

## **'Vulnerable demons'? Moral rhetoric and the criminalisation of squatting**

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### **The criminalisation of squatting: Discourses, moral panics and resistances in the Netherlands, England and Wales.**

Abstract:

*In both England and the Netherlands, squatting has recently been legislated against. Criminalisation is often understood as a top-down process, where those who are criminalised are seen as passive actors without political agency. Understanding squatters as political activists, rather than merely victims of the social and economic system, puts a different light on the theoretical and practical implications related to criminalisation. Indeed criminalisation is a complex process that involves a multiplicity of actors, interests, and discourses. On the one hand it produces new norms and meanings aimed at shaping squatters' conducts. On the other hand, it sees the emergence of alternative practices and discourses. The aim of this paper is the understanding of the complex relation between criminalisation and its resistance, and of how discourses of criminalisation and practices of resistance mutually influence each other.*

*We will examine the contestation of the meaning of squatting, the role of the media in constructing moral panics toward squatting, and the alternative discourses used to counter criminalisation, both in England and in the Netherlands. In particular, we will explore the discourses mobilised by right-wing politicians and opponents of squatting to criminalise it, and the discourses utilised by squatters and their supporters to defend it.*

Words:

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*What is philosophy if not a way of reflecting, not so much on what is true and what is false, as on our relationship to truth?( ...) The movement by which, not without effort and uncertainty, dreams and illusions, one detaches oneself from what is accepted as true and seeks other rules - that is philosophy. The displacement and transformation of frameworks of thinking (...) to become other than what one is – that too, is philosophy.*

Michel Foucault. 'The Masked Philosopher' (1980)

## 1. Introduction

In the Netherlands and England and Wales (henceforth E&W), squatting has recently been legislated against.<sup>1</sup> This means that now all over Europe squatting is illegal and considered either a crime against public order, or a violation of private property rights. In England, it became illegal on September 1, 2012, although specifically only in residential buildings and it is punishable by a sentence of up to six months in prison. In the Netherlands the act of squatting was made illegal by a new criminal law of October 1, 2010.<sup>2</sup> These countries have had a history of civil regulation in regard to squatting, and the use of criminal law is quite recent and still in a process of transformation. In the Netherlands, the first formulation of the new law was rather vague, and it is still being specified and modified by means of legal battles between the state and the squatters. Likewise in England and Wales, whilst there have been convictions, there have been no appeals to date and thus no precedents have yet been set in law.

Beside the actual effects of criminalisation in terms of convictions of squatters and evictions of squatted spaces, in both E&W and the Netherlands the result of these new criminal laws has been that a situation which was previously managed by means of civil proceedings between the squatters and the owner has now become the direct responsibility of the state.<sup>3</sup> Before criminalisation the state was mainly an external party, and local municipalities had much more autonomy in their policies toward squatters. Moreover the police were able to intervene only after a court judgement. Criminalisation entailed that the state stepped in between these parties and enforced a law aimed at protecting the interests of property owners. The result has been that the police have gained more authority to act toward squatters, thereby making the process of eviction less dependent on the juridical system. .

The process of criminalisation in the Netherlands and E&W has been twofold. On the one hand, it

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1 Squatting was already a criminal offence in Scotland, so we cannot talk of Great Britain or indeed the United Kingdom. We will proceed by referring to England and Wales as E&W.

2 In the Netherlands, occupying and empty property was legal under certain conditions. Indeed, since a sentence of 1914 the human right to housing has been considered as superior to the right to property, and if an owner was not using his property, someone else had the right of using it as a home. The right to house peace indeed made no distinction as to the user of a owner was a regular tenant or a squatter. Anyone using a space as a home was legally protected as a dweller, and could not be evicted without previous authorisation from a judge.

3 It is interesting to compare here the 2002 revision of the law governing adverse possession in England, in which "the Law Commission's moral stance on urban squatters played an important role in excluding – and, for the future, avoiding - any further consideration of the arguments surrounding squatting and adverse possession" (Cobb & Fox).

strictly related to the formulation of new criminal laws aimed at outlawing the practice of squatting as such. On the other hand, the processes of criminalisation went beyond the so-called 'legislative criminalization' and it entailed the deployment of a multitude of discourses aimed at legitimizing state and police abuses of authority). These discourses have been stigmatizing, labelling and eventually defining not only the act of squatting but the squatters population as intrinsically criminal. This process has been aided by a well constructed moral panic (Cohen 2002; Dee 2012; Young 2011) around the practice of squatting and the squatters population, which created indignation and fear of the squatter as the 'transgressive other'.

However, criminalisation is often understood as a top-down process, where those who are criminalised are seen as passive actors without political agency. The peculiarity of the process of criminalisation in E&W and the Netherlands, is that there has been a sustained production of discourses aimed not only at criminalising, but also at supporting the practice of squatting. Moreover, the squatters themselves have mobilised practices and discourses to actively challenge and resist the process of criminalisation. Therefore, to understanding the complex process of criminalisation of squatting, it is necessary to look not only at the juridical apparatuses, but also at the role of the interplay between the different discourses mobilised to create and resist the 'regimes of truth'<sup>4</sup> around squatting .

With the inevitable simplification of complexity that the sake of clarity often entails, four meta-discourses can be identified both in E&W and in the Netherlands: 'reactive' discourses, namely those that promoted criminalisation and that worked against the practice of squatting; 'repressive' discourses that implemented the state's intention to criminalise squatting ; 'supportive' discourses, that promoted a positive image of squatters and that, for a variety of reasons, attempted to support squatting against criminalisation; 'resistant' discourses formulated by the activists themselves, designed to resist criminalisation. These meta-discourses incorporate a multiplicity of threads,<sup>5</sup> which are drawn out by different actors depending upon their subject position. As we will see. these discourses themselves intertwine (for example in the case of the Netherlands, the repressive and reactive discourses are indistinguishable), with each discourse also incorporating within itself a number of arguments from opposing viewpoints.

Reactive discourses can be examined in a number of ways. Regarding criminalisation in the Netherlands, Pruijt takes four explanatory tools: culture wars, revanchism, creative city and moral panic (Pruijt 2012a). In this article the focus will be placed on the framework of moral panic,

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4 A Foucauldian term which we will discuss further below)

5 For example in the case of E&W, it is possible to identify at least eight specific discourses. Whilst not an inclusive list, this would feature both negative and positive discourses around the issues of morality, cost, threat, property guardianship, responsibility, vulnerability/homelessness, anarchism and the occupation of millionaire's homes (Dee, 2012)

supported by Critical Discourse Analysis (Cohen 2002; Dee 2012a). Supportive discourses also require close attention, since it is important to understand to what extent these discourses, whilst purportedly aimed at 'defending' squatters, eventually contributed in the production of a 'regime of truth' about squatting that not only might have enabled its criminalisation but also confined the possibilities for other discourses to emerge. Here, the two case studies diverge: in E&W the most popular supportive discourse concerned vulnerability and homelessness, thereby flattening a political matter of contention into a humanitarian problem. In the Netherlands, supportive discourses suggested that squatting functions as a practical tool for temporary use of empty spaces when there is a lack of affordable housing, thereby co-opting a practice of resistance into the provision of services which the government is unwilling or unable to supply. In both cases, there is also an underlying moral argument concerning vacancy which argues that empty spaces should be put to productive use.

Norman Fairclough proposes Critical Discourse Analysis as a method designed to reveal connections between language, power and resistance (1989). Drawing on Foucault's work on the 'discursive formation', Fairclough discusses the role of language and discourse as tools of social control and power, and how language enables domination. Fairclough (1993) investigates the 'ideological-discursive formations' which exist within any institution as practices that "arise out of and are ideologically shaped by relations of power and struggles over power". Fairclough's theoretical framework is informed also by Foucault's later work, which highlights how the production of discourses and knowledge around a subject enable its domination (Foucault 1995) and draws the attention on how subjects constitute themselves as object of knowledge and eventually as subjects to domination. Foucault sees these mechanisms not in terms of 'ideology,' but in terms of 'truth' and 'power' where 'truth' is to be understood as a system of ordered procedures for the production, regulation, distribution, circulation and operation of statements: "'truth' is linked in a circular relation with systems of power which produce and sustain it, and to effects of power which it induces and which extend it" (1988). Foucault (2007), therefore, instead of addressing ideologies, analyses the technologies of truth, namely the articulation of certain techniques and discourses that establish 'regimes of truth' at a specific time in history. Fairclough uses the term ideologies in a specific sense, namely to refer to "common-sense' assumptions which are implicit in the conventions according to which people interact linguistically, and of which people are not generally consciously aware" (Fairclough 1989). Therefore, to avoid confusion over the word 'ideology', we will use Fairclough's terminology of the 'ideological-discursive formation' bearing in mind that 'ideology' used in this way has a specific meaning (analogous to what Foucault might term a regime of truth backing up a particular discursive formation) referring to the "taken for granted Background

Knowledge” which informs the use of language (1985).

For both Foucault and Fairclough each ideological-discursive formation co-exists with many other formations, including resistant voices that aim at challenging and subverting these tools of domination. According to Foucault, when one wants to analyse techniques of domination, it is important to broaden the focus and to closely look at “where technologies of domination of individuals over one another overlap processes by which the individual acts upon himself” (2011)/ . Indeed, government can be defined as the contact points between these technologies of domination, and the way people conduct themselves, and know themselves: “governing people is not a way to force people to do what the governor wants, it is always a versatile equilibrium, with complementarity and conflicts between techniques which impose coercion and processes through which the self is constructed and modified by himself” (ibid). This has strong implications in terms of criminalisation and practices of resistance. It implies that effective resistance acts not only in opposition to technologies and discourses of domination, but also also pays attention to the technologies that shape and conduct the self(Foucault, 2009).<sup>6</sup> In this context, resistance has to be enacted in multiple areas in order to be effective: in the field of truth/knowledge, in the field of morality, and in the field of ethics/self.

Therefore the aim of this article is not to understand not what discourses are, by drawing sharp distinctions between supposedly good or bad / positive or negative discourses. The task is to understand the power that these discourses exercise, how they work, how they conflict, and what effects they produce in terms of subjection and resistance. Using the toolbox of Foucault and the methods of Critical Discourse Analysis, this article will argue that both supportive and reactive discursive practices that preceded and followed criminalisation, produced a specific regime of truth about squatting that channelled the debate into specific direction and confined the possibility for resistant voices to emerge. Discourses around the criminalisation will be analysed for their effect not only on criminalisation, but also on the ethics of squatting: indeed it is important to understand to what extent the discourses that aimed at defending squatters from criminalisation have become embedded in the same politics of knowledge and 'truth formations' as those which actually enabled criminalisation. It will be argued that the discursive formations created around squatting by both reactive and supportive actors have captured the resistant potential of the practice and have absorbed it into various political agendas. Moreover, it will be suggested that many activists who tried to resist criminalisation have often found themselves trapped in specific discursive formations. Although this has often been a strategic choice, to a certain extent it had the effect of

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<sup>6</sup> Foucault, in his 1977-78 lectures at the *College de France* will name 'counter conducts' those modes of resistance to governmentality that are practiced within the field of conduct (Foucault 2009).

adjusting and 'normalising' squatters' ethics to the limits of what has been considered 'good' conduct.

The voices of squatters who refused to follow these lines of reasoning, and who have been less interested in legitimising their practices rather than in pointing out the intrinsic power relations that lead to a conflict around squatting, have not been considered worth hearing. While the statements deployed by politicians, mainstream media and official organisations are assumed to be objective, impartial and 'scientific,' the counter-arguments presented by activists have been dismissed as subjective, politically biased and emotional. Therefore, many of the discourses that actively resisted criminalisation and the moral panics around it, namely those produced by alternative media and the squatters themselves, were dismissed and left out of the debate.

## **2. Reactive discourses and moral panics**

The framework of moral panic is a useful tool to analyse what we have defined 'reactive discourses' around squatting. Indeed, moral panics are defined as a disproportionate reaction around specific issues, which shifts attention away from the root causes of a problem (Young 2011). Moral panics involve a discourse aimed at raising fear and outrage: not only by appealing to a threat to 'normal' values coming from an alleged outside, but also by means of 'denigration of the transgressive Other' (ibid). Moreover, a moral panic can be identified when the reaction to a social phenomenon is not only disproportionate but also irrational, given the actual social threat of the issue (Cohen 2002): however the moral panics raised around squatting cannot be dismissed as irrational reactions, as they do contain a political rationality that should be taken seriously. According to Jock Young, moral panics are not just the product of a simple mistake in rationality and information: they are founded on deep social conflicts around values, class and culture (2011). Moral panic, therefore, can be defined as a rationality, or a discursive technology that has the effect of governing not only by appealing to values, but also through emotions. Moreover, while most of the analyses tend to pay attention to the power exercised by moral panics, we will argue that in the case of squatting these moral panics have been actively resisted and challenged by counter-discourses raised by squatters and activists. For a moral panic to be successful, we contend that it must adhere to the dominant ideological-discursive formation. As Fairclough states, it is usual for one ideological-discursive formation to be hegemonic, whilst other formations may still exist and even proliferate. When the dominant formation achieves a hegemonic position then the norms which comprise the background knowledge for that particular formation will gradually become

naturalised and thus shift into being the norms of the institution (Fairclough 1985).

## **2.1 England and Wales**

With regards to England and Wales it appears clear that the dominant ideological-discursive formation toward squatting is overwhelmingly negative (Dee, 2012b). This is demonstrated by the results of a YouGov poll in 2011, which declared that 81% of respondents (out of a total of 1718) were in favour of a change in the law in order to make squatting a criminal offence. In a study of media stories concerning squatting in eight newspapers between January 1, 2009 until December 31, 2011, it was found that 15% of the stories (which in total amounted to 235) employed a supportive discourse and 32% of the stories represented a reactive discourse (Dee, 2012a). Squatters were referred to as criminals in 28 occurrences, and explicitly mentioned as foreign in 31 cases (all but one being part of a reactive discourse).

In this context, a moral panic was raised by means of several intertwining discourses which operated in unison, and singular examples have been used to draw conclusions on the general character of the squatters population as essentially criminal. The work of Steve Platt demonstrates that this creation of a moral panic around squatting in E&W is in fact nothing new, with comparable stories cropping up when the possibility of criminalising squatting was discussed in the late 1970s and 1990s. He records that the media prefers to tell an “individual story rather than providing meaningful social analysis” and thus resorts to describing “straightforward heroes and villains” (1999). The squatter is often constructed as a terrifying other, someone who is foreign, criminal and organised with people in a gang, ready to pounce and to occupy a house when it is left empty for a few hours.<sup>7</sup> In fact, even Mike Weatherley, a Conservative Member of Parliament and an arch-supporter of the complete criminalisation of squatting in E & W, has recently referred to the reports of “highly exaggerated home invasions in the national papers” (2013).

Under the theory of moral panic as originally outlined by Stanley Cohen (2002), every successful panic has three requirements - a suitable victim, a suitable enemy and a general consensus that the values being attacked are embraced by society as a whole and need to be protected. In this particular case, the alleged victims were the decent law-abiding property owners, the constructed enemies were the squatter and the consensus which was formed was that a change in the law was necessary

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7 For example 'Knife-wielding Lithuanian squatters who move in when residents go out' (Daily Mail). However, in the case of the cited news story, a rather different slant is put on the whole story by the last line, which reads: "The Metropolitan Police said it was seeking suspects who are believed to have posed as an estate agents to fraudulently sublet properties". This then suggests that the Lithuanian occupiers were accidental squatters, who had be tricked by malicious criminals.

<http://www.dailymail.co.uk/news/article-1314526/Knife-wielding-Lithuanian-squatters-residents-out.html>

so as to stop squatters taking more houses.

Through 2011, there was indeed a hysterical chain of stories concerning squatters occupying homes, the Daily Telegraph leading the way with its 'Stop the Squatters' campaign. A relevant, specific example is provided by the case of Jason Ruddick who, in early 2011, became the subject of no less than seventeen substantial mainstream media stories. In most of the articles Ruddick (and thus by extension squatters generally), is portrayed as personifying deviant values which place him in opposition to decent, law-abiding citizens.

The first cluster of articles, appeared in five newspapers on January 7, 2011. The Daily Mail published a story titled: 'Come over and join in me soft-touch Britain, says the Latvian who traveled 1,500miles and ended up squatting in a £6m mansion'<sup>8</sup> which it recounted how Ruddick and a "gang of immigrants" were squatting in a ten bed Highgate mansion. Other titles were 'Latvian travels 1,500 miles to milk Britain's 'soft' laws against squatters'<sup>9</sup> (Daily Telegraph), 'SQUAT A CHEEK: 1,500 mile trip to scrounge in "easy touch" UK'<sup>10</sup> (Daily Mirror), 'The £10million home "not good enough" for squatter gang'<sup>11</sup> (Evening Standard) and 'Man moves to UK to live for free'<sup>12</sup> (Sun). Another cluster of similar stories appeared in March/April 2011 (in the Independent on Sunday, the Sun and Evening Standard), when Ruddick was reported squatting in the former home of the Congolese ambassador. Notoriously, he was reported to have said: "This place isn't nice enough for me. I want somewhere posher, with a swimming pool if possible. I want a shower and hot water. But I want to stay in Hampstead. It's a very nice area."<sup>13</sup> This quotation was then repeated verbatim by Mike Weatherley in the House of Commons debate on the criminalisation of squatting on March 30, 2011.

In all these cases Ruddick is portrayed as a caricature, a spoof of the typical squatter, which fits snugly into the stereotype held by the dominant ideological-discursive formation. The quotations mentioned make clear that squatting is not something to be taken seriously, but rather to be viewed as a practice which is against a decent community and its moral values. Ruddick is depicted as a folk devil, 'the monster within': not only is the squatter is referred to as coming from the 'wild outside' (Eastern Europe) and invading a citizen's most private realm (their home) , but he is even accused of calling other potential squatters to join his luxury lifestyle at the expense of Britain. As a result, what is being judged, is not merely the squatter's attitude, but the very British context that

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8 <http://www.dailymail.co.uk/news/article-1344634/Latvian-squatter-Britain-easy-touch-ends-10m-mansion.html>

9 <http://www.telegraph.co.uk/news/uknews/8244715/Latvian-travels-1500-miles-to-milk-Britains-soft-laws-against-squatters.html>

10 <http://www.highbeam.com/doc/1G1-245919402.html>

11 <http://www.standard.co.uk/news/the-10m-home-not-good-enough-for-squatter-gang-6553139.html>

12 <http://www.thesun.co.uk/sol/homepage/news/3334365/Man-moves-to-UK-to-live-for-free.html>

13 <http://www.standard.co.uk/news/4m-house-isnt-posh-enough-says-squatter-who-wants-a-pool-6384476.html>



provides an opportunity for this to happen. Thus, this particular example demonstrates well that a need for action is being generated, since 'something must be done' to prevent the social and moral breakdown of society threatened by squatting.

## 2.2 -Netherlands

Similar discourses were also formed recently in the Netherlands, where squatters were portrayed not only as violent criminals but also foreigners who pose a threat to public order and to the Dutch democratic values. A survey demonstrates that, just before criminalisation, the Dutch public opinion was not against squatting (Pruijt 2012a). Indeed in the Netherlands there is a strong collective memory around squatting as a social movement. Despite many references to the violent confrontations of the 1980s, there is an acknowledgement of the role of squatters in the struggle for social housing (Uitermark 2004a, 2009). This framing explains a number of differences between the ideological-discursive formations that emerged in the Netherlands, and those in the E&W context.<sup>14</sup>

However, the broad sympathy and support for squatters was undermined by the creation of a moral panic, which eventually served to justify criminalisation. While in the 1980 and 1990s squatting was considered by the authorities to be an important part of the urban landscape, a viable solution to the housing shortage and a tool to control speculation and vacancy, from the beginning of the new millennium squatters became an easy target of right wing parties such as the VVD and the Christian Democrats, who made a major issue out of 'law and order.' Criminalisation of all kinds of minor nuisances and offences was promoted as a preventive strategy, as “tolerating such misconducts would worsen already existing problems of citizen’s safety, security and public disorder” (Van Swaaningen 2005). This new political context provided a fertile ground in which the long-standing campaigns against squatting could grow .

The main discourses used by political parties and media to promote criminalisation of squatting, was that squatters are violent, that squatting attracts many kinds of criminal activities, and that they are mainly foreigners. As much as in E&W, the discourses that promoted criminalisation cited cases of squatters allegedly breaking into houses which had been left unwatched for few days<sup>15</sup>: “One man lost his mother’s home — where she had lived since she was born — when she was

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14 Although the struggle for social housing was also a major part of the UK squatters movement in the 1970s, this history has been forgotten by all actors in E&W.

15 [www.vvdamsterdam.nl/article/514/](http://www.vvdamsterdam.nl/article/514/)

hospitalized for a year.”<sup>16</sup> The discourse is aimed at turning any Dutch citizen into a potential victim, and at motivating feelings of vulnerability and insecurity regarding a possible home invasion.

An important role has also been played by the police, who alleged not only the discovery of an arms cache in a squatted house, but also that squatters threatened the lives of police officers by placing a booby-trap at the door of a squatted building when it was evicted. The discourses of criminalisation (both reactive and repressive) argue that there is a hardening tendency within the squatters' scene, in which squatters are willing to use weapons against the police. The accusations of violence served to generate a moral panic in which the victim was not only the police but by extension everything that the police is supposed to be protecting, namely law-abiding Dutch citizens and the security of private properties. These claims were later entirely refuted by the squatters and no evidence has ever been presented by the police. The weapons cache resulted to be nothing more than a collection of items including a baseball bat and a air pistol (Gemert et al. 2010), but once mentioned the slurs concerning violence and criminal activity became a stable feature in the repressive and reactive discourses around squatters. Another example would be the controversy concerning the injuries incurred by a squatter outside a former squat in Amsterdam, in which a drunken fight then became a major media story.

Contrary to E&W, in the Netherlands repressive and reactive discourses went hand in hand, as the arguments of politicians against squatters either reinforced, or have been either reinforced by, the discourses of the media. In order to unfold both repressive and reactive discourse, it is important to refer to the major arguments contained in the 'Black book on squatting' (Zwarte Boek Kraken, henceforth ZBK) published by the Dutch Liberal Party VVD,<sup>17</sup> and in the Explanatory Memorandum to the anti-squatting bill<sup>18</sup> written by leden Ten Hoopen (Christian Democratic Appeal), Slob (ChristenUnie), and van der Burg (Liberal Party). The Explanatory Memorandum blames squatters for the fact that many buildings are in a state of decay, further defining squatters as a virus that infects healthy property: “The presence of squatted buildings is often accompanied by a lot of disturbance and degradation. (...) This has an impact on surrounding properties. The quality and value of the surrounding housing decreases, with the result that the quality of life in the neighbourhood is affected” (2008).

The Explanatory Memorandum also argues that squatters and their motives have changed in the recent decades. According to the document, the problem of housing shortage no longer exists.

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<sup>16</sup> <http://www.dutchamsterdam.nl/555-squatting-in-amsterdam>.

<sup>17</sup> Zwarte Boek Kraken: [www.vvdamsterdam.nl/files/14b6f66fd1ca1/](http://www.vvdamsterdam.nl/files/14b6f66fd1ca1/); This however is not based on empirical evidence, and it does not make reference to any verifiable fact (Van Gemert et al, 2009) .

<sup>18</sup> Proposal Tweede Kamer 07/08, 31 560 nr. 3 - <https://zoek.officielebekendmakingen.nl/kst-31560-3.html>

Therefore, on this logic, 21st century squatters are not fighting for social goals such as housing rights and against vacancy, but would rather simply squat to live rent-free, without working, pursuing a lazy lifestyle (a logic which has many similarities with the arguments used by English politicians). In line with the right-wing politicians who wrote the Explanatory Memorandum, both the ZBK and the mass media portray squatters not as activists who denounce housing shortage, but as free-loaders who cheat the rules to get a house sooner than they deserve: in the words of an article about squatting in Amsterdam, squatters are “shady and unsavoury characters who appeared to be more interested in getting a free ride than in helping to provide much needed rental property.”<sup>19</sup> Moreover, the ZBK claimed that over and above occupying social houses that should have been allocated to low income Dutch citizens, squatters also seized luxury apartments in the city centre: “not only do they take over the social allocation list, but they also live where everybody would like to live, but then without paying the rent” (2006). In a context of housing shortage and incapacity of the government to provide affordable housing to all, the ZBK suggests a morality based on equality and justice, in which squatters are addressed as one of the causes of the problem, taking what does not belong to them and acting unfairly by moving ahead of other people on the queue for allocation of housing.

Another repressive/reactive discourse, mobilised both in the Dutch and in the E&W context, is the fear of the other, which refers to the invasion of 'barbaric foreigners' from South and East-European who are attracted to the Netherlands because of the opportunity of free housing, or living illegally and anonymously. Although international squatters have always been an important component of the movement (Duivenvoorden 2000), this discourse implies that squatting used to be tolerated because there was been a golden age of the Dutch squatters movement, which has now been ruined by foreign squatters: "Squatting used to be idealistic, but now is overshadowed by international squatters who come here for mayhem," said MP Anchor of the Christian Union (Elsevier 02/11/2007).<sup>20</sup> The argument here is that foreign squatters undermine the foundation of the Dutch polder model and the social compromise that characterised the Dutch way of dealing with squatters. Moreover, it assumed that the conduct of foreign squatters threatens the social fabric of the Netherlands, since they not only 'steal houses,' but also represent a way of life that is morally unacceptable: 'they are lazy, they smell, and their women do not even shave their legs.'<sup>21</sup> Just as in

<sup>19</sup><http://www.dutchamsterdam.nl/555-squatting-in-amsterdam>

<sup>20</sup> In the past squatters often renovated the buildings they moved into, but in recent years many squatted homes were wilfully destroyed” (Elsevier 02/11/2007). This is mirrored by the statement of Brighton Council's then Housing Minister, who said in 2010 “Unfortunately, the romantic notion of the squatter who inhabits a property that would otherwise stand around empty, even makes improvements to the property and leaves for the next empty home without costing anyone anything, has long since disappeared.”

[http://www.theargus.co.uk/opinion/letters/8474001.Diddly\\_squat/](http://www.theargus.co.uk/opinion/letters/8474001.Diddly_squat/)

<sup>21</sup> Robert van de Griend. Uitvreeters! Squaterski en okupas slopen de kraakscene. Vrij Nederland, 9 July 2005

England and Wales, the moralising technique consists in stigmatizing squatters as 'the monstrous other', and in turning political activists into threats to democracy. These xenophobic discourses argue that 'something has to be done' in order to protect social and moral order and that criminalising squatting would serve as a sort of barrier to these otherwise uncontrollable invasions.

### 2.3 England and Wales and the Netherlands: common threads

When both in E&W and in the Netherlands, the practice of squatting has been criminalised, actions aimed at preventing the destruction of the urban environment, against the dispossession of people from their homes and against practices of speculation, have been portrayed as theft, as actions against the public good and public order, against the urban development, and last but not least, against the moral values of democracy. Indeed, in the Netherlands the laws that eventually criminalized squatting are under the title of "crimes against public order," a title that is intended to uphold standards of morality, decency and civility.

In E&W, the effects of this campaign were certainly upheld by the Ministry of Justice, which entitled its Consultation paper on squatting 'Options for Dealing with Squatters' (Ministry of Justice, 2011a). The question posed in this repressive discourse was how to solve 'the *problem* of squatting', rather than how to engage with the estimated 20,000 squatters (this unsubstantiated figure supplied in the consultation is if anything lower than the reality), thereby giving for granted the assumption that squatting is indeed a difficulty which requires taking care of rather than a widespread practice with strong social and political uses.<sup>22</sup> In the Netherlands the new legislation, named '*Wet kraken en leegstand*' adopted the political term '*kraken*'.<sup>23</sup> The juridical language, explicitly criminalises a political action (*kraken*), but attempts to omit and dismiss any political connotation of squatting by turning protest and resistance into 'common' criminal actions.

Cohen (2002) analyses the conditions by which moral panics are able to work and suggests that there at least three: namely legitimating values, moral enterprise and power. In the process of criminalisation of squatting, the mobilised values were the right to private property, the violation of the rules of so-called 'common decency' and 'normal conduct', and the respect for police authority.

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22 In a previous consultation paper, in 1991, the Government's position was stated as follows: "There are no valid arguments in defence of squatting. It represents the seizure of another's property without consent."

23 The practice of squatting in the Netherlands started being organised as a social and political movement between 1965 and 1975 (Duivenvoorden, 2000; Uitermark 2004a). In these years that the technical term *bezetten*, literally 'occupying', was changed into *kraken*, literally 'to break-open', a term taken from Amsterdam slang. This different language has been adopted to characterise squatting as an organised form of protest. Therefore when referring to 'kraken', Dutch citizens, media, and politicians were directly referring to a collective political action, and not merely to the violation of private property rights.

The appeal to these values has been allied to the belief that criminalisation would put a stop to squatting, thereby protecting and re-establishing moral and social order. As much in the Netherlands as in England and Wales, the moral panic surrounding alleged home invasions and foreign squatters helped to create an atmosphere in which something had to be done, to protect the security of the local communities, to contain the 'barbaric invasion' and to prevent this unacceptable level of threatened violence.

The moral enterprise was directed in the first place by right-wing politicians who made statements about the supposedly criminal nature of squatters to sustain their campaign regarding law and order, and to attribute internal problems to threat from the outsiders, namely the multitude of foreign squatters invading private properties; in second place it was mobilised by the media, who did not miss the opportunity to embrace and to uncritically report these discourses, to create scandals and to express disgust at squatters' 'abnormal' lifestyles.

Power is exercised through the knowledge that these repressive and reactive discourses have produced around squatting, namely through production of a regime of truth where all other possible discourses are dismissed, and where criminalisation became the natural response not only for controlling, containing and repressing the squatters, but also for the protection of the democratic values. The overall discourse had the effect of leaving unspoken and untouched the underlying causes of housing shortage, such as speculation, housing policies, and gentrification. Moreover, these discourses mobilise not only moral values but also emotions such as fear, outrage and sense of injustice toward the squatters.

Whilst these dominant discourses are framed as rational, technical and objective, the discourses that resist criminalisation are labelled as irrational, emotional, and politically biased. In the next section we will analyse how these discursive politics are played out.

### **3. Supportive and resistant discourses**

Despite the campaign that criminalised squatting and the widespread moral panic, both in E&W and in the Netherlands counter-discourses were also present, defending squatters or actively resisting the proposed criminalisation. In the Netherlands, these mainly framed squatters as informal providers of social and cultural services that the state was not willing nor able to provide. In E&W, the emphasis was on homelessness and the vulnerability of the squatter population. Both in E&W and in the Netherlands, the discourse of the 'good' squatter who occupies a house, pays her bills and gets on with the neighbours whilst perhaps providing something of benefit to the community was

also present, yet it tended to be drowned out by stories focusing on dangerous, criminal squatters. However, we will argue that these positive and supportive discourses might have been enforcing a distinction between those squatters practice that can be accepted and those that should be repressed and of setting the conditions for squatted projects to be 'legitimated.' In the next section, we will see how these discourses were mobilised, what effects they produced, and how they have been intertwining with both reactive and resistant discourses.

### 3.1 England and Wales

In illustration of supportive discourses towards squatters in E&W, stories in the Sun ('Squatters refurbish mansion')<sup>24</sup> or the Daily Mail ('Squatter moves into "Eyesore Cottage" and turns it into a dream home... and villagers want him to stay')<sup>25</sup> provide good examples. However, such stories tend to be isolated cases, which do not discuss, nor challenge, the broader picture (by showing that 'not all squatters are bad' it is therefore proven that most squatters are actually bad). Reclaimed gardens such as the Grow Heathrow project, Common Ground in Reading and the Lewes Road Community garden in Brighton generally receive a positive depiction in the media. In a previously mentioned data analysis of media stories concerning squatting 15% of the stories (which in total amounted to 235) deployed this discourse (Dee, 2012a). However, these discourses entail a danger. An ideal-type of conduct is presented for the good squatter, therefore delineating a clear moral distinction between good and bad squatter, with good squatters making the neighbourhood more secure or more attractive and bad squatters conforming to the stereotypes discussed earlier. These supportive discourses were themselves responding to reactive and repressive discourses, which tended to be voiced by the mainstream media and the state, respectively. The Consultation paper on squatting 'Options for Dealing with Squatters' (Ministry of Justice, 2011a) received 2217 responses, of which 1990 were received via the pro-squatting campaign group SQUASH (Squatters' Action for Secure Homes). These responses were immediately discounted in the report, which stated "While we recognise that the statistical weight of responses was therefore against taking any action to deal with squatting, it is important that the views of other individuals and organisations are reflected in the summary of responses – even if in percentage terms, they are minority views" (Ministry of Justice 2011b). Yet in the breakdown of

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24 <http://www.thesun.co.uk/sol/homepage/news/2537935/Squatters-refurbish-3million-mansion.html> (accessed March 2013)

25 <http://www.dailymail.co.uk/news/article-1348665/Squatter-Bill-Davies-turned-Eyesore-Cottage-dream-home-faces-eviction.html> (accessed March 2013)

respondents, the category of 'Victims of squatting (individuals and organisations)' had just 10 members.

On the other hand, all the major homelessness charities (Crisis, Thames Reach, Shelter, Homeless Link, Housing Justice, St Mungo's), High Court Enforcement Officers, the Metropolitan Police, the Criminal Bar Association and the Law Society opposed changing the law.

SQUASH has produced several documents concerning criminalisation which included a House of Lords Briefing Paper and a paper discussing the actual costs that the implementation of the law would entail: 'Can We Afford to Criminalise Squatting?' (2012a, 2012b).<sup>26</sup> In the briefing paper, the three key tenets of the SQUASH campaign were clearly stated. Made as media friendly sound-bites, they were that a change in the law was unnecessary, ?unjust/unenforceable and unaffordable. With these three points, SQUASH aimed to sidestep the right-wing focus on squatters as dangerous or threatening and to spotlight instead both the attack on the homeless (appealing to the moral code which agrees with people taking shelter if they need it) and the costliness of implementing any change in the law.

Whilst it was important for the squatters movement to remain connected to homelessness charities in presenting a united front of opposition to a change in the law, the discourse of vulnerability led to its own difficulties. Whilst in E&W (and the Netherlands) all squatters are technically homeless. being of No Fixed Abode, and material need for shelter is one of the primary drivers, there are many forms of homelessness and people squat for a variety of reasons. The danger for activists lay in prizing this discourse above others since it could lead to the de-politicisation of the practice of squatting. Further it allowed the obvious right-wing response, which was to claim that the squatters and the homeless were two very different communities.

The emphasis on homelessness and vulnerability, was replicated also in the academic field, where squatters are often pictured as a disproportionately vulnerable population. This discourse assumes not only that squatters are an homogeneous population, but also that all squatters are problematic types of homeless.<sup>27</sup> However, the work of Kesia Reeve and Sarah Coward concerning homelessness and squatting indicates that "very little is known about squatting as a homeless situation: Despite the relatively high incidence of squatting amongst the homeless population, there is virtually no evidence, awareness, or understanding about the nature and extent of squatting, nor about the situations, profile or experiences of homeless people who squat" (2004).

In a recent Early Day Motion calling for the criminalisation of squatting in commercial property,

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26 SQUASH has just released a third document, 'The Case Against Section 144.'

27 Indeed, the original call (since adjusted) for the workshop for which this paper is being written stated that "Squatters, as a population, are disproportionately vulnerable: research has shown that they are often homeless, former prison populations, alcohol dependent and with mental health problems."

Mike Weatherley offers the opinion that "this House is aware of the huge distinction between the homeless who need our assistance and squatters who choose to occupy property without permission as a lifestyle preference" (2013). In 2012, during a talk to the Conservative society at the University of Sussex, Weatherley also stated: "The idea that these individuals – talented, web-savvy, legally-minded – have anything whatsoever in common with the rough-sleeping troubled souls who need real help is highly insulting to vulnerable addicts. Rough sleepers do not have the resources to print out squatters' rights notices from the internet and stick them on front doors" (2012).<sup>28</sup> Therefore Weatherley entirely separates the homeless from those who occupy empty buildings, in order to counter both the charge that criminalisation was attacking the vulnerable and the moral argument that people who desperately need shelter should be able to take it. The latter is a powerful discourse, which most people have a certain sympathy for, and therefore Weatherley would rather target what he calls the lifestyle squatters.

The Squatters Network of Brighton and squatters writing for independent media such as SchNews and [brighton.squat.net](http://brighton.squat.net) have consistently rejected Weatherley's arguments (Anonymous1, Anonymous2, Anonymous3). According to them indeed the sharp separation between squatters and the homeless would appear ludicrous - whilst there are certainly differences between rough sleepers and squatters, the criminalisation of squatting in residential buildings affected them all. Among the first people to be convicted for the new offence of squatting was a homeless Polish alcoholic<sup>29</sup> and a homeless man froze to death outside a derelict house in Kent, having been threatened with arrest if he entered the property.<sup>30</sup> However, the implications of Weatherley discourse, which he has repeatedly evinced, go further: whilst it betrays a patronising view of homeless people, typecasting them as vulnerable addicts who are unable even to use a printer, it also demonstrates that the law is addressed at the politically organised practices of squatting.

Squatters are aware of this line of attack and have been for some time. Sam from Squall Magazine, interviewed over 25 years ago for the book *Not for Rent*, comments that "there have been accusations that squatting is a lifestyle choice rather than a reaction to housing needs. Tory politicians spout this one, so the squatters movement has veered away from it" (Wakefield & Grrrt). She agrees that her various privileges make her situation different to that of rough sleepers, yet also argues that "I don't want to pay rent to a rip-off landlord, I don't want to work in a shitty job so that

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28 This talk was held in secret having been cancelled on the original date when a large number of students objected to Weatherley's presence on campus.

29 'Polish immigrant jailed for squatting after refusing to leave house when told to by police'  
<http://www.dailymail.co.uk/news/article-2273701/Polish-immigrant-jailed-squatting-refusing-leave-house-told-police.html>

30 'Homeless man Daniel Gauntlett dies frozen on doorstep of empty bungalow in Aylesford'  
[http://www.kentonline.co.uk/kent\\_messenger/news/2013/february/28/frozen\\_man.aspx](http://www.kentonline.co.uk/kent_messenger/news/2013/february/28/frozen_man.aspx)



I can afford to pay rent. I want to do things that don't earn me money."

Reeve sees the squatters movement as a "movement of the materially disadvantaged, seeking to achieve social welfare goals in a context of housing need" (2009). If shelter is actually a primary factor for all those who squat, other political or cultural needs tend to come very much second to that first material need, albeit in complex, ever-different ways for each individual and collective. Indeed, as Victoria Blitz puts it, "squatting is both a means and an end, and the ways that different individuals and groups put squatting into practice varies enormously" (2011).

Thus, we have seen that the positive framing of squatting in E&W often relies upon stating the squatters are vulnerable and need to be protected, or are 'good squatters,' conforming to conventional ideas about how one should behave as a decent member of society. Other discourses, such as the broader critiques of private property or of social relations within the capitalist mode of production, were seldom raised although present (as shown by the quotation from Sam Squall above). Blitz argued more recently that squatting could be seen as David Cameron's much-vaunted Big Society in action and sees it "as a resource by which to negate the system that is causing us so many problems, and simultaneously demonstrate alternatives" (2011). Here, in nuanced terms, Blitz is making the point that some squatters are politically motivated and clearly want to change society by challenging the primacy of property ownership. Such a viewpoint completely contradicts the dominant ideological-discursive framework, which supports the inviolable right to private property and views squatting as nothing more than theft.<sup>31</sup>

### **3.2 The Netherlands**

As England and Wales, the law in the Netherlands which criminalised squatting does not address merely trespassing and rough sleeping, but is concerned with the movement that uses squatting as a tool for resistance. Differently from E&W, however, in the Netherlands the discourses did not produce an overlap between so-called vulnerable 'homeless' squatters, and political or lifestyle squatters. Instead of talking about homelessness as such, the discourses that defended squatters drew the attention to housing shortage, and to the abundance of vacant premises. In the light of the government's inability to provide housing for all, squatting was considered as a tolerable practical solution for youths, artists and students to take in their own hands their housing

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31 In answer to the question of why this view was not more prevalent, it is worth noting a response from a commenter on the blog, who remarks that "people banging on about the system' are using arguments that have little resonance outside the anti-capitalist ghetto" and further that "the insistence on a political dimension is going to alienate people within the squatting movement, because people have a right not to conform to that agenda, and you are going to need those peoples [sic] help".

needs and as a tool to make use of empty, abandoned and unproductive spaces.<sup>32</sup> In May 2006, when the squatting ban was already on the political agenda,<sup>33</sup> the Mayors of the four main Dutch cities (Amsterdam, Rotterdam, The Hague and Utrecht) wrote a letter to Minister of Housing Sybilla Dekker. In this letter they suggested that large cities are adversely affected by vacancy. In their view, "if the plans of the Minister will continue, then it will damage the municipalities in their fight against vacancy."<sup>34</sup> Minister for Administrative Reform Alexander Pechtold (D66), in a similar letter to the ministers promoting the criminalisation of squatting,<sup>35</sup> stated that the national government should not interfere with local policies on squatting<sup>35</sup>: his argument was that municipalities should be able to establish their own policies, as squatting might have a positive impact on neighbourhoods. On similar lines, although through different agendas, a multitude of the neighbourhood and tenants association have also raised their voices to counter the criminalisation of squatting, and placed the focus on the lack of affordable houses.<sup>36</sup>

In other words, squatting had often been considered as an useful practice and the primacy of housing rights on private property rights was not contested as such. The main discourse was that squatters have an important role in fighting vacancy and forcing owners to use their properties. The implication however is that squatters are considered useful as informal providers of a service, and direct actions aimed at resisting urban policies are reduced to attempts to enforce policies that the state is not able nor willing to invest resources in. The result of this long campaign was been that the law which criminalised squatting is named 'Wet Kraken en Leegstand', ('Squatting and Vacancy Bill'). This indicates that the vacancy argument has been heard, but incorporated only in the title of the new law: indeed as regards vacancy the name of the law is merely an incentive, since nothing in the bill itself refers to regulation of emptiness (and there has been no further progress following its enactment).

The concept of 'emptiness' played an important role also in the discourses brought forward both by the supporters of squatting and by the squatters themselves. However, simply stating that a place is empty, can often conceal embedded relations since spaces often lie vacant whilst awaiting investment or due to speculation. Therefore spaces occupied by squatters, although empty in the sense of not containing furniture for example, are not wastelands or ruins. In this way a discussion of emptiness obscures these economic relations and blocks supportive discourses about the use of

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<sup>32</sup><http://www.parool.nl/parool/nl/6/WONEN/article/detail/160066/2009/02/10/Raad-van-State-vindt-kraakwet-slecht.dhtml>

<sup>33</sup> Promoters of the bill were: Christian Democrats (CDA), the liberal Dutch party (VVD) and the hard-right Lijst Pim Fortuyn (LPF)

<sup>34</sup> <http://www.nu.nl/algemeen/742490/grote-steden-tegen-verbod-op-kraken-video.html>

<sup>35</sup><http://www.nu.nl/algemeen/750453/kraken-wordt-strafbaar-video.html>

<sup>36</sup> <http://www.steunpuntwonen.nl/>; <http://www.huurders.info/>; <http://www.wswonen.nl/>; <http://www.sash.nl/>

squatting.

A second line of argument in defence of squatters has been related to the importance of free spaces for artists who cannot afford to pay rent. From the end of the 1990s onwards, the Amsterdam city council has recognised the importance of some squatted spaces for the cultural and artistic life of the city. The so called Breeding Places policies<sup>37</sup> allocated 41 million Euros for subsidising between 1,400 and 2,000 living/working spaces for artists and cultural entrepreneurs. Not only were evictions stopped, but some squats legalized and turned into cultural centres. The Municipality of Amsterdam bought buildings occupied by squatters and many squatters found compromises with the owners and the City Councils, renting or buying for lower prices the spaces they already occupied (Uitermark 2004b). According not only to academics such as Justus Uitermark (2004) but also to many squatters and activists (Dadusc 2009), this policy led to the absorption of parts of the movement into providers of cultural services, which contributed to the image of Amsterdam as a 'creative city' and "helped to co-opt and to prevent resistance against policies that seek to promote gentrification" (Uitermark 2009). The discourses and the consequent practices aiming at promoting and subsidising squatters as 'creative entrepreneurs,' captured and redirected practices of resistance into a productive frame for urban planners and for a marketing campaign aimed at branding Amsterdam as a "Creative Knowledge City" (Oudenampsen 2006). Moreover, according to Uitermark (2004b) this trend led to the emergence of a "movement meritocracy", namely the distinction, the system of differentiation, at the level of government's discourses and attitudes, between those forms of squatting that to be considered useful and productive for the 'urban growth' and the city image, and those that could be eliminated.

Despite the problematic implications of the official arguments aimed at defending squatters, many activist discourses that were aimed at resisting criminalisation have strategically picked up the same language, arguing that squatting is a useful solution to problems of vacancy, to housing shortage, and to the lack of creative spaces for artists. When the criminalisation of squatting became a serious threat, a group of squatters started a campaign based on a petition.<sup>38</sup> Moreover, in response to the Black Book of Squatting written by VVD politicians, the squatters scene published the *Wit Boek Kraken* ('White Book of Squatting' 2008, henceforth WBK).<sup>39</sup> Although both the petition and the WBK were not supported by the whole squatters scene, these documents contain a synthesis of the multiplicity of discourses that have been mobilised by squatters and activists to resist criminalisation. The analysis of these discourses is important for understanding how the squatters

37 <http://www.amsterdam.nl/gemeente/organisatie-diensten/bureau-broedplaatsen/>

38 [http://www.kraakpetitie.nl/lees\\_de\\_petitie\\_tekst.htm](http://www.kraakpetitie.nl/lees_de_petitie_tekst.htm).

39 [www.witboekkraken.nl/](http://www.witboekkraken.nl/)

themselves have framed their struggle and how the interplay between positive and negative discourses has been tactically used.

Firstly, the petition argues that squatting has many advantages, and that due to the lack of housing and the abundance of vacant premises, squatting is a useful practice to turn the latter into use.

Drawing on Pruijt's five typologies of squatting (2012b), both documents argue that squatting is important for (1) providing housing for people with acute housing shortage (2) contributing to the preservation of social housing, (3) working as a tool for combating speculation, (4) creating social meeting places that stimulate new cultural and social initiatives and (5) for protecting monumental buildings from demolition. A second, more juridical argument contained in the petition refers to International Conventions and the Dutch Constitution,<sup>40</sup> stating that the fundamental social right to housing is more important right than the right of property owners. Although these arguments are certainly informed by anarchist politics, here they are framed by addressing 'how squatting can be useful' to urban authorities and by appealing to juridically granted human rights.

Although many collectives of squatters have embarked this paths as a practical strategy to preserve not merely the juridical, but the actual, right to squat, the unintended consequence has been that many resistant discourses have been trapped into a production of knowledge imposed upon squatters. Indeed, the result has been that in order to be listened to, squatters have had to engage and familiarise with the languages spoken against, or in support of them by external actors, instead of telling their own story. However, the xenophobic discourses, which had a strong role in raising the moral panic and in legitimising the criminalisation of squatting, are not mentioned nor contested. As an unintended consequence this has perpetuated and enabled the successful process of "othering"<sup>41</sup> on the one hand and of capturing resistance practices into a "normalised field" on the other.

In this context the *Wit Boek Kraken*, was intended to 'break open the debate' around squatting (2009). The overall aim of the different groups that participated in the project was to challenge the discourses that aim at criminalising squatters and at showing how squatting works in practice, with successful projects, and their political backgrounds. The book draws a path similar to the petition, but it opens the space for more in-depth discussion of squatting as a tool for resistance, as an act of protest and as a social movement. Particular attention is given to the struggle for social housing, next to to the misbehaviour of speculators and housing associations. Moreover, the

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<sup>40</sup> Article 11 of the 'International Covenant on Economic, Social and Cultural Rights' (ICESCR); Article 31 of the 'European Social Charter' (ESH) and Article 9 of the 'Maastricht Guidelines';

<sup>41</sup> Thanks to Alex Kemman, activist and student at the MA in Global Criminology (Utrecht University) for bringing this fundamental point to our attention.

stereotypes contained in the Black Book of Squatting, both the xenophobic ones and those related to increasing levels of violence, are analysed and challenged. The value of this project is bringing together a multitude of voices from different groups of squatters, activists and supporters. Moreover, the focus is not so much on how useful squatting is, but on the possibilities that squatting unleashes.

Besides the petition and the WBK, many groups have actively resisted criminalisation, not only by appealing to the 'supportive' discourses, but by formulating resistant discourses that challenge the politics of truth of official discourses, and consequently at moving a broad critique of the social, economic and political relations in which criminalisation takes place. . Some discourses turned around the 'right to the city' (Lefebvre 2003; Mitchell 2003; Harvey 2102) and formulated in depth analyses on processes of urban dispossession through corporate projects, housing policies, speculation and so called 'urban revitalization' plans <sup>42</sup>. Many other political discourses, that can be synthesized by slogans such as , “Speculation is the crime”, or “I do not pay, why do you?” provide a stronger critique and resistance to the major relations of power that define what is 'normal conduct' and what is 'crime'. . Yet these discourses have not been brought forward as possible arguments to resist criminalisation, remained confined within the fields of independent media, and were not able to be told or heard outside of the squatters' scene.

Slogans used at demonstrations, such as *Jullie Wet Niet De Onze* ('Your Laws are not Ours'), *Wet of Geen Wet, Kraken Gaat Door* ('Bill or Not, Squatting Goes On') or 'Whatever they say, squatting will stay', are significant examples of the fact that many groups of squatters have willingly attempted to speak a different language and to counter the new law, in order not to give relevance and legitimacy to its discourses. In E&W, squatters have employed different terms for the act of squatting, including guardianship, care-taking, stewarding and occupying, hoping to sidestep the negative imagery attached to the word 'squatting.'

Finally, whilst criminalisation, to a certain extent have been forcing squatters to produce a discourse, and to engage in the formation of a regime of truth, some groups also decided to resist the obligation of producing discourses by remaining silent.

### **3.3 The right to truth?**

What can be observed is that the discourses of politicians, of the mainstream media, of experts and of official organisations have a “right to discourse”, or better, a “right to truth,” in the

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42 Among others: <http://ksuoost.squat.net/> can you expand this? For me its an unclear reference

sense that what they pronounce is considered capable of truth, objective and technical, as it reflects the dominant ideological-discursive formation in each country. This has not been the case for the voices which do not conform with dominant discourses: as the voice of madmen, resistant voices are excluded and are not considered capable of 'truth'.<sup>43</sup> Those who wanted to pronounce something different therefore, had to accept the challenge of direct confrontation. Resistant discourses of squatters that attempted to not being confined, channelled and normalised, had the effect of antagonising politicians, of provoking the hostility of the public opinion, or even of risking punishment.

Yet criminalisation in the statute book is one thing, the reality is somewhat different. It seems unlikely that squatting will stop. On the contrary, with the two main drivers for squatting being material need and political action to criticise housing policy, it seems clear that squatting will continue. Indeed, despite criminalisation people in England and Wales have not stopped squatting, they are either staying silently in residential buildings or occupying commercial. In the Netherlands, for almost two years the fear of the new law stopped people from squatting on a regular basis. However, juridical battles between the squatters and the state have set a strong limit to the power of the law, and a number of experiences in different cities have enabled squatters to understand how the new law can work and how it can be evaded. The result has been that for example Amsterdam, squatting now takes place on a regular basis again.

## **4 Conclusion**

In both the Netherlands and England and Wales, squatting is now criminalised. Critical criminology defines criminalisation as the process by which certain people and groups are harassed by law “in an attempt to define their activities as criminal, rather than political” (Taylor, 1975), so that action aimed as challenging or subverting the relations of power at stake can eventually be treated by means of criminal law (Scruton, 1987). Our analysis of the criminalisation of squatting has showed that a crime is defined as such by those who exercise the power to define certain actions and behaviours as criminal. We have seen how this criminalisation has been performed and played out on multiple levels, including not only the legislative but also the discursive and moral fields.

We have shown that reactive discourses circulating around the criminalisation of squatting raised a

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<sup>43</sup> In illustration of this, Mike Weatherley commented in March 2013: “Squatters should not be allowed to peddle their myths.”

[http://www.theargus.co.uk/news/10269294.Anti\\_squatting\\_MP\\_to\\_report\\_web\\_claim/](http://www.theargus.co.uk/news/10269294.Anti_squatting_MP_to_report_web_claim/)

moral panic, aimed at promoting a discourse based on fear: they turned the squatter into a monster. This diverted the attention from the social and political dynamics of a movement making use of empty property. The de-politicisation of the practice, and the focus on the allegedly criminal character of squatters legitimised state and police intervention against squatting. This was taken as the control of criminal acts, rather than as repression of resistance, therefore upholding the public good and protecting 'decent' citizens. The repressive and reactive discourses reflected a dominant ideological-discursive formation which was set against the practice of squatting. In England and Wales, this formation was clearly dominant and a moral panic which focused on squatters as home-stealers and foreigners enabled the Conservative / Liberal Democrat coalition Government to push through the criminalisation of squatting, albeit only in residential buildings<sup>44</sup>. In the Netherlands, where public opinion was split and different ideological-discursive formations competed for primacy, the criminalisation of squatting has been legitimised by xenophobic discourses that raised moral panics and led to the framing of squatters as a threatening 'other'. Moreover, the process of criminalisation, rather than addressing the political struggles of squatting, sets squatters themselves as the cause of a host of problems, thus concealing the social and political causes that lead to the conflict around squatting.

Ideological-discursive formations which supported squatters, on the other hand, had the effect of co-opting a practice of resistance into a service that the state or urban government was unable to provide (the Netherlands), or of taking squatters as 'vulnerable demons' that should be helped, rather than criminalised (E&W). The interesting aspect of these discourses, is that they might exercise a stronger power in relation to the practice of squatting itself, than the reactive discourses. Indeed it is important to pay attention to the power that discourses have exercised not only on the public opinion, but also on the practice of squatting itself. While most of the resistance to criminalisation has been directed toward challenging reactive discourses, the supportive ones have been embraced almost uncritically: while reactive discourses can be contested by presenting a different reality, the voices that resisted criminalisation could not afford to challenge the 'positive' definitions imposed by supportive discourses. Both reactive and supportive discourses therefore carry a moralising crusade, and attempt to produce a specific regime of truth around squatting.

If the discursive practices around squatting produced a definition of squatting and of squatters, then an important political task is to deconstruct this definition in order to refuse it, to take distance from it, and to build practices of resistance aimed at producing different discourses that will evade those imposed by the authorities and the media, creating a new language, new concepts and new

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<sup>44</sup> To examine why squatting was not criminalised completely would require another article.

subjectivities. Consequently, some questions could be raised, asking to what extent supportive discourses have produced a specific 'squatters subjectivity', and have affected also the means to resist criminalisation. To what extent have resistant discourses been trapped in the fields of the discourses and statements acted upon them? To what extent they have they been able to raise a different voice, a different perspective and to bring forward their own story?

If the discourses aimed at criminalising squatting have mainly been appealing to, and motivated by, a fear toward anything that deviates from the normal, supportive discourses have attempted to 'normalise' squatting, since every discourse aims to counter the arguments of the ones it speaks against. Thus many squatters that aimed to resist criminalisation have attempted to reduce their practices to 'acceptable' levels of normality, instead of valorising their 'abnormality' and challenging the politics of normality acted upon them. 'Abnormality' itself can become a strength, a weapon, a tool that provokes scandal, raises questions, challenges the regimes of truth and makes visible the invisible. It is a means to refuse and also reshape reactive discourses. Abnormality can be used to show that something different is possible, or, to frame it in the words of a group of squatters based in Amsterdam: "to make the impossible possible" (De Valreep Collective).

If negative discourses exercised a power of 'domination', then supportive ideological-discursive-formation might exercise a power of normalisation. While reactive discourses exercise their power by excluding and marginalising squatters as the "transgressive others", supportive discourses include squatting and try to steer it toward a 'normality' that can be productive for specific political agendas. This technique can be defined as a 'political economy of *abnormalities*', that does not work by means of repression, but by putting *abnormalities* to work. To use again Foucault's words: "the problem then is not about people's fondness for illegality, but about the need that power has to own illegalities, to control them, and to exercise its power through them" (1976).

The political task therefore, is not to normalise oneself, but to change the politics and technologies of normality, that define the fields of possibilities for modes of life, social relations, legal and actual rights. This is no easy task, but although they have not been brought to the fore in the discourses that resisted criminalisation, we have seen that these resistant voices are present within the squatters movement (as suggested by the slogans mentioned above for example). They are emergent and forming as a response to recent events. The battle over criminalisation has been lost, yet squatting continues. Squatters are still resisting the truths imposed upon them, showing that what is not permitted is still possible.



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