



Transcript Ep.70: Property Rights Versus Tenants in Poland

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This is The Urban Political. The podcast on urban theory, research, and activism.

[Florian Peters] Hello, my name is Florian Peters. I'm a researcher at the collaborative research center "structural change of property" at the universities of Jena and Erfurt in Germany. And I am glad to have an interview today with one guest from Poland, Beata Siemieniako. She is a lawyer and housing rights activist from Warsaw in Poland, and she will tell us about reprivatization and the restitution of housing property in post-socialist Poland. She has also written a great book about that, which is titled "Reprivatizując Polskę, Historia Wielkiego Przekrętu" in Polish. And this would be "reprivatizing Poland, a history of a great scam", which was published with Krytyka Polityczna in Warsaw. And she's actually focusing in her book, but also in her practical work as a lawyer and activist, on the mechanisms of property restitution in Poland since 1989, or rather the absence of any regulated mechanisms in this field. And as this is a field which is really impacting a lot of fields of social inequality and so on, housing question being a big topic also in other European countries, I'm really interested in learning about her experiences from Warsaw. So maybe Beata could you tell us what is actually the problem with reprivatization or restitution of housing property in Poland and Warsaw specifically?

[Beata Siemieniako] Hello, Florian. It's very nice that you invited me. So the problem with reprivatization is that... it is. There is this process and this process is ongoing. Some people say that the problem is that we have no complex general legal act that would regulate reprivatization. But in my opinion, sometimes when people don't know what, how to deal with one social problem, they say: "oh, we need to regulate this legally". But the first thing you have to ask, we have to ask ourselves is how we are gonna regulate this social problem, which is very complex. And so yes, I think that the main problem with reprivatization is the whole concept, why we should reprivatize, why we should reconstitute properties, why we should travel in time and come back to ownership... to relationships between owners and tenants that existed before the Second World War, because restoring this order seems just crazy. And I think that reprivatization is something, something like that. [Like] reversing time and it doesn't make too much sense.

[Florian Peters] Great. That is really intriguing because we are also thinking in our research pretty much about this temporal dimension of property, and the structures and the legal and social networks and relationships, which are developing around property and are also shaped by property. Maybe we come back to that in a minute. But let me first ask you again which are the social groups or the groups of actors actually involved in these conflicts, which are coming up because of this restitution question. So who is actually, whose interests are clashing against each other in this conflict?

[Beata Siemieniako] So firstly, at the beginning in 1989 the main actors were former owners or their children, grandchildren, and politicians. Reprivatization and property restitution was seen at that time as a part of the communization process. [It was] very crucial and very important to restore the right hierarchy of values. And in this hierarchy, property was really important and ownership was really important.

So at the beginning they were owners against, let's say against the State. Then some people realize that it's not only about the owners and the State, the former owners and the State. There are also in the buildings that are restituted: there are schools. People live there. We have museums. We have public hospitals. So slowly, very slowly, we started to realize that it's the conflict not only between owners and the State, but also between many other actors. In the nineties and at the beginning of, I think in 2008, 2009, some tenants associations were founded mostly by elderly people. One of them was Jolanta Brzeska, an activist. She was over 60 when she was killed. Yeah. By unknown perpetrators... until now, this case is not solved. She was found burned in Warsaw in the forest and she was fighting against her eviction, against higher rents. So these tenants associations, represented very often by anarchists, started to fight against the owners represented by professional lawyers. So you can easily imagine who was more powerful then. The scandal about privatization didn't start when people like Jolanta Brzeska were evicted because nobody cared at that time about elderly people, poorer citizens, and nobody cared about public hospitals that are evicted because it was so important to give the properties back.

The scandal started in 2017. So we can see how long it took to realize how serious problems we deal with [were]. And the scandal started because the president of Warsaw Bar Association, along with some public officials [and] public figures took part in so-called wild reprivatization. Because there was no legal act that regulated this area, we had to base on the acts that were released after the Second World War. And it was... it was shaping the chaos. So thanks to lawyers, courts, judgments, reprivatization was and is an ongoing process. And now many politicians are other actors that are very strongly involved. The party who did the most, and actually is a political winner because of its engagement into privatization stuff and protecting tenants, is Law and Justice. When this scandal erupted, Law and Justice was in force and could accuse previous parties that they didn't do enough to protect tenants, to protect public property and so on. So they started to run a committee which aim was to verify all those scandalous cases. And of course they promised to ... give a complex legal act that will regulate this. But until now, we don't have one.

And of course one more group of actors are international groups international associations, mainly Jewish who fight for including them into this process. And all, I think that all of the attempts to regulate reprivatization in Poland excluded people from abroad.

[Florian Peters] Yeah, that's really an interesting field. You present a broad picture of different actors struggling with these problems and taking, trying to pursue their interests mainly. I would be interested in actually... what is the social consequences of this, of these struggles? So, what is happening to people living in these, in these housing and how do they react and how do you together with others try to support them in their struggle?

[Beata Siemieniako] So the main problem is always with people who live in the buildings because okay, you can evict the museum, or the hospital, but nobody is hurt. Nobody is killed. It just has to find another headquarters. But so people who used to live in the buildings, who live in the buildings that

are reprivatized... they several years ago, sometimes tens of years ago, they signed a contract with the State that they are tenants. They can live there. And after 50 years sometimes they are transferred by the State to the hands of the private owner, and private tenancy is totally different than public tenancy. If you're a public... like you are a tenant that lives in a public house, like the house that belongs to the State, you have fixed rent. You cannot be evicted easily. And you have your rights. It's something totally different if you are on the private market because your rent can have no limits. So you can imagine how can one feel if after several years, maybe when you're 70 year old, you realize that the State just left you alone. They promised you something. They signed a contract and they left this contract. They transferred this contract to a totally different subject. So this is the beginning of the catastrophe. So higher rents, fear that you are going to be evicted, fear that you're going to be homeless because you don't know where to go. You're not able to afford to live on the free markets, to rent a house on the free market. So this is one of those. ...these are consequences.

But on the other hand, you had serious consequences connected with the whole process of eviction that sometimes, because sometimes owners that gained, that possessed these buildings, sometimes they use legal methods, but sometimes illegal methods. Those legal methods are highering the rents, illegal evictions. But illegal actions are, for instance, destroying your corridor. Cutting off your water, cutting off your electricity, throwing some rubbish in front of your door that you're not able to open it when you're going outside. There were various methods to threat the tenants to encourage them, we can say, to leave the house as quickly as possible. So after Yolanta Brzeska was killed you can imagine how other tenants could feel because they knew that they are left alone. Politicians are not interested in their topics. Media are not interested in some poor people that have problem to pay their rents. This topic wasn't important, wasn't the subject of the public debate. So you're all left alone and you know that one of your friend that is over 70 was killed! So you can be killed too if you fight for your rights. It was a real disaster. And I think it's something [that] says... really, something is said about our society because we didn't care for this weaker people. And then we all pay a price for it. Of course, their price was the highest one. But yeah, it's still a disaster. And I think it says a lot about our morality and our social solidarity.

[Florian Peters] Yeah, that's great. I mean, that's not great. Actually, the picture you present of society, which is more committed actually to property claims from, let's say 70 years ago than to the social justice nowadays and to the real life of people who have to live in ... have to make their living somehow. But, but could you tell us one or two sentences about the people who are trying to, like you, to campaign against that? And what are your ideas to solve this problem actually? Because as you said, I mean, this is... there is a certain potential of scandal in this, seeing this wild reprivatization as a scandal in a moral sense, also from mainly right wing politicians... But is there any, let's say, more progressive idea of how to deal with these complicated issues?

[Beata Siemieniako] So my aim is to persuade people that we don't have a problem with wild reprivatization. Wild reprivatization is reprivatization that is made with forged documents by mafia that played its role in this process. Wild privatization is also, was also buying claims to buildings that were worth millions of zlotys, but the claims were bought for 500 zlotys for instance. So we have some scandal cases, of course. Claims were sold, there were some, there was corruption, there were forged documents... but my aim is to persuade that reprivatization itself is something really unjust and immoral. Because of course you can say that expropriations that happened 10s of years ago weren't just. Actually it's not the point. Some people can say, okay, they were just. Some people can say, no, it

wasn't fair. But the thing is, should we replace something that was unjust, as you said 50 years ago, with new injustice? And I think that it's unfair because today we all pay for what was done so long time ago. We pay because all compensations, all billions of zlotys that we are paying now, they come from our taxes is something for our... we could improve our healthcare system. We could, we could focus more on education on psychiatry for children and so on. But we prefer to pay compensation for people who didn't actually experience any harm. Their grandparents maybe did, but it's only about restoring some property relations that existed very long time ago. And actually it's a class conflict also because we pay for a very small [number of] people because we know that these properties were concentrated in the hands of a very narrow percentage of people and now we all pay for that. So it's kind of restoring this relationship between nobility and peasantry, where we all have to pay for a very small group of people.

[Florian Peters] So, so would you say reprivatization shouldn't take place at all? Because tenants organizations also, they campaign for a more just law on regulating this repatriation. So how could such a regulation look like actually in order to balance these different claims to justice, claims to justice which come from the past in the one case and which are more synchronic and in our time [in other cases]. Is there any idea to how to ... how to balance these different claims actually?

[Beata Siemieniako] So there are various ideas how to solve this problem. Usually we say, usually there is a proposition that instead of property restitution, we should compensate it and maybe not in the full price, but only a small percentage, like 30 percent of the value. But then you have to ask yourself, what's the value of the property? Because if you look back to 1944, when all Warsaw was destroyed in 85%, sometimes in 100% where the Jewish ghetto was, and it was a planned destruction made by Germans, you think: what was the value of that property at that time? It had so much rubble on it, so much blood, so much... And we as a society rebuilt the city with our hands. And then you have to give the property that is already rebuilt in 2023 or compensate in the value that it has today? So maybe we should value, we should estimate how much it was worth at that time. So it's not so easy to say what value should be taken.

That's the first ... That's the first option to compensate. But I'm sceptical about it. And I think that all claims should be just expired. We should just close it. And we just, we have to say: the time is going on and we cannot go back to something. We cannot travel in time. We have to stop it because if you want to travel in time and see what harms can be done, Okay. Why we're thinking only about nobility and their harm? Like peasantry, for instance, at the beginning of the fifties they were forced by communists to sell their farm products for 50 percent of the real price. So maybe we should compensate that as well. Or maybe we should compensate women that couldn't vote some time ago. Like what kind of other harms... and it's all about like we can compensate, but it's still about paying our money to some of us because compensation is made from our taxes. So, yeah.

[Florian Peters] Yeah, of course. I mean, there is an idea by Law and Justice, of course, where to get the money from, because this traveling back in time can be also be done on the national level, of course. And there's the idea to get reparations from Germany in order to pay for all that. But that's maybe a comment from the historian's point of view. I definitely see a point that it's maybe really impossible actually to travel back in time and to reconstitute justice by rebuilding actually legal relationships from the past. But what about regulating the private tenancy market? Because I mean, if just in case, if a



housing is privatized in one way or the other, I mean, it doesn't necessarily must include restitution and previous owners claims, but I mean, the city can also, could also simply sell or [...] has also as far as I know, in many cases, so it's quite a lot of flats to private owners... So wouldn't also regulating private tenancy market [be] part of a solution, at least?

[Beata Siemieniako] Sure. I think that reprivatization process only showed that we have a problem with private market. But as you said, those issues are not only because of the reprivatization. For instance now we face many ...a serious problem with private market because of people... refugees from Ukraine who are fleeing to Poland. They... and you can... do you know that some rents doubled from last year? And it's so difficult to find your flat. Minimal wage that is now in Poland is not enough to cover one one-room apartment. So we are in a real housing crisis and I'm pretty sure that it's the right moment, the final moment to regulate private markets. So the first thing is for sure to fix the rents to bring some limitations with highering the rents. But the second thing, I think it's very important, is to stop the process of buying apartments as an investment. If you do the first part of this reform that we are now talking about, so you, you... if politicians would make renting an apartment as ... bringing less money for the owners, then people will stop buying apartments just as an investment. If you have no profit, you have no point... there's no point to buy an additional apartment. So I think it's important and because we have over a million of flats that are empty now. And people... at the same time people live in overcrowded flats. So we have to do something with this and we have to fight for the right to appropriate housing and to stop treating houses as investments.

[Florian Peters] ...As a commodity, yeah, but rather seeing it as a right which simply belongs to the people. Thanks so much, Beata.

[Beata Siemieniako] Thank you Florian for having me.

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