

The Problem of Panhandling and What Not To Do About It

Arthur Schafer

In a not terribly well-thought-out proposal, Mayor Sam Katz wants to amend Winnipeg's anti-panhandling by-law. If passed by City Council and upheld by the courts, the Katz amendment would make it a criminal offence to beg within 10 feet of a bank machine, pay 'phone, bus stop, parking lot, taxi stand or restaurant patio. It would also be an offence for a panhandler to approach anyone getting into or out of a car or bus.

The Mayor claims that his new law will make downtown Winnipeg safer. The Free Press quotes him as saying: "You should be able to use a bank machine any time you want. You should be able to wait at a bus stop any time you want. And as Winnipeggers you have a right to do it without having to tolerate the abuse of aggressive panhandling."

If you think about it for a few seconds, however, there is something radically incoherent about the Mayor's reasoning. No one would dispute his claim that people who use a bank machine or wait for a bus in downtown Winnipeg are entitled to be free from aggressive demands for money. But does aggression become tolerable when it occurs more than ten feet from a bank machine or bus stop? Surely not. Aggressive or threatening behaviour is intolerable wherever it occurs.

Do we need a new City of Winnipeg by-law to protect us from aggressive or threatening street behaviour? According to Mr. Katz, speaking on CBC-radio, the Chief of Police has told him that the Force needs new legal powers before it can properly protect Winnipeggers. Why would this be, I wonder. Under the Criminal Code of Canada it is already an offence to demand money with menaces. The offence is known as "assault" and carries a significant punishment.

There may be a problem with aggressive panhandling in Winnipeg, but if there is a problem it is not because the present law permits anyone to approach you for money, using threats or menaces.

A Winnipeg restaurant owner quoted in the Free Press seems to have a better handle on the legal situation than Winnipeg's Mayor and Police Chief. Here is the astute comment of Mr. Bryson Naternick, owner of the Line-Up restaurant in the Exchange District: "I think they already have the tools to enforce it; they just need the enforcement. Often what happens when a call is made, it's not a high priority and it's a two- or three-hour wait."

The Mayor claims that he is targeting only aggressive panhandlers, but his proposal belies his claim. Suppose that a homeless person is sitting on the sidewalk near a bank machine or a bus stop or 'phone kiosk. [Keep in mind that downtown Winnipeg is thick with such services, so begging anywhere could become legally problematical.] He is wearing a sign around his neck with the words written on it: "Please help me, I'm poor and need money for food". He doesn't approach anyone, doesn't menace anyone, and doesn't say anything. He simply sits there looking dirty, disheveled and dispirited, with a hat on the ground in front of him as an invitation to passersby to contribute money.

This beggar would be committing a criminal offence under the Mayor's proposal and, at the discretion of the police he could be charged, convicted, fined or, more likely (since beggars are often too poor to pay even a small fine), imprisoned.

"I have absolutely no doubt in my mind this is fair, within reason, and will withstand any [court] test, says Mayor Katz.

With all due respect to the Mayor, the approach he favours seems unfair, unreasonable and, unlikely to withstand a Charter challenge. This is very likely the reason why Winnipeg's former Mayor withdrew a similar proposal in 2000. The measure which Winnipeg adopted instead, the one which is now in force, is aimed only at aggressive panhandling. It prohibits panhandlers from repeatedly asking for money or from begging in groups of three or more. Thus, a panhandler is entitled to ask once, nicely. That seems fair and reasonable. Katz's proposal seems neither.

There is no denying that panhandling sometimes causes problems. But the question which must be answered is: Are the harmful consequences of *peaceful* panhandling so harmful as to justify employing a heavy legal truncheon against beggars? In my view, the proposed cure (legal coercion) would be worse than the disease (passive panhandling).

To defend the right peacefully to beg is not to deny that panhandling is a symptom of deep social problems. But sweeping the existence of beggars under a coercive legal carpet is the wrong way to go about dealing with such problems. It just doesn't seem right to rely on controversial criminal laws to deal with problems of poverty, unemployment, homelessness and drug addiction (which produce most of our beggars). The use of physical force backed by lawyers, courts and jails is seldom an effective way to address what is essentially a social problem. Adding further burdens to the already burdensome lives of the least advantaged members of society does not seem like a winning strategy for dealing with the problems confronting downtown merchants and shoppers.

If you are still unpersuaded, I would invite you to ask yourself this further question: Can it be morally right in a democratic society to prevent one person from publicly saying to another "I'm in trouble and need help?" If the person asking for help is behaving peacefully then surely we should not be prepared to violate fundamental rights to freedom of expression. This will surely be the basis for a Charter challenge, and the Mayor should not be so confident that his by-law will survive a legal challenge. Even if it does survive, it will be money wasted; for the problem in Winnipeg is not really that there are beggars on our downtown streets.

The evidence from those American states which have banned peaceful panhandling shows that society cannot expect much success if we treat panhandling as an isolated problem to be dealt with by police action. Legal prohibition may sound as if it would be a cheap and easy solution, but the messy truth is that it would, at best, provide a temporary cosmetic cover-up.

Moreover, to restrict a person's right peacefully to ask others for help would jeopardize some of the most cherished rights of a democratic society. Peaceful panhandling is a nuisance, not a menace. Anti-panhandling legislation should be rejected in favour of a more expensive but also more effective approach involving addiction treatment centres, affordable housing, and job training.

This social approach to peaceful panhandling would be more just, more humane and ultimately more effective.