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Squatters and municipal policies to reduce vacancy Evidence from The Netherlands

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Introduction

It is against the law to enter an occupied dwelling without the occupant's permission. Unlawful entry has long been regarded as an infringement of domestic privacy and peace. However, if a dwelling has been unoccupied for a long time, domestic privacy has, in effect, ceased to exist. For years, the housing shortage has driven some home-seekers in the Netherlands to take possession of vacant business or residential premises, without permission of the estate owner, by wielding a crowbar or a screwdriver. The court – with no specific legislation to rely on – has had to decide whether these squat actions should be tolerated or not.

In 1914 the Supreme Court of the Netherlands ruled that forced entry to an unoccupied dwelling was not a criminal offence. Domestic privacy, and the violation thereof, was deemed to exist only if there was a chair, a table and a bed on the premises. In 1971 the court further ruled that an unoccupied dwelling is, by definition, not being used by the owner. The latter ruling prompted the Dutch government to submit an Anti-Squat Bill to the Lower House in March 1973. The House did not deal with the bill until three years later, in May 1976 (Duivenvoorden, 2000: 72-74).

Squat actions

The first squat actions to appear in print took place in Amsterdam in 1964. In November of that year the Amsterdam student newspaper *Propria Cures* criticised the policy of the Amsterdam Municipal Council whereby buildings that were due for demolition in the longer term were emptied and boarded up. These buildings could have housed hundreds of students for several years – and the council was making them uninhabitable. The background of this problem was the persistent housing shortage, in particular in the urban areas of the Randstad. The newspaper called on students to occupy these buildings and to illegally tap into the electricity grid. Soon afterwards, squatters moved into boarded-up dwellings in the Generaal de Vetterstraat in Amsterdam-West and youth homelessness became front-page news across the country.

Various members of the Provo movement joined forces with students and formed a separate body called the *Koöperatief Woningburo de Kraker* (the squatters' cooperative housing agency) to organise squatting actions. This agency published a squatter's guidebook in May, 1964, which was used both inside and outside Amsterdam (Duivenvoorden, 2000: 24-34).

Various action groups united to frustrate the pending large-scale clearances in the Nieuwmarkt neighbourhood in preparation for the new metro line. Squatters occupied vacant buildings and crowds of protesters disrupted the demolition work. On 12 December 1974 police and squatters met in a fierce



confrontation. The Municipal Council went ahead with its plans, but the squatter movement had gathered momentum. The criticism of the Anti-Squat Bill was collated and printed. The *Raad van Kerken* (Council of Churches) demonstrated its support for the squatter movement when it called on the authorities to address homelessness by clamping down on the long-term non-occupation of buildings. Eventually, the Lower House decided to shelve the Anti-Squat Bill.

The Groote Keijser

The squatter movement grew steadily and is thought to have numbered around 20,000 people by 1980. At the end of 1978 squatters were brutally evicted from a block of dwellings in the Kinkerbuurt neighbourhood in Amsterdam. The incident unleashed a spate of legal arguments for and against another scheduled eviction at the Groote Keijser building on the Keizersgracht (Priemus, 1981). There was a general fear of escalating violence as the building was heavily barricaded and the squatters were ready to defend it with barrels of discarded oil, fire extinguishers, Molotov cocktails and smoke bombs.

Mayor Polak of Amsterdam did not challenge the occupants of the Groote Keijser, but a violent confrontation did erupt between squatters and police in and around the Vogelstruys, a nearby building. The riot squad, mounted police, dogs and tear gas were deployed to quell heavy riots. On 29 February 1980 a group of squatters, operating from the Groote Keijser, reoccupied a building in the Vondelstraat whereupon they proclaimed a Vondel Free State and constructed huge barricades. Eventually, the mayor decided to take action and sent in a tank, armed vehicles, eighteen riot squad units, the military police and a police helicopter. On 3 March 1980 a true battle ensued, which the squatters lost.

Investiture riots

As Amsterdam prepared for the investiture of Queen Beatrix on 30 April 1980, the squatter population geared up for National Squatter Day on the same date. Hundreds of buildings were squatted throughout the country. Brandishing the slogan 'No homes, no crown' (*geen woning, geen kroning*), the Amsterdam squatters used the investiture as a launch pad for the worst riots ever known in peace time in the Netherlands. Two hundred policemen and approximately 400 protesters and onlookers were injured. More than one hundred policemen and more than 160 protesters and onlookers required treatment in hospital (Duivenvoorden, 2005: 156-161).

By this time, the squatter movement was no longer concerned solely with the housing shortage; it had embraced a whole string of causes: anti-militarism, anti-nuclear weapons, anti-nuclear energy, anti-apartheid, anti-racism, emancipation of women, animal rights and, later, environmental conservation (Pruijt, 2009).

Vacant Property Act (1981)

After a string of legal tussles, the Vacant Property Act (*Leegstandwet*) of 1981 was published in the Bulletin of Acts, Orders and Decrees. The Act stated that squatting was a criminal offence only if the squatted building had been vacant for less than six months. This time limit was later extended to one year.

A gradual process of pacification had been underway since the violent scenes in 1980. Many long-standing squats had been legalised. Although the squatter movement in Amsterdam had internationalised, its numbers were shrinking. In the 1990s there were reportedly around 4,000 squatters. By 2010 there were between 200 and 300 squats in Amsterdam and between 1,500 and 2,000 squatters (Van Gemert *et al.*, 2009).

Anti-squat

Meantime, anti-squat agencies were springing up to temporarily manage buildings on the owners' behalf and to enter contracts with 'anti-squatters'. Anti-squatters do not pay rent, but they do pay for gas, electricity and water. It is thought that there are tens of thousands of anti-squatters in the Netherlands. According to the estimates, the anti-squatters far outnumber the squatters at any time in their history. In effect, yesterday's squatter is today's anti-squatter.

Anti-squatters are in a very weak legal position. The contracts drawn up by the anti-squat agencies are frequently at odds with the Constitution: the privacy of anti-squatters is barely respected by the anti-squat agencies, they are prohibited from contacting the press and they can be evicted with only fourteen days' notice.

The Vacant Property Act of 1981 was a contentious piece of legislation with politicians and pressure groups reiterating time and again that squatting was essentially an infringement of ownership rights. The incidental outbursts of violence were blamed on the squatter movement. The press focused on squatter groups who caused a nuisance because of addiction problems. Real-estate owners feared a drop in the value of squatted buildings and adjacent sites.

Squat ban

On 8 October 2003 four members of the Lower House – Ten Hoopen (CDA), Van der Brink (VVD), Slob (CU) and Van der Vlies (SGP) – tabled a motion asking the government to amend the law and prohibit squatters from occupying business premises (Adrichem, 2010: 26). State Secretary Van Gennip saw no reason to introduce any such amendment.

After fire broke out during a house party in squatted business premises, Jan ten Hoopen referred to the motion in a letter of 17 November 2004. Minister Donner replied that the incident did not sufficiently justify an amendment to the existing legislation.

On 31 January 2006 members Hermans and Veenendaal tabled a motion asking for a general ban on squatting. This motion was approved, but when Minister Dekker (Housing) and Minister Donner (Justice) took steps to execute it, they encountered resistance from the municipal boards of the main cities.

On 2 November 2007 a majority in the Lower House supported the general ban on squatting. In August 2008 members Jan ten Hoopen (Christian Democrats), Brigitte Van der Burg (Liberals) and Arie Slob (Christian Union) submitted a private member's bill on 'Squatting and Vacant Property' (*Kraken en Leegstand*). Although the Association of Netherlands Municipalities did not want a general ban on squatting, the bill was passed by both the Upper and Lower House just before the general election of 9 June 2010. To gain the support of the PVV (Party for Freedom), the sentences were substantially increased at the last minute. The Act was declared non-controversial in March 2010 and came into force on 1 October 2010.

Six months after the ban came into force, the authorities were still turning a blind eye to most squatters (Van Gelderen, 2011).

Though the government wanted the ban to be 'actively enforced with priority', most municipalities and police forces clearly felt that they had more important things to do. So most of the squatters, who were officially risking a prison sentence of one year, were left undeterred. For example, Zaanstad Municipal Council decided not to assign priority to tackling the twenty-seven squats or so within its own jurisdiction.

The government in The Hague observed the laid-back attitude of many municipalities with consternation. 'It's their duty to enforce the law. It's as simple as that', said Arie Slob, Christian Union representative in the Lower House.

Slob, who launched the initiative, is confident that, eventually, the law will be enforced.

'It will take time', he said. 'I understand that completely. And I am glad to see that Amsterdam – no less – is one of the first to enforce the ban. Hopefully, the municipalities who are dragging their feet will soon follow. It is in everybody's interest to tackle the issue of vacant property within the law and not outside it'.

Missing evaluations

One problematic aspect of the squat ban is that the Vacant Property Act had never been properly evaluated in quantitative terms. There is no information on the number of squatters over the years, their main characteristics, or the geographical distribution of the buildings. Though the intrinsic positive and negative effects of squatting actions have been researched (Renooy, 2008), no quantitative information is available. No-one has determined the ratio of squatted dwellings to business premises. It is clear that squatters fall into many different categories. There are *bona fide* squatters who occupy dwellings that have been empty for a long time and look after them diligently. There are creative squatters who have set up ateliers, music studios and suchlike in unused business premises and have organised exhibitions, happenings, concerts and dance parties which have added to the cultural life of the city. And there are squatters who constitute a local nuisance through drug addiction, alcohol abuse and noise.

There is no systematic documentation of cases that undermined the public order, nor has anyone determined whether the instruments of law enforcement were adequate.

There is no information on the numbers of vacant dwellings and business premises or on the commitment or efforts of municipal councils and housing associations to address the problem of vacant property.

The Vacant Property Act has paved the way for thriving anti-squat agencies, which are still to be systematically researched (exception: Heykamp, 2009; Priemus, 2009a; 2009b; 2010). These agencies have only recently begun to pursue serious certification. The Anti-Squat Act will no doubt act as a further incentive.

Most squatters are young; older home-seekers do not squat. In the 1980s squatters were almost exclusively natives: ethnic minorities were not represented (Priemus, 1983). The situation may have changed since then, but there is no reliable information.

Rumours circulate occasionally about deals between squatters and developers, whereby developers pay squatters to move out to prevent delays in the (re)development of a building.

Empty office space

In 2010 around 6.5 million square metres of office space (14% of all office space) in the Netherlands was unused. Unused office space is particularly prevalent in Zoetermeer, Leidschendam, Almere, Amsterdam and Helmond. The situation appears to be chronic, all the more so, given that the working population in the Netherlands will decline in 2011-2040. New working methods, flexible working times and more businesses without personnel will cause the office area per full time job to shrink from around 25 to 15 square metres.

There is a desperate shortage of student and youth accommodation in the cities. To avoid a return to the days of 1964, when homes in Amsterdam were boarded up and then squatted, it is essential to convert empty office space into living space for students and other young adults, and rent it out on the basis of temporary tenancy agreements. In many cases this will probably be accompanied by a downward valuation of the real estate, which is probably grossly overvalued in the books of the investors. Areas with a lot of empty office space could be accorded a double designation (work and residence) and be temporarily used for housing. The growing number of empty office buildings is highlighting the need for an effective municipal strategy to deal with vacant property.

Municipal strategies to combat vacancies

On March 30, 2011 the Association of Dutch Municipalities (VNG) launched a publication with suggestions to develop a long-term municipal strategy to combat vacancies (VNG, 2011). The authors suggest that the municipality starts with a 'Starting paper', in which the societal challenge is formulated around vacancies of dwellings and/or offices. What are the ambitions and the goals of the municipality? Are there signals given by the community, is there a problem? Who is finally

responsible? Which actors are involved? Which properties are vacant in the municipality? What is the function of properties owned by the municipality? Which priorities are needed?

Each municipality has to be aware of available policy instruments for the short term: the management of vacant properties, interviews with property owners, temporary use and temporary rental contracts. For the longer term also other instruments are available: coping with vacancy in a municipal or regional Structure Vision, formulating a policy of transformation, changing spatial allocation plans, changing destinations of selected areas, municipal land policy, regional coordination of new building locations, a Vacancy Ordinance (*Leegstandsverordening*), formulating a municipal real estate strategy and maintaining an adequate vacancy register and a desk, accessible for every citizen.

The administrative organisation of the municipality could be adapted. A coordinator for vacancy matters could be introduced. Together with partners solutions could be considered. A Vacancy Ordinance could be formulated, including the duty for property owners to inform the municipality about vacancy, the Vacancy Register, deliberation about vacancy, the Vacancy Decree (*Beschikking*) and the binding nomination by local government of a candidate to use the vacant property.

The Vacancy Register cannot always be public, because such information could be misused by burglars, vandals and squatters. The municipality has to weigh the interest of publication and these dangers of misuse.

Until now municipal strategies to combat vacancies look like a paper tiger, because municipalities lack the information and the resources (money and officials) to develop an effective policy to combat vacancies.

Two key areas of attention

In principle there is a lot to be said for ending a system which is based on legitimised self-appropriation. Squatters pay little or no heed to the urgent issues and priorities of the municipal or regional housing policy.

We have not been properly informed of squatting and anti-squat practices on the basis of the old and the new legislation. Two issues appear to be vying for recognition in the Squatting and Vacant Property Act (*wet Kraken en Leegstand*): the legal position of anti-squatters and the effectiveness of clamp-downs on vacant properties.

In keeping with the letter and spirit of the law, it is better for vacant housing to be inhabited by households with a temporary tenancy agreement rather than a user permit, since this would effectively define the legal position of the occupants. Housing associations can assume specific responsibilities here. Most housing associations employ anti-squat agencies to manage dwellings that are scheduled for demolition. But, given the social mission of housing associations, it would be more appropriate if they were to manage these dwellings themselves and rent them out temporarily to those, who certainly belong to the target group of housing associations.

At a time of swinging cuts in public expenditure it is very unlikely that municipal councils will pay for the manpower and information that is needed to identify and put a stop to vacant properties. Real-estate owners who fail to register vacant properties with the council risk a fine of up to €7,500 per offence – not exactly a deterrent in real-estate circles. Municipal councils and housing associations should be able to effectively prevent and solve the problems arising from vacant housing and business premises. This would require adequate staffing, expertise and information facilities – which rarely exist in practice.

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