post-socialist regime, in Baltic countries, enjoys a flexible labour market, however employers struggle to abide by the legal regulation of the market, leaving employees in a weak position.

³⁷⁰ It is commonly understood that individuals have three providers of care: the State, the market and the family.

Annex 4: Interview Questions for Shelters in Poznań in English and Polish

"I want to thank you for meeting with me. I'm here to speak to you because I am doing research for my University studies (I study human rights) on what the situation of homelessness is like in Poland.

Your help would be very useful because you have experienced homelessness in Poland first hand, so your contribution would be very precious to me.

I want you to know that you can tell me anything you want, but only what you feel comfortable talking about. I want this to be a relaxing conversation where you have the chance to share your story, but you do not need to feel any pressure.

I also want you to know that the information you share with me will stay between me and my translator only and if you allow me, I will use it in my thesis. I will ensure you remain anonymous and I will include what you say only if you give me permission. Please know that we can end the interview whenever you feel like it.

The research I'm carrying out will be useful to have an idea of what the situation looks like in Poznan and to find ways of making it better. Mine is just academic work so I can't promise that anything will change for you unfortunately, but what I can do is give you a voice and include your experience in my work.

I want to thank you already for your help and if it's ok, I'd like to start with some questions.

Question 1: Where are you from?

Question 2: Is this the first time you are homeless?

Question 3: How long have you experienced homelessness for?

Question 4: What do you think led you to this situation?

Question 5: What was the first thing you did when you became homeless?

Question 6: Have you been staying in other cities since you are homeless?

Question 7: How often do you use shelters? (how many nights/week and what about during the day)

Question 8: Do you like being here or are there some other better shelters for you?

Question 9: Do you receive any government help?

Question 10: What is your daily life like?

Question 11: What is your experience with the police been like since you experience homelessness?

Question 12: What would be your advice to people who find themselves in a situation like yours?

Last Question: What do You Think is the Main Problem in Poland Concerning Homelessness?

Chciałabym podziękować panu za spotkanie. Jestem tutaj ponieważ robię badania do mojej pracy magisterskiej na temat praw człowieka w przypadku osób bezdomnych w Polsce.

Pańska pomoc będzie nieoceniona dlatego że bezpośrednio doświadczył Pan sytuacji bezdomnych w Polsce.

Chciałabym że Pan wiedział że wszystko co Pan powie zależy tylko i wyłącznie od Pana woli. Chciałabym żeby ta rozmowa przebiegła dla Pana w komfortowej atmosferze, nie jest Pan do niczego zmuszany.

Chciałabym też żeby Pan wiedział że wszystko co Pan powie pozostanie pomiędzy nami, jeśli mi Pan pozwoli użyję tego w mojej pracy magisterskiej. Jeśli chciałby Pan pozostać anonimowy to jest taka możliwość i może Pan też zakończyć ten wywiad dowolnym momencie.

Badania które przeprowadzam, mogą być pomocne w zrozumieniu sytuacji w Poznaniu i znalezieniu sposobów na polepszeniu sytuacji. Nie mogę obiecać że to polepszy Pana sytuację, ale mogę dać Panu dojsć do głosu i zawrzeć Pana doświadczenia w mojej pracy.

Czy ma Pan jakieś pytania?

Chciałabym podziękować Panu z góry, i przejść do moich pytań jeśli jest Pan gotowy.

1. Skąd Pan jest?
2. Czy to jest pierwszy raz że Pan jest bezdomny?
3. Od jak dawna doświadcza Pan zjawiska bezdomności?
4. Co spowodowało, że jest Pan w takiej sytuacji życiowej?
5. Co było pierwszą rzeczą jaką Pan zrobił, kiedy stał się Pan bezdomny?
6. Czy przebywał Pan w innym mieście, od kiedy zaczął Pan doświadczać bezdomności?
7. Jak często korzysta Pan z pomocy domów opieki społecznej? (ile razy w ciągu tygodnia)
8. Czy Pan tu sypia? Czy znajdują się w Poznaniu lepsze miejsca/lepsze domy opieki w których może Pan nocować?
9. Czy otrzymuje Pan jakieś zasiłki?
10. Jak wygląda Pana typowy dzień?
11. Jakie ma Pan doświadczenia z policją od czasu kiedy zaczął Pan doświadczać bezdomności?
12. Jaką poradę dałby Pan komuś, kto znalazł się w podobnej do Pana sytuacji?
13. Z czego wg. Pana wynika główny problem bezdomności w Polsce?

Annex 5: Answers to Questionnaire From the Staff in the Shelters

Shelter	Profile of shelter users	How many homeless because of eviction	How many with substance use problems	How often do they have troubles with the police	Alcohol/drug policy	What does the shelter offer	Does social housing help the situation?
Shelter 1	Men 40-60yrs old	20-40%	40-60%	sometimes	completely forbidden to be under the influence and to use there	psychological help, skills based activities, rehab	No, too many people to accommodate
Shelter 2	Men 18-60+	20-40%	more than 60%	often	completely forbidden to be under the influence and to use there (if they catch you, 1 warning, 2nd warning evicted)	same	same
Shelter 3	Men 40-60yrs old	20-40%	more than 60%	rarely	complete ban, they are checked	no psychological help, no skill-based activities, no social integration activities	no comment

Annex 6: Answers From Interviewees Carried out in Shelters in Poznań.

Interviewee	Homeless Time	Reason for Homelessness	First thing they did when homeless	Government Help	Advice for Fellow New Homeless	What is the Main Problem in PL?
Person 1	15 years	Unable to work for health (<3), received 600zl/month, too little	Help at a centre	300zl/every 4 months	Go straight to a centre	Financial
Person 2	26 years	Alcohol (was invalid, couldn't work, he got zl from ZUS, but then ZUS withdrew the invalid pension and deemed him capable of working.	On the streets and then shelter	nothing (ZUS thinks capable of working)	AA, Therapy.	Pensions
Person 3	2 years	Sick and not enough zl from Gov.	Went to a centre for help	600zl/month	seek assistance	Prejudice against homeless people (drunkards and its their fault)
Person 4	8 years	Financial reasons	Tried working abroad but missed his motherland too much	600zl/6 months	seek assistance	Politics that does not care of the weakest
Person 5	10 years	Eviction after divorce	MOPR then centre since 2012	600zl/month	MOPR & assistance!	Alcohol, money
Person 6	1 year	Health and Work	Centre	zasilek docelowy (he needs to apply for money and show proof of what he needs it for)	Help immediately "don't try on the streets"	Health and Labour Market

Person 7	3 years	Partner break-up (not their house)	Centre	600zl/month	MOPR	People don't know their rights
Person 8	11 years	After being released from prison	Homeless shelter in 2013, before he didn't know about them	zasilek docelowy (he needs to apply for money and show proof of what he needs it for)	MOPR - don't try the streets	not enough work and alcohol to easily accessible
Person 9	1 year	Family problems and alcohol	Tried living with another partner, but got kicked out	zasilek docelowy (he needs to apply for money and show proof of what he needs it for)	MOPR	not enough assistance for prevention
Person 10	1 year	Raised rent prices, couldn't afford rent - evicted	Centre	zasilek docelowy (he needs to apply for money and show proof of what he needs it for)	MOPR	not enough social assistance for sickness
Person 11	19 years	Jail and family	Centre	600zl/month	Find help by yourself	no assistance
Person 12	2 years	Fire burnt his house (not insured)	Centre	600zl/month	seek assistance	no assistance
Person 13	12 years	Work	Centre	disability allowance	seek assistance	authorities
Person 14	13 years	Capitalism	try to rent cheap	Pension	seek assistance and look for a job	capitalism
Person 15	6 years	Alcohol	Centre	zasilek docelowy (he needs to apply for money and show proof of what he needs it for)	seek assistance	not enough social help, drugs too easily accessible
Person 16	4 years	Family	Hospital	monthly allowance	no advice	Alcohol
Person 17	14 years	Alcohol and Health	Station, centre	200zl/every 3 months	Centre for help	Alcohol

Person 18	2 years	HIV	Seek for the help in the centre	sick pay around 600zl/month	MOPR or NGOS	lack of money for assistance
Person 19	3 years	HIV	Seek for the help in the centre	around 600zl	seek assistance	lack of money for assistance
Person 20	4 years	HIV	Seek for the help in the centre	around 600zl	seek assistance	lack of money for assistance
Person 21	3 years	HIV	Seek for the help in the centre	around 600zl	seek assistance	lack of money for assistance
Person 22	30 years	Drugs	Seek for the help in the centre	around 600zl	seek assistance	lack of money for assistance
Person 23	8 years	Heroin	Seek for the help in the centre	around 600zl	seek assistance	lack of money for assistance
Person 24	3 years	Drugs	Seek for the help in the centre	300zl/every 4 months	seek assistance	lack of money for assistance
Person 25	6 years + 2 years 1st time	Drugs	Seek for the help in the centre	300zl/every 4 months	seek assistance	lack of money for assistance
Person 26	1 year	alcohol	Seek for the help in the centre	200zl/every 3 months	seek assistance	lack of money for assistance
Person 27	8 years	alcohol	Seek for the help in the centre	200zl/every 3 months	seek assistance	lack of money for assistance
Person 28	6 + 2	alcohol	Seek for the help in the centre	200zl/every 3 months	seek assistance	lack of money for assistance
Person 29	4 years	church took his land	Seek for the help in the centre	600zl/month	seek assistance	lack of money for assistance
Person 30	2 years	family breakup	Seek for the help in the centre	600zl/month	seek assistance	lack of money for assistance
Person 31	4 years	family breakup	Seek for the help in the centre	600zl/month	seek assistance	lack of money for assistance
Person 32	6 years	Debts	Seek for the help in the centre	300zl/every 4 months	seek assistance	lack of money for assistance
Person 33	14 years	Debts	Seek for the help in the centre	300zl/every 4 months	seek assistance	lack of money for assistance

Person 34	11 years	Debts	Seek for the help in the centre	300zl/every 4 months	seek assistance	lack of money for assistance
Person 35	8 years	illness	Seek for the help in the centre	disability allowance	seek assistance	lack of money for assistance
Person 36	6 years	illness	Seek for the help in the centre	disability allowance	seek assistance	lack of money for assistance
Person 37	6 years	illness	Seek for the help in the centre	disability allowance	seek assistance	lack of money for assistance