

The Legal Geography of Urban Squatting:  
The Case of Ottawa's Gilmour Street Squatters

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## **Abstract**

On June 28, 2002 a group of squatters publicly occupied an abandoned house at 246 Gilmour Street in Ottawa. After seven days, twenty-two squatters were evicted by the police, arrested and charged with criminal offenses of break and enter, mischief and obstruct police. Beginning on September 27, 2004 five of the squatters represented themselves in a criminal trial. The jury was unable to decide on a verdict and shortly thereafter the charges were dropped. During the occupation, the squatters challenged common understandings of private property law and in this confronted the dominant economic, legal and political spaces within the city. The experience of the Gilmour Street squatters exposes how legal spaces, both in the city and courtroom can be challenged and contested. The squatters revealed how by challenging the dominant spaces in a society a new space for political resistance can be created.

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## *Introduction*

On June 28, 2002 a group of Ottawa anti-poverty activists, homeless youth and anti-G8 protesters occupied an abandoned house at 246 Gilmour Street. Since the house had been unused for seven years, squatting the building—consciously occupying an owned property without the explicit permission of the owner—was a confrontational response to the ongoing housing crisis then underway in Ottawa. In a pattern similar to other Canadian urban squats, the Gilmour Street squatters held the house for a short time period, built substantial community support, raised legitimate concerns about the lack of affordable housing in the city and were arrested by the police.

Even though squatting is illegal in Canada, many cities have recently experienced a proliferation of public squats. From Montreal's Overdale squat (2001), to the Woodward's squat in Vancouver (2002), the Infirmary squat in Halifax (2002), the Pope Squat in Toronto (2002), and the Water Street squat in Peterborough (2003), many anti-poverty activists have become more confrontational and direct in their political organizing and strategizing.<sup>1</sup> Unlike the more lenient laws in the United Kingdom and parts of Europe<sup>2</sup>, Canada's laws around 'adverse possession' (commonly referred to as 'squatters title') are highly stringent and extremely difficult to exercise. Even though

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<sup>1</sup> Jaggi Singh "Historic' Victory for Squatters Amidst Police Intervention" (2 August 2001) Online<<http://montrealindymedia.org>>, "Judge delays decisions on injunction to against squatters outside Woodward's" (21 November 2002) Canadian Press Newswire [Lexis], Chris Arsenault, "From Street to Squat in Halifax" 37:1 *Canadian Dimension* (January/February 2003), 8(2), "Squatters voc to stay at west-end Toronto building despite eviction order" (2 November 2002) Canadian Press Newswire [Lexis], Freeman, Lisa & Sarah Lamble. "Squatting and the City" 38:6 *Canadian Dimension* (November/December 2004), 44(2).

<sup>2</sup> In the Netherlands a building can be squatted legally if it has been unoccupied for a minimum of one year. If the police catch the squatters initially entering the building charges of break and enter and trespass apply. Erin Wiegand. "Trespass at Will: Squatting as Direct Action, Human Right and Justified Theft" *LIP Magazine* Winter 2004 (32-38). Under the new (2003) provisions of Adverse Possession in the UK, a squatter needs only to possess the land for 10 years with few other restrictions, then apply for Adverse Possession rights. If the landowner does not reply to (or challenge) this request within 3 months, then the squatter is entitled to be registered as the new land owner. "A Tale of Two Systems-Reforms to the Law of Adverse Possession" *RadcliffeesLeBrasseur* (12 May 2004) [Lexis].

each province and territory uses its own land holdings system, the majority of Canadian land resides under the Torrens system of Land Titles that primarily prohibits squatters' title.<sup>3</sup> As a result of restrictive property legislation, squatting in Canada has become increasingly criminalized and squatters are continually in conflict with the criminal justice system.

After a brutal eviction involving tear gas and pepper spray – reminiscent of police responses to squats in Montreal, Toronto and Vancouver – the Gilmour Street squatters faced stringent bail conditions and a myriad of indictable criminal charges. Held in police custody for 36 hours following the initial arrests<sup>4</sup>, the squatters were released despite their refusal to sign the original bail conditions which included a curfew, a clause forbidding the defendants from associating with each other, a ban on all participation in political activity and a restriction from being within 500 metres of 246 Gilmour Street.<sup>5</sup> Each of the twenty-two squatters was initially charged with: break and enter with intention to commit mischief, three counts of mischief over \$5000, and obstruction of a peace officer.<sup>6</sup>

Over the two years of administrative court proceedings, fifteen of the squatters opted to make a deal with the Crown prosecutor and obtained court diversions instructing them each to complete 40 hours of community service in lieu of standing trial. The

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<sup>3</sup> Bruce Ziff. *Principles of Property Law* 3<sup>rd</sup> edition. (Thompson Canada: Toronto, 2000) at 126. In relation to Crown land in Canada a squatter must openly remain on the land for 60 years and for privately held land the statutory period is 10 years but the conditions are highly restrictive that in order “To succeed, acts of possession must be open and notorious [without the owner’s permission but not in hiding from the owner], adverse, exclusive, peaceful (not by force, actual and continuous. If any one of these elements are missing, at any stage during the statutory period, no rights against the paper owner can be successfully asserted”.

<sup>4</sup> The arrests at 246 Gilmour Street occurred at two different times. Six squatters were arrested on the front porch at approximately 3:00am on July 4, 2002. The majority of the squatters remained in the house and were arrested closer to 7:30am. (Participant Observation, July 4<sup>th</sup>, 2002).

<sup>5</sup> “Undertaking Given to a Justice or a Judge: July 4, 2002” *Official Disclosure of Evidence*. Ministry of Attorney General, Province of Ontario (August 21, 2002).

<sup>6</sup> *Ibid.*

criminal trial of the five remaining squat defendants ensued from September 27 to October 22, 2004.<sup>7</sup> *R. v. Ackerley et al.* marked the first major case against squatters in recent years. The accused were the only (public and visible) squatters in Canada during that time period facing serious criminal charges with the possibility of incarceration potentially exceeding six months. After spending nearly four days in deliberations, the members of the jury were unable to unanimously agree on a verdict. The jurors remained deadlocked on all but two charges for two of the accused.<sup>8</sup> A couple of months later, the Crown prosecutor declared a mistrial. The charges were dropped and the squatters declared victory.

*R v. Ackerley et al.* is a noteworthy case and must not be underestimated. It indicates an increased police response to squatting and uncovers the extent to which dedication to a 'political cause' might be defended. It was the only recent squat case in Canada where the accused represented themselves at trial. At the same time, the actions of the Gilmour Street squatters should not be valorized, dismissed or taken out of context. Squatting continues to be classified as a criminal activity, the house at 246 Gilmour Street was eventually demolished, and no alternative affordable housing was built as a result of the squat trial. Although the accused in *R v. Ackerley et al.* successfully navigated their way through the legal procedures required for trial, the courts are still inaccessible to many people and not necessarily the best venue for promoting social change. While tangible 'legally defined' gains may not have resulted, the occupation of 246 Gilmour Street and the accompanying criminal trial highlight how one political action can broadly influence (and alter) social understandings of poverty in the city, the

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<sup>7</sup> Lisa Freeman. Participant Observation. September 27-October 22, 2004.

<sup>8</sup> Note: Mandy Hiscocks and Dan Sawyer were the only two accused acquitted on the Break and Enter Charges. (Lisa Freeman. Participant Observation. October 22, 2004).

protection of private property legislation, and activist engagement with the criminal courts.

The squatters articulated several 'demands' and questions to city officials and the general public during the occupation of the house at 246 Gilmour Street.<sup>9</sup> They publicly asked why a house would remain abandoned for seven years during the worst housing crisis Ottawa has experienced.<sup>10</sup> Throughout the trial, the squatters continued to assert politically motivated inquiries linking the lack of affordable housing in Ottawa with the necessity to squat. The squat defendants structured their defense through describing the reasons for squatting. They emphasized how the intention of the squat was to create permanent housing not to commit the crime of mischief.<sup>11</sup> Questions concerning the criminality and necessity of squatting were at the forefront of this political action and trial.

In addition to court observations, semi-structured interviews were conducted from September 2004 to February 2005 with the Gilmour Street squat defendants and local lawyers who followed the trial which provided insight that could not be derived from only observing the trial process. These interviews drew attention to the social implications and understandings of activism in the courts. The squatters' concerns regarding the establishment of a fair trial, the challenges of non-professionals working with the court, and the merger of law and politics were discussed. The personal interviews within this research project provided depth for understanding how legal defenses, criminal charges and 'everyday' court procedures affect social interpretations

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<sup>9</sup> *The Seven Year Squat: Why Squat?* (Unpublished Pamphlet: Ottawa, June 2002).

<sup>10</sup> Dan Sawyer (Squat Defendant) Personal Interview. December 14, 2004.

<sup>11</sup> Participant Observation. Lisa Freeman. September 27-October 14, 2004.

of a criminal trial in a way that citing the criminal code, legal doctrine and newspaper articles simply could not offer.

During interviews, the squatters were able describe the personal experiences of the arrest, detention and trial process. They explained the challenges and positive aspects of representing oneself in court. Many of the squatters felt frustrated with their relationship with the Crown prosecutor. The Crown was tardy in giving the accused full disclosure of evidence needed to build their defense. Despite the difficulties inherent in the trial process, all the interviewed squat defendants commented that self-representation was a positive experience because it enabled them to conduct their defense in a manner that reflected their politics and remain in control.<sup>12</sup> In contrast, my interviews with lawyers often reflected an outside perspective of the case from legal professionals who were acquainted with the Ontario Provincial Courts in Ottawa. They primarily commented on how the squatters were received in the courthouse (by the judge, clerks, magistrate and even cafeteria workers), how their defense strategy played out and often ended with comments concerning how politically based arguments are received in court. Overall, the combination of personal interviews and court observation were useful to this research project because they produced an understanding of how people react to the everyday functions of law in the city and in the courtroom.

This socio-legal inquiry initially led me to ask questions specific to *R. v. Ackerley et al.* I first wondered, why were the indictable criminal charges pursued so diligently by the police and Crown prosecutor in *R. v. Ackerley*? Was this particular squat really perceived as such a serious threat that it warranted a judge and jury trial at the superior

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<sup>12</sup> Court Observation. Lisa Freeman. September 30-October 14, 2004.

court level? I soon concluded that it might be the political rationale behind the act of squatting itself and not necessarily the actions specific to the Gilmour Street squatters that fostered such an intense response from the criminal justice system. Yet, what were the political rationales of squatting?

Since there are various meanings and interpretations behind actions and rationales classified as *politics* and *the political*, I must first clarify my interpretation of the terms ‘grassroots politics’ and ‘political action’ in relation to squatting. Drawing from Erin Manning’s concept of errant politics through her interpretation of Jacques Ranciere’s differentiation between *politics* and *the political*<sup>13</sup> helps illuminate what I mean by the ‘politics of squatting’. According to Ranciere, *politics* generally refers to the area concerned with government regulation and the boundaries within this “hierarchy of places and functions”, whereas *the political* involves questions of “equality and emancipation” through *political activity* that makes visible that which is not necessarily seen in politics.<sup>14</sup> Thus, within the confines of this paper, the political claims and actions of squatting will reflect Ranciere’s classification of *the political*, as embodying an emancipatory characteristic that questions commonplace understandings of government regulated politics.

However, applying Ranciere’s interpretation of *politics* is substantially more complicated. Generally, my use of the term politics will reflect Ranciere’s classification of *politics* as being defined by government regulations and hierarchies. Yet, when I specifically refer to the *grassroots politics* of squatting, my interpretation of the meaning behind the term ‘politics’ alters substantially from Ranciere’s. Since grassroots politics

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<sup>13</sup> Jacques Ranciere. *Disagreements: Politics and Philosophy*. Trans. J. Rose. (University of Minnesota Press: Minneapolis, 1999).

<sup>14</sup> Erin Manning *Ephemeral Territories* (University of Minnesota Press, Minneapolis, 2003) at xviii.

are often cultivated through political actions, such as squatting, I utilize the term *grassroots politics*, in a similar manner as Manning's errant politics that imagines the political as an emancipatory "movement...that [will] encourage us to rewrite the politics of space and time".<sup>15</sup> Distinguishing between the meanings of politics and the political in relation to grassroots organizing is important. It differentiates the grassroots politics established by community organizers and activists from the type of politics established through formal governments.

Thus, when asking what the political rationale behind squatting was comprised of, in turn, I was also asking the question, what precisely does the grassroots politics of squatting challenge? By challenging the norms of private property ownership, the actions of the Gilmour Street squatters were confronting how legal spaces were regulated, protected and enforced in our cities. Legal geography literature, based on a critical analysis of the roles of both law and space in our society, provides a useful framework from which to explore how the political action of squatting challenges legal representations of space. Further, this analytical framework will enable me to explore how (and if) the grassroots politics of the Gilmour Street squat challenged legal representations of space in different settings and what this confrontation produced.

Exploring the legal geographies squatting confronts will provide an intellectual exploration highlighting how legal spaces restrict, confine and act as a catalyst for political action in the city. In chapter one I will develop a comprehensive framework from which to analyze the space that squatting challenges. Based on theories of geographical understandings of space, this chapter will examine how dominant spaces are

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<sup>15</sup> *Ibid* at xvii.

reinforced in society and consequently challenged. Chapter two will identify and explore how the grassroots politics of the Gilmour Street squatters were produced, transferred and reinforced in the legal spaces of the city and the courtroom. Chapter three will broaden this legal geography analysis of squatting by examining the future implications that may arise from challenging dominant spaces. Doing so will provide an opportunity to analyze whether the interplay between law, space and squatting provides a sustainable framework from which to evaluate grassroots politics outside of legal discourse. In documenting and analyzing the experiences of Ottawa's Gilmour Street squatters, it is my intention to provide a concrete and thoughtful analysis of how the legal geographies of resistance can strengthen the space of political activism in our cities and our courtrooms.

## Chapter One: Squatting, the Law and Space

Squatting, the occupation of an abandoned property with the intention of living on or using the land, is by no means a new phenomenon. Squatting has been used both as an immediate means of survival and as a form political resistance for decades. From established squatter communities in the Netherlands, England, New York's Lower Eastside and the Brazilian Landless Peasants Movement, to newly created 'squatter towns' in Rio de Janeiro, Istanbul, Mumbai and Nairobi, squatting has often resulted in new usages for abandoned and/or neglected land.<sup>1</sup>

Whether the occupied land is used for agricultural purposes or for housing, the act of squatting challenges the norms of land ownership. By openly negating Locke's "labour theory of property"—an origin for the modern property ownership model based on the merger of labour with land—squatters confront the seemingly commonplace understanding that "an inequitable distribution of land is just".<sup>2</sup> Most squatters occupy property with the purpose of utilizing the land or building. Even though productive uses for the occupied land are central for a successful squat, the consistent and immediate police responses to temporary urban squats in Canada indicate that political motivation and intentions to create a squat clearly challenge (and disrupt) the norms of property ownership.

As illustrated in the case of Ottawa's Gilmour Street squat, the public occupation of a neglected house for seven days was sufficient to garner continued police surveillance, an

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<sup>1</sup> Anders Corr, *No Trespassing: Squatting, Rent Strikes and Land Struggles Worldwide* (Cambridge, Mass: South End Press, 1999), Katsiaficas, George, *The Subversion of Politics: European Autonomous Social Movements and the Decolonization of Everyday Life* (New Jersey: Humanities Press, 1997), Neuwirth, Robert, *Shadow Cities: A billion squatters, a new urban world* (New York: Routledge, 2005).

<sup>2</sup> *Ibid* at 60-66. Note: I am aware of a possible contradictory interpretation of Locke's theory of property. It can be argued that squatting actually abides by this model of ownership because squatters invest labour and 'sweat equity' into land and buildings in order to claim ownership. However, this is a complex argument and (re)interpretation of Locke's theory that needs to be highlighted but not further explored in this paper.

eviction by force and a lengthy criminal trial.<sup>3</sup> The squatters openly criticized the lack of affordable housing in Ottawa, asked difficult questions of city officials and were determined to use the building for social housing. While other Canadian squats during 1999-2004 articulated similar goals and politics and were likewise evicted by the police, only the Gilmour Street squatters were charged with criminal offences carrying potential jail time.

After the eviction of the Gilmour Street squatters in July 2002, I observed the legal process leading to the trial with intrigue. What was it about this particular squat action that generated such an extensive response from the Ontario provincial criminal court? Once the trial was complete and I had interviewed members of the Gilmour Street squat legal collective and several defense lawyers affiliated with the case, I came to a conclusion. There was nothing extraordinary about the initial occupation of 246 Gilmour Street that elicited such an overt police response. Why then did other Canada urban squats not receive the same police response? The circumstances surrounding the official response to the Gilmour Street squat may have been unique to Ottawa. The squat occurred during a mass demonstration (that was closely monitored by the police), was located in downtown Ottawa during tourist season and was the only public political squat the city had witnessed. Despite the local context, I concluded that there was something about the act of squatting itself that garnered such a reaction.

For one thing, squatting openly confronts the underlying norms associated with private property. But, by taking over a particular urban space, the Gilmour Street squatters were challenging more than individual property ownership. When I began to contemplate the other 'norms' squatting potentially challenges I considered the following questions. How

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<sup>3</sup> Lamble, Sarah & Lisa Freeman. "No Room for Squatters Except in the Big House" 33:7 Briarpatch Magazine (October 2004), 19(3).

does occupying owned land contravene the economic and capitalist-based spatial organization of our cities? Why are the public, political and legal responses to this transgressive action so omnipresent, negative and restrictive? What does squatting indicate about the role of law and space in relation to current urban political actions? In exploring the above questions, urban geography literature that combines Marxist conceptualizations of the capitalist city with a critical analysis of law's role in urban space proves quite useful. This body of literature offers insights that examine how economic development, legal structures and social interactions play a role in the production, organization and maintenance of urban space.

The first section in this chapter briefly outlines a political economy view of the production of space in the city. This section, influenced by the work of David Harvey, Manuel Castells and Neil Smith, explores how capitalist economic development in the city becomes embedded in social processes and alters the space for political action. The second section focuses on how the production of urban space is politically organized. The theoretical work developed by Henri Lefebvre and Edward Soja provides a vehicle to understand how space is hierarchically ordered in advanced capitalist societies in a manner that simultaneously stifles yet creates room for political resistance. The third and final section will outline a legal geography approach, emphasizing how legal spaces influence and are influenced by social interactions, is valuable in examining the relationship between law, space and power in the city. Nicholas Blomley's writings on property rights and contestations over urban space present a useful starting point for analyzing how legal interpretations of space influence how we view and interact in the city. This diverse array of urban geography literature provides a solid framework for analyzing the Gilmour Street

squat because it moves beyond evaluating the effectiveness of squatting based on the length of the occupation, the amount of people that ‘lived’ in the house, and the legal precedent that was or was not established at trial. The theory in this chapter develops an analysis focusing on how squatting disrupts common understandings of the ‘political’ spaces in the city, challenges the legal meanings attached to space and redefines the relationship between activism and the law.

*i. The City*

Squatting draws attention to how the city is a landscape of and for competing political contestations. The physical organization of the city itself is not neutral. It is intentionally planned and structured.<sup>4</sup> Urban geography literature, drawing from a Marxist analysis of capitalism, highlights how the prioritization of economic development in the city steadily and overtly alters the organization of urban space. Instead of simply describing how squatting disrupts economic development in the city by occupying a ‘valuable’ piece of property, this section will provide an analysis that explores how capitalist modes of production shape urban space, structure social interactions within the city and create an environment hostile to non-economic and political initiatives like squatting.

Throughout the 1970s and 1980s several social theorists focusing on urban economic geography analyzed how the spatial organization of the city affected social life and urban social movements. Even though these Marxist conceptualizations of the spatial dynamics within the capitalist city appear to be rigid and overly structured, in part due to an explicit

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<sup>4</sup> For further reading on the economic and historical geography of urban organization refer to: Jane Jacobs *The Life and Death of Great American Cities* (New York: Random House, 1965) and Mike Davis *City of Quartz: excavating the future in Los Angeles* (New York: Verso, 1990).

focus on superstructure and modes of capitalist production<sup>5</sup>, they did draw much needed attention to the ways in which the organization of space was pivotal for the growth of uneven economic development in cities. The theoretical approaches used by Manuel Castells and David Harvey provided a valuable foundation from which to examine how the “manifestations of power and production in [urban] capitalism” helped to create a cityscape that was much more than a “simple arrangement of spatial forms”.<sup>6</sup>

From this viewpoint, the city space itself became perceived as a form of hegemonic power. Unlike a traditional Gramscian notion of hegemony, which describes the manner in which a centralized authority ‘controls’ civil society<sup>7</sup>, Harvey and Castells emphasized the importance of visualizing the hegemonic organization of urban space as being complex, heterogeneous and somewhat discontinuous.<sup>8</sup> Unlike a State imposed hegemony, identifying a single source or pattern in the hegemony of urban space is difficult because the ‘consensual’ control of the civil society is often indistinguishable from the banal routines in everyday life. The mechanisms of uneven economic development then are seen as part of a “particular form or patterning of the social process” and not necessarily as an overt and

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<sup>5</sup> Capitalist production, accumulation and consumption (the modes of production) are viewed as mechanisms that foster uneven economic development, playing a major role in the class division in society. For more information on the urban geography of capitalist accumulation and production refer to: David Harvey. “The Geography of Capitalist Accumulation: a Reconstruction of the Marxian Theory” 7:2 *Antipode* at 9-21, *The Limits to Capital* (Oxford: Blackwell Publishers, 1982). For more information on capitalist consumption refer to: Manuel Castells. *The City and the Grassroots: A Cross-Cultural Theory of Urban Social Movements* (Berkeley: University of California Press, 1983).

<sup>6</sup> David Harvey *Social Justice and the City* (Baltimore: John Hopkins University Press, 1973) at 195. Manuel Castells in Ira Katznelson (ed.) *Marxism and the City* (New York: Clarendon Press, 1992) at 113.

<sup>7</sup> Hegemony is a term used to describe a “particular type of leadership that is based not on the use of violence or coercion, but on the systematic spread of the worldview of the ‘ruling class’ Teodoros Kiros *Toward the Construction of a Theory of Political Action: Consciousness, Participation and Hegemony*. (New York: University Press of America, 1985). For more details on a ‘successful’ hegemony refer to: Alan Hunt *Explorations in Law and Society: toward a constitutive theory of law*. (Routledge: New York, 1993).

<sup>8</sup> See Harvey (1973) at 14.

restrictive unified force.<sup>9</sup> The counter-hegemonic act of squatting then challenges the taken-for-granted daily routines and commonplace understandings of private property derived from the dominant economic structures within urban space.

The hegemonic spatial organization of the city can be observed through the process of gentrification. Gentrification occurs when “poor and working-class neighbourhoods in the inner city get refurbished by middle-class homeowners and renters”.<sup>10</sup> The sometimes slow and steady process of inner-city gentrification is an example of how the capitalist modes of production, accumulation and consumption become embodied in parts of social life and are subsequently challenged. Castells’ work draws explicit attention to how the modes of production, especially consumption are experienced differently and often linked to social inequality. He emphasizes how urban social movements that challenge collective consumption patterns, as illustrated through gentrification, may contribute to a shift in what is deemed valuable in urban life.<sup>11</sup> Thus, the clashes over the gentrification of New York’s Lower Eastside are a key example of the extent to which dominant understandings of urban space are politically charged and embedded with competing narratives.

The continued struggle for community control over Tompkins Square Park, community gardens and squats in the Lower Eastside during the late 1980s and early 1990s led activist and academic Neil Smith to analyze how certain spaces shaped the changing nature of the city.<sup>12</sup> Starting with a strong Marxist analysis of the economic base for

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<sup>9</sup> *Ibid.*

<sup>10</sup> Neil Smith. *The New Urban Frontier: Gentrification and the Revanchist City* (London: Routledge, 1996) at 31.

<sup>11</sup> Manuel Castells quoted in Ida Susser (ed.). *The Castells Reader on Cities and Social Theory*. (Blackwell: Malden, Mass., 2002).

<sup>12</sup> *Ibid* at 220. See also, Karen Schmelzkopf “Incommensurability, Land Use, and the Right to Space: Community Gardens in New York City” 23:4 *Urban Geography* (2002) 323-343 and Janet L Abu-Lughod et

gentrification, Smith identified the polarized conflicts over urban space as resulting from the growth of the Revanchist City.<sup>13</sup> In part, Smith's concept of the Revanchist City, reflective of a sentiment fuelled by economic, governmental and legal powers, helps to explain the ongoing restrictive and discriminatory control of urban space. As inner-city neighbourhoods continue to be 'developed' and as 'anti-homelessness' legislation in several cities throughout North America is enacted, 'appropriate' social behaviour is increasingly defined and influenced by social norms and legislation driven by economic development goals in the city. The implementation of curfews and police guarded public parks, most notably Tompkins Square Park in New York City, demonstrate the extent to which economic and legal structures restrict social behaviour in seemingly public spaces.

The economic geography literature written by Harvey and Castells provides a view of the city, and social interaction within it, as being subtly controlled by various mechanisms of capitalist economic development. The space of the capitalist city is not neutral. "Space is not just a built environment but a force of production and an object of consumption. It is also an object of political struggle".<sup>14</sup> Thus, when squatters occupy unused owned property they are exposing how urban space is politically, economically and legally structured. Therefore, this brief overview of Marxist-inspired urban geographical literature is important to this discussion because it describes and analyzes how the environment in which Western urban squats exist is already occupied. The city is already occupied by competing and

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al. *From Urban Village to East Village: the Battle for New York's Lower East Side* (Cambridge, Mass.: Basil Blackwell Ltd., 1994).

<sup>13</sup> See Smith at 210. In the wake of recent trends in urban gentrification Smith identifies this ideological shift by referring to the 'Revanchist city' as a "an urbanism defined by recurrent waves of unremitting danger and brutality fueled by venal and uncontrolled passion". It is illustrated by "attacks on affirmative action and immigration policy, streets violence against gay and homeless people, feminist bashing and public campaigns against political correctness and multiculturalism were the most visible vehicles of this reaction".

<sup>14</sup> Ira Katznelson. *Marxism and the City*. (Clarendon Press: New York, 1992) at 98.

dominant modes of economic development. According to this urban geographical literature there may not be space for squatting.

## *ii. Theorizing Space: Lefebvre and Soja*

Squatters confront the underlying economic structures that influence the organization of the city as they challenge the social, legal and economic conceptions of how certain spaces should be used. When the 246 Gilmour Street squat was occupied, people throughout the city of Ottawa, ranging from the landlord, city officials, police, to neighbours voiced concern or support over how this particular piece of urban space was being used. Space mattered. More importantly, how space was being used mattered. The house at 246 Gilmour Street was empty and neglected for nearly seven years.<sup>15</sup> There were no public outcries concerning the perceived abandonment of this space. Yet, when the 'legitimate' claims to this private property were challenged by an unauthorized squat, the space at 246 Gilmour Street became significant. It was infused with competing social perspectives and revealed how perceptions of particular spaces are significant to the political organization of the city and society. The theories of space developed by both Henri Lefebvre and Edward Soja are helpful for exploring how certain spaces are perceived and conceived. Their theoretical writings identify the meaning and possible political implications of social space, outline the theoretical interpretations of dominant space and create room for understanding how space is an essential element for any type of social change.

From these theoretical perspectives, space is not viewed as an empty container in which social interactions occur. According to Henri Lefebvre:

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<sup>15</sup> Lisa Freeman. Court Observation. September 27-October 14, 2004.

“Space is not a scientific object removed from ideology or politics; it has always been politically strategic. Space has been shaped and molded from historical and natural elements, but this has been a political process. Space is political and ideological. It is a product literally filled with ideologies”.<sup>16</sup>

Identifying the political and ideological nature of space facilitates a theoretical analysis that acknowledges how social interactions are shaped by their physical surrounding.

These theories focused on the production of space are important to this discussion on urban squatting because they present a spectrum from which to analyze what happens when people confront particular notions of space. Lefebvre’s conceptual spatial triad reveals how contestations over space expose an underlying spatial framework that shapes the power relations in society while Soja’s concept of ‘Thirdspace’ highlights the radical potential within certain spaces. By predominately perceiving space as “a medium through which social relations are produced and re-produced”, a strong groundwork from which to further examine how space is created, maintained and challenged is established.<sup>17</sup>

Henri Lefebvre’s theoretical understandings of space are based on a Marxist perspective of the social, economic and political structures of the city. His writings focused on the material production of space and rely a multi-faceted theoretical understanding of social space. In Lefebvre’s view, social space is “not a thing among other things, nor a product among other products: rather it subsumes things produced, and encompasses their interrelationships in their coexistence and simultaneity”.<sup>18</sup> In relation to a generalized concept of space, social space is similarly a medium and subjective creation, yet meanings

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<sup>16</sup> Henri Lefebvre. “Reflections on the Politics of Space” Trans. Michael J. Enders. 8:2 *Antipode* (1976) at 31.

<sup>17</sup> Dereck Gregory & John Urry (eds.). *Social Relations and Spatial Structures* (Hampshire: MacMillian, 1985).

<sup>18</sup> Henri Lefebvre, *The Production of Space* Donald Nicholson-Smith Trans. (Oxford: Blackwell, 1991) at 73.

of social space are predominantly generated through overlapping lived experiences and interpretations.

Social space embodies a flexibility that enables different spaces to superimpose themselves on each other and coincide without the limiting effects of boundaries. In part due to its ephemeral quality, social space is a direct result of past actions while at the same time permits new actions to occur.<sup>19</sup> This type of space is both perceived and directly experienced. It is grounded in the everyday activities of social life but also contains “a great diversity of [conceptual] objects...including the networks and pathways which facilitate the exchange of material things and information”.<sup>20</sup> Thus, social space is pivotal in understanding how particular notions of space are challenged. It represents a comprehensive space of social interactions that is steadily intertwined with diverse narratives and able to adapt to different circumstances.

The concept of social space provides a basis from which to build what Lefebvre refers to as a ‘hypercomplex’ real and imagined space of the social. From this ‘hypercomplex’ theoretical understanding, Lefebvre differentiates between the dominant spaces in society as both absolute and abstract space. Absolute space is a lived space including symbolic dimensions and an assumed strict form. According to Lefebvre, absolute space is based on the agro-pastoral land cultivated by peasants and labourers.<sup>21</sup> When this land was conquered and controlled by landowners and ‘masters’, the meanings attributed to this space changed. It became an absolute space immersed in “assumed meanings addressed not to the intellect but to the body, meanings conveyed by threats, by

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<sup>19</sup> *Ibid* at 73.

<sup>20</sup> *Ibid* at 234.

<sup>21</sup> *Ibid*.

sanctions, by a continual putting-to-type test of the emotions”.<sup>22</sup> Absolute space evolves throughout history and adopts social meanings attached to different spaces as represented by technological, religious and political symbols in both rural and urban settings.

Absolute space exhibits a material form in the ordering (and governing) of objects and people. It imposes meanings on particular spaces yet is not confined to one location. A park bench, for example can be immersed in absolute space. While there are no written warnings, procedures or guidelines defining the proper use of the park bench, particular meanings are implied. ‘Inappropriate’ behaviour, usually of homeless people sleeping or drinking, is discouraged and disrupted by police and legislative sanctions.<sup>23</sup> The park bench is not the only place of absolute space. Similar sanctions and restrictions are regularly imposed on various locations including but not limited to sidewalks, streets and parking lots. Absolute space is a ‘total space’, an ‘absolute political space’, and a “strategic space which seeks to impose itself as a reality despite the fact that it is an abstraction, albeit one endowed with enormous powers because it is the locus and medium of power”.<sup>24</sup> Thus, absolute space is visible in everyday life. It is grounded in physical spaces but is an abstraction that can manifest itself anywhere.

The difference between absolute space and abstract space is not always easily distinguishable. Even though Lefebvre differentiates absolute space as ‘conceived space’ and abstract space as ‘perceived space’, both notions of space are similarly political, powerful and institutional.<sup>25</sup> As a product of capitalism and neocapitalism<sup>26</sup>, abstract space

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<sup>22</sup> *Ibid* at 52.

<sup>23</sup> See Joe Hermer and Janet Mosher (eds.) *Disorderly People: Law and the Politics of Exclusion in Ontario* (Fernwood: Halifax, 2002).

<sup>24</sup> See Lefebvre (1991) at 52.

<sup>25</sup> *Ibid* at 57.

results from a worldwide network of banks, business centres, major industries and the power of a political state. In contrast to absolute space, abstract space—the space of power, of the bourgeoisie and of capitalism—resembles a lens, a specific orientation from which to view the world.<sup>27</sup> Although it is political and instituted by a state, it is not a lived space comprised of real threats and sanctions. Instead, abstract space consists of “an ensemble of images, signs and symbols” that is “at once lived and represented, at once the expression and the foundation of practices”.<sup>28</sup> Abstract space can be privatized space. Fueled by economic, social and political motivations, abstract spaces shapes the organization of urban space. The gentrification of low-income neighbourhoods, including both residential and public places can be viewed as a direct result of abstract space. With the construction of upscale condominiums, a particular economically inspired view of the city is being actualized. Capitalist economic development is prioritized and the ‘ideological lens’ of abstract space dominates.

According to Lefebvre, abstract space is the perceived space where the dominant ideologies can be challenged. He refers to the May 1968 student uprisings in Paris as one example of how abstract space was temporarily disrupted. In their attempt to re-appropriate and redefine the dominant spaces in Paris, students and working-class people, argues Lefebvre, marked a new departure for the class struggle. The May 1968 uprisings illustrated how the creation of alternative and politically charged spaces could potentially lead to a significant disruption in capitalist abstract space. From Lefebvre’s perspective, social uprisings like those in May 1968 indicate how “only the class struggle has the capacity to

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<sup>26</sup> Note: I interpret Lefebvre’s categorization of neocapitalism as similar to neoliberalism in a capitalist state.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid at 58.*

differentiate, to generate differences which are not intrinsic to economic growth” and thus challenge the dominance of abstract space.<sup>29</sup> In order to substantially alter the dominant spaces in society, alternatives to abstract space must stem from social movements focused on dismantling abstract space while simultaneously reconstructing new spaces for resistance.

Political actions and uprisings challenging either absolute or abstract space are often temporary and achieve minimal tangible results. After May 1968, Lefebvre summarized that perhaps “only bulldozers or Molotov cocktails can change the dominant organization of space, that destruction must come before reconstruction”.<sup>30</sup> Even though Lefebvre does not create a direct link between the production of abstract and absolute space, it seems plausible that abstract space supports and sustains the functioning of absolute space. When people challenge the restrictive and sanctioned places of absolute space, particular aspects of abstract space are consequently being challenged. To fully contest and change the dominant spaces in society, then, the sanctions of absolute space must be transgressed in order to disrupt and challenge the dominance of abstract space.

Lefebvre clarifies the role of absolute and abstract space in society by presenting a spatial triad that identifies the specific nature of each type of social space. This model identifies a scale of different spaces, each contributing to the organization and production of the city. This spatial triad consists of: spatial practice, representations of space and representational spaces. *Spatial practice* can be identified in the daily life of a tenant living in a government subsidized housing project.<sup>31</sup> This space encompasses daily realities that are structured and imposed upon by government regulations and economic instability.

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<sup>29</sup> *Ibid* at 55.

<sup>30</sup> *Ibid* at 55.

<sup>31</sup> *Ibid* at 38.

*Representations of space* are the dominant spaces in society. In these spaces, particular ideas that structure the organization of city are initiated and implemented. According to Lefebvre, scientists, urban planners, urbanists, technocratic subdividers, and social engineers design and arrange *representations of space*.<sup>32</sup> *Representational spaces*, on the other hand, inhabit the margins of society. This is a dominated space. Lefebvre defines *representational spaces* as a passively experienced environment where artists, writers and philosophers use images and symbols to only describe social life.<sup>33</sup> Thus, Lefebvre's spatial triad clarifies how the production of political spaces differentiates between and provides room to explore the interaction between dominant and dominated spaces in the city.

This seemingly hierarchical scale of space identifies distinct representations of the organization of power in society. Absolute space is epitomized through *spatial practice* while abstract space is characterized through *representations of space*.<sup>34</sup> As *spatial practice* structures and restricts particular physical places, *representations of space* reinforce the dominant organization of the city through political and economic imperatives.<sup>35</sup> Thus, *spatial practice* and *representations of space* hold the domain of urban power. For example, an abandoned building in the city demonstrates how Lefebvre's spatial triad may function. As demolition and repair orders are sent to the negligent landlord from the municipal government (representing the structured sanctions of spatial practice/absolute space), real estate agents and urban planners may conceptualize how the construction of condominiums on that unused property could boost urban economic growth. When squatters spontaneously occupy the building, the dominant powers of *spatial practice* and *representations of spaces*

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<sup>32</sup> *Ibid* at 38.

<sup>33</sup> *Ibid* at 39

<sup>34</sup> *Ibid* at 38-55.

<sup>35</sup> *Ibid* at 37-40.

are at once both disrupted and confronted. Yet, what type of social space are the squatters occupying? By actively affecting, instead of symbolically describing, the ordering of space the squatters are already situated outside the boundaries of *representational spaces*.

Lefebvre's abstract notion of *representational spaces* is limited in explaining how dominated spaces are challenged and does not substantially help to identify the space of squatting. *Representational spaces* only describe the world through images and symbols and do not necessarily challenge dominant spaces through direct confrontation. Thus, Edward Soja's interpretation of Lefebvre's *representational spaces* as a distinctly political *Thirdspace* is useful because it provides an outline for examining the space of 'radical social change'.

By re-articulating the theoretical foundations of Lefebvre's spatial triad<sup>36</sup>, Soja does not only identify different social spaces, he attempts to explain how *Thirdspace* is developed, sustained and politically significant. According to Soja, *Thirdspace* is the space of "resistance to the dominant order arising precisely from [its] subordinate, peripheral or marginalized positioning".<sup>37</sup> *Thirdspace* is developed from political choice and social marginalization.

Residing in the peripheries of social life enables *Thirdspace* to sustain itself by creating counter-spaces within the dominant abstract and absolute spaces in society. These counter-spaces are created as a reaction to the discriminatory classist, racist, patriarchal and

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<sup>36</sup> Edward Soja. *Thirdspace: Journey to Los Angeles and other Real and Imagined Places* (Blackwell: Cambridge, Mass., 1996) at 62-68. Soja outlines First Space (conceived space), Second Space (perceived space) and Thirdspace (actively lived space). He presents a spatiality of the social that expands and evolves beyond a triad. While First Space and Second space resemble Lefebvre's spaces of dominance and social ordering, Thirdspace is comparable to *representational spaces* as a creative space of political dissent

<sup>37</sup> *Ibid* at 70.

homophobic aspects of dominant space.<sup>38</sup> Politically motivated social movements often grow from these 'dominated spaces'. Thus, *Thirdspace* is politically significant because it draws attention to how lived space as a strategic location has the potential to encompass, understand and transform all spaces simultaneously.<sup>39</sup> Building on Lefebvre's concept of *representational spaces*, Soja's *Thirdspace* explores how a particularly marginalized social space is situated within yet able to challenge the dominant ordering of space.

Despite Soja's placing of *Thirdspace* on the peripheries and margins of society, it is neither isolated nor completely separate from other spaces. This 'lived and imagined' *Thirdspace*, according to Soja, "is a space of all inclusive simultaneities, perils as well as possibilities; the space of radical openness, [and] the space of social struggles".<sup>40</sup> These peripheries are not invisible. Often these marginal spaces are blatantly visible and ignored by the social interactions within these dominant spaces. For example, a homeless person sleeping on a sidewalk represents a peripheral positioning that is both marginal and obvious.

Even though *Thirdspace* seems to be the place of social struggle, I object to Soja's claim that the marginal positioning of *Thirdspace* is the *chosen* place for political actions. I would argue that this marginalized positioning is not necessarily *chosen*. Instead, the peripheral positioning of *Thirdspace* may be involuntary or semi-voluntary in nature. For example, if a homeless person covertly squats in an empty building, she may not be freely *choosing* this marginalized position and may not view it as a space of political contestation. Yet, in similar circumstances another person may choose to utilize that forced peripheral position to voice political concerns. When applying Soja's concept of *Thirdspace* to this

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<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid* at 73.

<sup>40</sup> *Ibid* at 70.

discussion of squatting (and other poverty related political activism), it is important to emphasize how *Thirdspace* can be both a voluntary and involuntary space of political action. Thus, *Thirdspace* becomes important because it represents a specified place where the dominant ordering of space can be challenged and reformed.

The theories developed by Lefebvre and Soja provide an illustration of space as a politically charged and socially influenced medium. The dominant abstract and absolute spaces in society are not viewed as impermeable and resistant to change. These theories do not merely describe 'space', they give social and political agency to the production of space. Thus, when squatters occupy privately owned property in the city, the fundamental political understandings of space are being challenged and exposed. Urban space no longer remains a passive object. The hierarchical ordering of space shifts. Space becomes a central focus for political action in the city. It is a focal point providing substance and meaning to political actions.

## *ii. The Space of Legal Geography*

Our lives are filled with legal representations of space. It is nearly impossible to escape a legally defined space, especially in the city. When people challenge the legal meanings attached to particular behaviour in a specific urban space—whether by jaywalking, panhandling on a sidewalk or squatting an abandoned building—the dominant social interpretations of how law and space interact are disrupted. Legal spaces do not become passive backdrops for social life. Thus, a legal geography approach is important for analyzing squatting in the city. It highlights how the social interpretations of legal spaces are essential for understanding why political actions happen and how they are received.

Instead of simply evaluating the effectiveness of private property legislation or specific criminal offenses in relation to urban squatting, this analytical approach prioritizes how the co-constitutive role of law and space influence political actions in the city.

By examining the extent to which these ‘legal spaces’ are rooted within broader social and political claims, a legal geography approach questions commonplace definitions of space and law. Legal geography challenges the manner in which “law and space are frequently presented in life as objective, asocial and ‘innocent’”.<sup>41</sup> It explores how laws, regulations and legal meanings attached to particular spaces are represented and perceived in society, rather than unquestioningly accepting written legislation as the norm. This analytical approach to the study of law and geography is (generally) substantiated in three ways. First, a legal geography analysis adopts a critical approach to studying the role of law.<sup>42</sup> Second, it focuses on the how the co-constitutive nature of law and space affect social interactions. Third, it emphasizes the manner in which legal meanings are not imposed but created through actions in a particular setting. Thus, in critiquing the dominant linkage between law, space and power, legal geography explores how (the often unseen) meanings within legal representations of space influence society in restrictive and sometimes radically progressive ways.

Legal geography, in my usage, adopts a critical legal studies approach that challenges both the ‘orthodoxy’ of traditional legal scholarship as well as an instrumentalist view of law’s role in society. Questioning the ‘closure’ of law—as defined in legal doctrine—has “the capacity to release law from its (imposed and self-imposed confinement)

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<sup>41</sup> Nicholas Blomley. *Law, Space and the Geographies of Power* (New York: Guilford Press, 1994), xii-xiii.

<sup>42</sup> According to Alan Hunt, the roots of critical legal theory “lies in a deep sense of dissatisfaction with the existing state of legal scholarship” and represents frustrations with the failure of the legal orthodoxy to grapple with what critical legal theorists see as the real problems of the role of law in contemporary society”. Fitzpatrick, Peter & Alan Hunt *Critical Legal Studies* (Basil Blackwell: Oxford, NYC 1987) at 5.

as work” by revealing how the law interacts in a world dominated by the physical.<sup>43</sup> Focusing on the physical spaces of law, such as city sidewalks, public parks and street corners located outside the boundaries of professionally defined legal scholarship enables a legal geography approach to move beyond a restrictive legal frame and explore “the legal project [as a] necessarily social and political project”.<sup>44</sup> Studying legal geographies with a critical perspective of how law functions in society expands the scope of legal inquiries substantially. Debates develop that examine how law shapes and moulds various social apparatuses in particular places. Law’s role in regulating food vendors on street corners, community gardens and panhandling can be further explored. A critical legal studies perspective enables the examination of legal geographies in spaces beyond the scope of doctrinal legislation that may have been otherwise overlooked by traditional professional legal inquiries.

In addition to challenging traditional perspectives of legal research, this critical legal geography stresses the limits inherent in an instrumentalist<sup>45</sup> view of law. Blomley asserts that a strictly instrumentalist viewpoint ignores, “the power of law not only to command but to redefine, to empower, to constitute, to divide, to foreclose, to obfuscate”.<sup>46</sup> Instead of primarily observing law as a mechanism of State power that outwardly controls behaviour within a defined territory<sup>47</sup>, a legal geography approach emphasizes the subtle yet overt influences of law. While regulations and by-laws appear to obtrusively enforce spatial

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<sup>43</sup> Holder, J. & C. Harrison. eds. *Law and Geography* (Oxford University Press: Oxford, 2003).

<sup>44</sup> See Nicholas Blomley (1994) at 45.

<sup>45</sup> For the purpose of this dialogue an instrumentalist perspective will be viewed in the basic terms law as a tool or instrument that can affect change. In chapter three the concept of an instrumentalist role of law in activism will be further developed.

<sup>46</sup> *Ibid* at 36.

<sup>47</sup> R.T. Johnston. “Territoriality of Law” 11:6 *Urban Geography* (1990) at 559.

boundaries in the city by controlling, sanctioning and punishing behaviour in urban space<sup>48</sup>, law's influence is far more pervasive. People often unconsciously obey the boundaries of legal spaces in their daily life. Legal geographies in the city are not simply passive landscape, they play a constitutive role in shaping and restricting social behaviour.

The second feature of a critical legal geography approach highlights how legal representations of space influence and are influenced by social interactions. From Blomley's perspective, law does not exist in a detached asocial realm from where it can act upon space. He emphasizes that law "cannot be divorced from material interests or social struggles over meanings" and stresses how there is "no gap to bridge between law and space".<sup>49</sup> Identifying the co-constitutive nature of law and space expands the horizon for social inquiry. An analytical framework that moves beyond describing how formal rules and regulations structure certain spaces is important because it carefully examines how social outcomes and perspectives arise from the co-constitutive relationship between law and space.

The boundaries of private property are an example of how legal representations of space constitutively influence social behaviour. The different ways people respond to these seemingly fixed boundaries reveal how property rights are understood in the everyday. Blomley refers to Beatrice Potter's story of Peter Rabbit as one way to explore how the boundaries of property are socially perceived through identifying a simplified dominant model of property ownership. Mr. McGregor's garden represents a well-defined model of private property ownership including clearly marked physical boundaries. When Peter

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<sup>48</sup> Joe Hermer & Janet Mosher (eds). *Disorderly People: Law and the Politics of Exclusion in Ontario* (Fernwood Publishers: Halifax, 2002).

<sup>49</sup> See Blomley (1994) at 37, 40.

Rabbit crawls under the picket fence to eat a carrot, not only is he transgressing the boundaries of private property, reveals them as permeable and negotiable. The story of Peter Rabbit affirms the fixity of the dominant model of private property. However, in furthering his explorations into the realities of property ownership in the city, Blomley moves on to ask whether or not this boundary model works in the 'real world'.<sup>50</sup>

Based on semi-structured interviews with tenants and property owners in Vancouver's Strathcona neighbourhood, Blomley discovered that the boundaries of private property do not always play as decisive a role as the dominant 'Mr. McGregor's garden' model presupposes. Many of the gardeners (who own and rent property) remarked that certain transgressions of their property boundaries were understandable. Some people shared their gardens with neighbours and did not mind it when homeless people took the occasional vegetable whereas other people were more protective of their property lines.<sup>51</sup> After comparing the results of his research, Blomley concluded that, at least in this case study, the legal boundaries of private property are contextual.<sup>52</sup> While the formal legal boundaries of private property ownership appear to be fixed, they are also perceived as fluid and even symbolic.

By asking whether or not the dominant boundary model 'actually works in the real world', Blomley is questioning commonplace legal representations of space. As witnessed in the preceding example, people interpret legal meanings based on the context in which they are situated. Legal spaces do shape the way people behave, think and interact. Yet, social perceptions of the boundaries of private property do not necessarily reflect normative

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<sup>50</sup> Nicholas Blomley. "The Boundaries of Property: Lessons from Beatrice Potter" 48:2 The Canadian Geographer (2004) at 91.

<sup>51</sup> *Ibid* at 95.

<sup>52</sup> *Ibid* at 98.

understandings of such legal spaces. The contextual and fluid social perceptions of legal boundaries, then, reinforce how law, space and social interactions influence each other.

The third aspect of a legal geography approach focuses on the way legal meanings are created through a specific locality or setting. While social interpretations of legal boundaries help define particular spaces, the material space itself helps produce legal meanings. “Although legal practice may affect social life within a locality, law itself is not imposed upon a local setting, but is interpreted in and through setting”.<sup>53</sup> Space is essential for the interpretation of legal meanings. Identifying how specific socially created landscapes influence legal meanings allows geographers to question and analyze how the material production of space is visualized and represented.<sup>54</sup> Don Mitchell’s analysis of how anti-homeless legislation changes public space, Davina Cooper’s exploration of the relationship between community and space, and David Delaney’s interpretation of ‘legal landscapes’, are examples of inquiries that explore how particular material spaces alter legal meanings and consequently affect social life. Legal meanings interpreted through particular behaviours in and requests for public space in the city reveal how landscapes of annihilation, conflict and displacement are implemented through specific locations.

The continued enactment of ‘anti-homelessness’ legislation in North American cities<sup>55</sup> reinforces how the dichotomous nature of public space influences social behaviour. Mitchell’s analysis of how legal structures annihilate the behaviour of and spaces for homeless people are reflective of how ‘public’ space in the city is disappearing. Mitchell

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<sup>53</sup> See Blomley (1994) at 46.

<sup>54</sup> Nicholas Blomley. “Landscapes of Property” in Blomley, Nicholas, Delaney David & Richard T. Ford (eds.) *The Legal Geographies Reader* (Oxford: Blackwell Publishers, 2001) at 120.

<sup>55</sup> ‘Anti-homeless’ legislation has been enacted in Toronto, New York City, San Francisco, Phoenix, St. Petersburg, Atlanta, Jacksonville, Memphis, Eugene Oregon and many other cities. (See Mitchell (1994) for more info).

investigates how laws against camping, sleeping, panhandling, washing car windows and drinking in public parks and streets, controls, limits and punishes the behaviour (which is often essential for survival) of homeless people.<sup>56</sup> These restrictive laws annihilate the only space homeless people have to live, public space. Mitchell concludes that by “being out of place, homeless people threaten the ‘proper’ meaning of place”.<sup>57</sup> The restrictions within anti-homeless legislation are interpreted through dominant understandings of how public space in our cities should be conceived.

As spaces for homeless people in the city become further annihilated by law, legal meanings are derived from and implemented within a particular locale. Even though Mitchell’s analysis presents a somewhat instrumentalist view of law as a mechanism that outwardly affects urban space, his discussion is significant. By studying landscapes of annihilation, he reveals how legal meanings are interpreted through material spaces and have profound influences on how public space is defined and lived.

Legal understandings of space do alter the outcomes of political claims. Cooper presents a discussion focused on an urban landscape in which community conflicts arise over meanings assigned to a particular ‘public’ location. She examines the community reactions that arise from the construction of a Jewish eruv—a perimeter demarked by a wire placed on telephone poles, covering private and public space that designates a specified area for the purposes of travel on the Sabbath. The “conflict over right to govern, control and name local space raises fundamental issues regarding boundaries” which are both spatial and

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<sup>56</sup> Mitchell, Don. “The Annihilation of Space by Law” in Blomley, N., Delaney D. & R. T. Ford (eds.) *The Legal Geographies Reader* (Blackwell: Oxford, 2001) at 8-9.

<sup>57</sup> *Ibid* at 16.

jurisdictional.<sup>58</sup> In this example, arguments raised by opponents of the eruv revealed how social and legal meanings are interpreted through specific spaces. Discussions were raised concerning how the eruv represented ownership of public space, established a territorial zone that excluded people, dubbed as creating a “new dispossessed” people by opponents.<sup>59</sup> Although the eruv in no way blocked the space or defined its use to non-orthodox believers, it was nonetheless perceived to do just this.

Cooper’s discussion raises questions concerning the creation and implementation of boundaries. Her analysis more importantly emphasizes how meanings attributed to a particular location are influenced and shaped by social perceptions on all (and competing) sides of the conflict. From this locally based dispute, law is not simply viewed as a territorial force imposing limitations on a space, instead conflict over legal meanings are produced from and within a given space. Thus, the third aspect of a legal geography approach is significant because it reveals how particular locations are integral for shaping how law and space alter social relations.

Disputes concerning legislation and community control over public space in the city reveal how legal interpretations of space are derived from particular locations and David Delaney’s concept of the legal landscape becomes useful. His analysis highlights how imbalances of power within particular spaces produce specific legal meanings. Based on the historical geography of racism in the United States between 1836-1947, Delaney explores the asymmetrical powers within the spatial organization of the plantation during slavery. He illustrates how the plantation became a central place in the hierarchy of political and legal

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<sup>58</sup> Cooper, Davina. “Out of Place: Symbolic Domains, Religious Rights and the Cultural Contract” in Blomley, N., Delaney D. & R. T. Ford (eds.) *The Legal Geographies Reader* (Blackwell: Oxford, 2001) at 42.

<sup>59</sup> *Ibid* at 44.

spaces within the broader community.<sup>60</sup> His analysis demonstrates how the plantation represented an important legal space within the broader territorial geographies of institutional power, revealing how legal discourses have the potential to become translated into political action.

From Delaney's perspective, a legal landscape consists of an "ensemble of lines and spaces—territorial configurations that give legal meaning to determinable segments of the physical world or actual lived-in landscapes".<sup>61</sup> Even though a legal landscape territorially defines a particular space, it is a place of transformation. Delaney furthers his analysis by describing how legal arguments and discourses within the legal landscape become translated into legal action as political practice through the 'translation effect'.<sup>62</sup> Thus, the legal action and political practices cultivated in this legal landscape are not bound to a specific location and can influence, shape and transcend locally defined spaces. If legal meanings and sanctions can be translated out of a particular space as legal action and political practice, the eviction and trial of the Gilmour Street squatters provides an example of how political contestations over one legal space have the potential to influence and shape other spaces. The grassroots politics of the squat did not end with the arrests of the squatters. The social implications of the squat and accompanying trial were translated beyond the immediate location of 246 Gilmour Street and the courtroom.

In my perspective, a legal geography approach is extremely useful for analyzing the social consequences of law's constitutive influence in urban space. It draws attention to the overlooked yet dominant legal geographies in our cities. The legal meanings attached to the

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<sup>60</sup> Delaney, David. *Race, Place and the Law 1836-1948*. (Austin: University of Texas, 1998) at 36.

<sup>61</sup> *Ibid* at 13.

<sup>62</sup> *Ibid* at 23.

boundaries of private property, for example may not be regularly questioned or given much thought. However, once challenged or transgressed, the legal and social interpretations of these spatial boundaries are exposed. The effectiveness of the boundaries is not the main area of concern for this analytical lens. Instead, a legal geography approach helps unveil the seemingly neutral norms attached to both law and space. Therefore this 'law and geography' approach is important because it provides a way to explore and examine the unseen social implications of squatting urban legal spaces.

***Conclusion:***

The theoretical 'space' literature in this chapter presents a valuable foundation for establishing an analytical framework for exploring the spaces urban squatters challenge. While it is important to document and identify the dominant legal geographies in our society, a detailed analysis pinpointing how these legal geographies are confronted and what results from these contestations is central for understanding how social actions influence daily life. Too often political actions such as squatting are narrowly defined by the spectacle of their confrontational politics. A detailed exploration of how squatting interacts with the dominant spaces embedded within legal meanings is often overshadowed by the sensationalized (and momentary) political action and/or trial.

Theoretical examinations of law, space and power represent a perspective that draws attention to details that may otherwise go unnoticed. In analyzing the dominant legal geographies of private property challenged by urban squatters, Henri Lefebvre and Edward Soja's writings are particularly insightful. Their theoretical conceptualizations of space portray how the dominant ordering of space is hierarchically organized and maintained but not impermeable to disruption from political and social resistance. Influenced by Lefebvre's

theories of space, a legal geography approach identifies the political production of space by emphasizing how legal meanings are interpreted through space and subsequently alter social life. Understanding the underlying relationship between law and space enables an analysis of urban squatting that looks beyond the sensationalized elements of squatting and intricately explores the ways in which dominant spaces are challenged and enforced.

In the context of the Gilmour Street squat, the theoretical framework derived from legal geography will be especially useful. By examining how the squatters interacted and challenged the various meanings attributed to both law and space within the property of 246 Gilmour Street, I will explore how and if the grassroots politics of squatting survived in different legal spaces. Doing so will lead to a discussion focused on how the grassroots politics of squatting, after the initial occupation and eviction, were able to establish spaces of resistance within the space of the city and the courtroom. Therefore, the urban and legal geography literature in this chapter opens a venue for exploring the role squatting plays in challenging the legal geographies of property ownership without predominantly focusing on the superficial spectacle of political activism.

## Chapter Two: Challenging Spaces, Squatting 246 Gilmour Street

*"This was a space I was willing to defend"*  
-Rachelle Sauve<sup>1</sup>

*To question 'space' is to question one of the axis along which reality is conventionally defined"*  
-Rob Shields<sup>2</sup>

Squatting is self-evidently a spatial act. By attempting to use abandoned but privately owned property as housing, squatters draw attention to the value of 'space' in our society. They expose how material spaces are infused with various and conflicting interpretations over meaning.

In occupying private property, squatters overtly contest dominant legal representations of owned land. Since "law cannot be detached from the particular places in which it acquires meaning and saliency"<sup>3</sup>, conflicts involving claims to specific spaces acquire an explicitly legal vibrancy. What happens then, when dominant legal geographies are challenged? By uncovering the manner in which legal meanings influence and are subsequently influenced by space, squatting emphasizes how legal spaces shape social interactions.

When 246 Gilmour Street was occupied by squatters, the previously empty house became a hive of activity. Journalists conducted interviews. The house was cleaned and cleared of debris. Regular free meals were served. Approximately fifty people slept there nightly.<sup>4</sup> Supportive neighbours and community members donated food, building supplies and water. Basically, the squatters settled into regular household activities. By living in 246 Gilmour Street, the squatters did more than simply occupy a house. They

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<sup>1</sup> Rachelle Sauve. Personal Interview. December 2, 2004.

<sup>2</sup> Rob Shields. *Places on the Margin: Alternative Geographies of Modernity*. (Routledge: London: 1991).

<sup>3</sup> Nicholas Blomley. *Law, Space and the Geographies of Power* (New York: Guilford Press, 1994) at 45-47.

<sup>4</sup> Amy Miller. (Squat defendant) Personal Interview. January 4, 2004.

exposed the underlying political and economic meanings of urban space, drew attention to how legal representations of private property are enforced and implemented and, revealed how the flexible determination of grassroots politics could persevere through different legal spaces. Based on semi-structured interviews, participant observation and court transcripts, this chapter will document and analyze the consequences that resulted from the 246 Gilmour Street squat.

By applying the analytical framework derived from the theoretical interpretation of space as outlined by Lefebvre, Soja and Blomley, I provide a detailed analysis of the how police attempts to quash urban squats in Canada do not stifle nor halt the grassroots politics of squatting. First, I briefly situate the experiences of Ottawa's Gilmour Street squatters within other urban squats in Canada in order to contextualize the police, community and governmental responses to squatting. In the second section, I examine how the actions of the Gilmour Street squatters expose conflicting interpretations of space by challenging Lefebvre's ordering of abstract and absolute space. The third section, utilizing Soja's conceptualization of *Thirdspace* will explore how squatting challenges dominant understandings of space by embodying and creating a new space. The final sections in the chapter will explore the legal spaces involved in the occupation, eviction and trial of the Gilmour Street squatters. These sections will examine how legal representations of space are enforced and how squatters integrate their politics into these legal spaces. Overall, this chapter will draw attention to how the legal space of 246 Gilmour Street was disrupted, how the occupation challenged more than private property rights and how (and if) activists were able to create a space for political resistance within the criminal courts.

### *i. Squatting in Canada*

Occupying space is a central objective of squatting. By unapologetically inhabiting a particular piece of land, squatters ignore normative claims to property ownership. In Canada, squatters primarily occupy unused land and buildings as a way to secure temporary and permanent shelter, sometimes as part of a broader anti-poverty political campaign. Even though the methods vary among squat actions, the material gains made by squatting are significant.<sup>5</sup> Whether the squats are publicly occupied during a mass demonstration, lived in by several or few people, cooperative with municipal governments' requests, provide temporary or long-term accommodation, the benefits of squatting are observable. The material gains of squatting are usually apparent due to the visibility of squatting actions, yet the rationales behind urban squatting are often overlooked and obscured through media representations.<sup>6</sup>

In a current Canadian context, public urban squatting has been a temporary and marginalized political tactic, organized in collaboration with grassroots activists as an attempt to both highlight the current state of the housing crisis in Canada and to secure affordable housing. Unlike their European counter-parts, squat actions in Canada have not resulted in long-term squatter communities or in any legislation giving adverse

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<sup>5</sup>The outcomes of squatting vary in different countries and contexts. Squatting in Canadian cities (sometimes in the form of 'tent cities') often involves taking over an empty property with the intentions of securing temporary or permanent shelter. The Brazilian Landless Peasants movement ties occupation of agricultural land with larger demands for self-determination. In other countries the gain made by securing the land ranges from homes to agricultural land. There has recently been a rise of urban squatter towns in several cities in the Global South, primarily as permanent shelter for people who are unable to afford any other way of living. See Robert Neuwirth's, *Shadow Cities: A billion squatters, a new urban world* for more information on contemporary squats worldwide.

<sup>6</sup> John Ward. "Police used fire department ladders and blasts of pepper spray Wednesday to evict a ragged band of squatters from a vacant house they had occupied for seven days" Canadian Press Newswire 3 July 2002 [Lexis].

possession rights to squatters.<sup>7</sup> The temporary nature of urban squatting in Canada is also affected by continual police surveillance, threats of forceful eviction, and arrests.<sup>8</sup>

Despite the increased criminalization of squatting over the past five years, politicized housing actions have been on the rise in Canada and a general pattern has developed. Most public Canadian squatting actions have occurred as part of a mass rally or protest<sup>9</sup>, have made demands on and/or attempted to negotiate with municipal governments, and have consistently ended in police-led evictions, multiple arrests, criminal charges and sometimes trial.<sup>10</sup> From the Infirmary Squat in Halifax (2002), Toronto's Pope Squat (2002), Gilmour Squat in Ottawa (2002) to Vancouver's Woodward's Occupation (2003), similarities in tactics, police, government and community responses have occurred in different municipalities. The experiences of the Gilmour Street Squatters, as I discuss below, only diverge from this generalized pattern in relation to the excessive criminal charges they received.

Even though recent urban squats in Canada have been short-lived, some lasting only a few hours and the longest three months, identifiable achievements have been made. Many of these squats received moral and financial support from an extended community. Most notably the Canadian Autoworkers Union pledged \$50,000 to help

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<sup>7</sup> Peter Conradi. "Tenants from hell with the law on their side" The Sunday Times (London) 18 April 2004 [Lexis]. George Katsiaficas. *The Subversion of Politics: European Autonomous Social Movements and the Decolonization of Everyday Life* Humanities Press: New Jersey, 1997.

<sup>8</sup> Sarah Lamble & Lisa Freeman. "No Room for Squatters Except in the Big House" 33:7 Briarpatch Magazine (October 2004), 19(2).

<sup>9</sup> For example, Montreal's Overdale squat began with a march of 500 people, Toronto's 'Pope Squat' was led by a march of 1000 anti-poverty demonstrators and Ottawa's Gilmour Street Squat was part of an anti-G8 rally of approximately 3500 demonstrators. See Sarah Lamble's *Guide to Squatting* for more information on squatting in Canada.

<sup>10</sup> Chris Arsenault. "From Street to Squat in Halifax" Canadian Dimension 37:1 January/February 2003: 8-10; Martin Patriquin. "Squatters 1, Montreal 0 in battle over housing" Toronto Star 18 August 2001 (National Report K03) [Lexis]; Sheri Levine. "Squatters Issue Trio of Demands" The Ottawa Sun 3 July 2002 (pg12). [Lexis].

renovate OCAP's Pope Squat while several unions donated money and supplies to Ottawa's Gilmour Street squatters.<sup>11</sup> Squatters in Toronto, Vancouver and Montreal have attempted to negotiate long-term settlements with city officials. These negotiations have ended with few lasting results. Even so, in some instances these negotiations initially seemed to meet the squatter's objectives of permanent housing. In the case of Montreal's Overdale squat, with advice and approval from the municipal government, the squatters moved to a city owned abandoned building (with the intention of creating long-term affordable housing) only to be evicted in a police led operation shortly thereafter, allegedly due to a breach of contract.<sup>12</sup> Even though many urban Canadian squats have been publicly perceived as a marginal tactic of a few radical activists within broader anti-poverty movements, identifiable although limited achievements, of establishing temporary 'deals' with government, creating short-term housing and building substantial community support have been generated.

While the seriousness of the criminal charges and accompanying trial indicate the extent to which the experiences of the Gilmour Street squatters are marginally different from this general pattern of urban squatting in Canada, similarities between the various squats are unmistakable. The occupation of 246 Gilmour Street occurred during a mass demonstration, there was continual police surveillance, squatters attempted to negotiate a settlement with city officials, much public and union support was generated and the squat

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<sup>11</sup> "Community Alliances Ready to Renovate Pope Squat" Canadian Press Newswire (11 November 2002) [Lexis]. Since Ottawa's 246 Gilmour Street squat was located across the street from the Public Service Alliance Canada national office, union employees gave food, water and monetary donations to the squatters. In addition the Canadian Union of Postal Workers donated sanitary porta-potties and money.

<sup>12</sup> Michelle MacAfee. "Seven People Arrested as Montreal Police evict about 30 squatters" Canadian Press Newswire 3 October 2001 (Section O 3'01) [Lexis]. [Note: OCAP, The Ontario Coalition Against Poverty is a grassroots anti-poverty group based in Toronto since 1995.]

ended in a police eviction.<sup>13</sup> The majority urban squats in Canada have publicly vocalized the connection between the lack of affordable housing with the necessity to squat, built community support and have unfortunately remained as temporary solutions to the problematic lack of affordable housing in most cities.

There has been consistency in the political rationales adopted by squatters. The appeal of squatting, in part, rests upon how the occupation of an abandoned property raises important social, economic and legal contradictions. Squatters are not only questioning how an individual owner of private property uses and/or misuses their land, they are questioning the perceived inequalities inherent in property ownership. The strength of the grassroots politics accompanying urban squatting rests on how the strategic use of a particular place exposes meanings attached to space that are not necessarily present in the everyday.

## *ii. Challenging Space*

The squatters attached new meanings to 246 Gilmour Street by investing time and energy to make the house safer and cleaner. The house was no longer an abandoned property. It was becoming a “home”. In occupying, renovating and cleaning the house, the squatters drew attention to how social actions attach political meanings to particular (and overlooked) spaces. In this chapter I will reveal how the Gilmour Street squatters observed the commonplace understandings of property rights as negotiable by occupying and refusing to leave 246 Gilmour Street and ignited social inquiries that extended beyond the immediacy of the situation.

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<sup>13</sup> Lisa Freeman & Sarah Lamble. “Squatting and the City” 38:6 *Canadian Dimension* (November/December 2004), 44–46.

Cultivating grassroots politics based on the occupation of a material space enables squatting to confront the hierarchical organization of space in our society. Ottawa's Gilmour Street squatters were able to establish a space for themselves in addition to uncovering dominant meanings attributed to space in the city. They challenged the dominant ordering of space by reigniting an active social space that focused on building community support, affordable housing and economic stability. By occupying and living in a space already defined by the dominant legal geographies of private property, the squatters confronted the spaces Henri Lefebvre categorized as absolute and abstract space. Challenging abstract and absolute space is important because it signifies how particular spaces are vital for creating and instigating radical social change. Thus, the Gilmour Street squatters reinforced how grassroots politics rooted in the occupation of space expose how commonplace interpretations of space are not impermeable to change.

The Gilmour Street squatters created an active social space in their initial occupation of privately owned property. Social space is aptly perceived as a process saturated with diverse narratives that overlap and coexist without clearly defined boundaries. Accordingly, Henri Lefebvre clarifies that social space is much more than an empty container in which social life superficially occurs. He emphasizes how social space is a process "with many aspects and many contributing currents, signifying and non-signifying, perceived and directly experienced" that are both a result of past actions and a place for new actions to occur.<sup>14</sup> This ephemeral social space filled with a diversity of knowledge creates room to expose how meanings of particular space are immersed with and result from varying social interactions.

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<sup>14</sup> Henri Lefebvre. *The Production of Space* Trans. Donald Nicholson-Smith. (Blackwell: Oxford, 1991) at 110.

By occupying 246 Gilmour Street, the squatters activated a social space fused with competing interpretations of property ownership. The once empty house became anything but a meaningless urban landscape. The confrontational tactic of squatting instigated a heated dialogue between the property owner—who asserted legal ownership rights that were supported by the Ottawa Police—and the squatters who claimed moral entitlement to the house, while neighbours, city councilors, journalists and residents of Ottawa represented a wide range of opinions and concerns over the occupation.<sup>15</sup> The varied meanings given to this particular action, whether viewed as important political action or a criminal act, reveals the extent to which social space becomes saturated with a diversity of knowledge.

In addition to igniting debates and claims concerning the ‘proper’ use of urban space, the squatters encompassed another characteristic of social space by incorporating knowledge gathered from past actions that simultaneously created a space for new political actions to flourish. The squatters were reacting to past actions of neglect on behalf of the owner and the historical police presence at 246 Gilmour Street. The owner had been issued safety and demolition orders from the city over a seven year period regarding the state of the property, as homeless youth were routinely evicted by the police for sleeping on the premise.<sup>16</sup> The squatters were also reacting to the police responses to other Canadian squats. With knowledge gained from past actions, the Gilmour Street squatters knew the history of the building they squatted, were aware of a

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<sup>15</sup> John Ward “Police used fire department ladders and blasts of pepper spray Wednesday to evict a ragged band of squatters from a vacant house they had occupied for seven days” Canadian Press Newswire (3 July 2002). [Lexis]; Sheri Levine. “Squatters Issue Trio of Demands” The Ottawa Sun (3 July 2002), 12. [Lexis]; Abma, Derek & Andrea Lanthier. “Squatter Slams Door on Council” The Ottawa Sun (25 July 2002), 7.

<sup>16</sup> Richard Davis. *R. v. Ackerley et al.* Official Court Transcripts. (Ontario Provincial Criminal Court, Ottawa). Transcribed by Lynne Carriere (September 30-October 22, 2004) at 758.

(almost predictable and inevitable) violent police response, and were prepared to defend their grassroots politics to the media and in the courts.<sup>17</sup> The Gilmour Street squatters instigated a process for challenging the dominant ordering of space by bringing out the varied narratives and historical knowledge interpreted from a particular space.

Creating an active social space enabled the Gilmour Street squatters to dispute the ideological claims (which Lefebvre characterized as stemming from capitalistic bourgeoisie development<sup>18</sup>) embodied in absolute and abstract space. Due to its visibility, squatting actions almost always confront absolute space. Characterized by Lefebvre as a total political space, absolute space strategically imposes itself on day to day life through “assumed meanings addressed not to the intellect but to the body, meanings conveyed by threats, by sanctions...”<sup>19</sup> It is filled with concrete dimensions and strict formations that embody a “simple, regulated and methodical principle or coherent stability”.<sup>20</sup> Since the basic premise of squatting entails transgressing boundaries enforced by property legislation, it is nearly impossible, even if squatters vary in their political strategies<sup>21</sup>, to avoid the restrictive characteristics of absolute space.

The Gilmour Street squatters willfully trespassed on privately owned property and consciously disregarded the legal sanctions enforced by private property legislation, and like many squatters before them, openly challenged the sanctions of absolute space. Their

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<sup>17</sup> Dan Sawyer. Personal Interview. December 14, 2004; Lisa Freeman. Participant Observation. June 28-July 4, 2002.

<sup>18</sup> See Lefebvre (1991) at 55.

<sup>19</sup> *Ibid* at 55.

<sup>20</sup> *Ibid* at 76.

<sup>21</sup> While all squats disregard property legislation, not all squatters are prepared or willing to actively confront the police. Thus, different political strategies in confronting absolute space vary amongst squats. Peterborough’s Water St Squat, for example, was evicted by police but the squatters peacefully allowed the police to escort them out of the building. For more information refer to: Peterborough Coalition Against Poverty *Squat Reports: Media Releases* (Unpublished: Peterborough, 2003) Online: <[www.ocap.ca/pcap/](http://www.ocap.ca/pcap/)>.

confrontation with absolute space did not end when the house was occupied; it continued when the squatters refused to recognize and legitimate the role of police as protectors of private property. They deliberately declined police requests to vacate the property on several accounts, effectively challenging the threats and sanctions of absolute space. The squatters initially refused to answer Officer Roberta Ford's request to immediately vacate the property when it was originally occupied.<sup>22</sup> A few days later they ended the negotiations with police representative Pat Frost once it was apparent that city councilors and the mayor declined to participate in the process.<sup>23</sup> The final failure to recognize police power occurred during the eviction process. By blockading themselves inside the house at 246 Gilmour Street, the squatters communicated clearly through their actions that they were not going to follow Sargeant Richard Lavigne's order to leave or face imminent arrest on July 3, 2002.<sup>24</sup> In transgressing the boundaries of private property and by consciously refusing to recognize the role of the police in claims to property ownership, the Gilmour Street squatters clearly challenged the sanctions of absolute space.

Once the threats became a reality and the eviction was implemented, the squatters reluctantly (and by police force) vacated the building. They did not only challenge the confines of absolute space. Through transgressing legal boundaries of private property and in refusing to legitimize the role of police, the Gilmour Street squatters simultaneously challenged Lefebvre's notion of abstract space. Unlike absolute space,

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<sup>22</sup> Roberta Ford. *R. v. Ackerley et al.* Official Court Transcripts. (Ontario Provincial Criminal Court, Ottawa). Transcribed by Lynne Carriere (September 30-October 22, 2004) at 314.

<sup>23</sup> *Ibid.* Pat Frost at 418; Dan Sawyer. Personal Interview. December 14, 2004.

<sup>24</sup> Richard Lavigne. *R. v. Ackerley et al.* Official Court Transcripts at 531.

abstract space is not a 'lived' space but is comprised of images, signs and symbols.<sup>25</sup> It represents a specific lens from which to view the world. Lefebvre referred to this 'lens' of abstract space as a space for "the space of power, of bourgeoisie and of capitalism, [which is] political and instituted by a state".<sup>26</sup> Accordingly, Lefebvre asserts that abstract space is the perceived space where ideologies can be challenged, and cites the class struggle as the primary means of halting the growth of an economically based abstract space.

The Gilmour Street squatters confronted and possibly hindered the growth of abstract space by challenging the ideological reasons supporting the 'ownership model' of private property. According to Blomley, the ownership model "assumes a unitary, solitary, and identifiable owner, separated from others by boundaries that protect him or her from non-owners and grant the owner the power to exclude".<sup>27</sup> This model supports a notion of private property that gives exclusive control and 'rights' to the private owner and renders any other type of property ownership meaningless. In addition, it presents property as a permanent and natural object that "relies upon a notion of property itself as a finite space".<sup>28</sup> Thus, the ownership model presents a specific lens from which to view how property is to be used and perceived, representing one of the possible ideologies within abstract space.

In questioning how an individual owner is using or misusing their land, squatters are striking at the heart of this ownership model of private property. They challenge this

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<sup>25</sup> See Lefebvre (1991) at 58.

<sup>26</sup> *Ibid.*

<sup>27</sup> Nicholas Blomley. *Unsettling the City: Urban Land and the Politics of Property*. (New York: Routledge, 2004) at 2.

<sup>28</sup> *Ibid* at 4.

property model by: negating the rights of private property owners who neglect their land, transgressing the legal boundaries of property ownership and in exposing how the possession of property is impermanent and dependent on various interpretations of an infinite notion of space. By challenging the abstract space of this ownership model of property through occupying private property, Ottawa's Gilmour Street squatters were able to reassert other modes of property ownership as valid, effectively giving weight to their communal claims over the material space. In turn, the squatters were revealing how social struggles in the city can confront and challenge norms of absolute and abstract space by occupying a material social space embedded with competing and various understandings of private property ownership.

### *iii. Creating Space*

The squatters continued to challenge abstract and absolute space by generating new uses and interpretations for an already defined material space. In their attempts to create permanent shelter in privately owned but neglected property, the squatters utilized their grassroots politics to establish a space resembling Edward Soja's *Thirdspace*. *Thirdspace* is a counter-space "of resistance to the dominant order arising precisely from [its] subordinate, peripheral or marginalized positioning" developed from political choice and/or social (class-based) marginalization.<sup>29</sup> In presenting a space where political actions can flourish and challenge the hierarchical order of space, *Thirdspace* provides an opportunity to examine the space produced by squatting.

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<sup>29</sup> Edward Soja. *Thirdspace: Journey to Los Angeles and other Real and Imagined Places* (Blackwell: Cambridge, Mass., 1996) at 69.

*Thirdspace* is an important concept in analyzing urban squatting because it embodies “a politics of space but at the same time goes beyond politics inasmuch as it presupposes a critical analysis of all spatial politics as of all politics in general”.<sup>30</sup> It challenges dominant spaces by creating a politically charged space. This *Thirdspace* has the potential to become a place of social struggle because it starts from a marginalized space and uses “lived space as a strategic location from which to encompass, understand and potentially transform all spaces simultaneously”.<sup>31</sup> In representing the radical potential within a given space, the concept of *Thirdspace* reveals how squatting challenges the dominant ordering of space by simply interpreting meaning through taking over a material space.

From the beginning, the occupation of Gilmour Street squat resembled Soja’s conceptualization of *Thirdspace* because, in part, it was cultivated from a marginalized position. The political motivations and tactics used by the squatters resulted from both a forced and chosen peripheral positioning. The forced marginalization of the squat primarily stemmed from the housing crisis then underway in Ottawa. At the time of the Gilmour Street squat, Ottawa was in a housing crisis precipitated with a vacancy rate “ranging from .7% in 1999, .8% in 2001 and 1.9% in 2002”, leaving people advocating for and in need of housing in marginalized positions.<sup>32</sup> Many people staying in the squat over those seven days were inadequately housed or homeless. During that time the City of Ottawa had “14,000 people on the waiting list for affordable housing which

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<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid* at 68.

<sup>32</sup> Robert MacDonald (Housing Advocate) *R. v. Ackerley et al.* Official Court Transcripts at 1065.

represented about 30,000 people without adequate or no housing”.<sup>33</sup> Thus, the Gilmour Street squatters were forced into a peripheral position, partly due to lack of housing options and political venues in which to establish affordable housing in Ottawa.

The confrontational tactics utilized by the squatters in occupying and defending the house reinforced how this marginalized positioning was partially chosen. While some city councilors initially supported the goals of the squat, when it became apparent that the squatters had no intentions of willfully vacating the privately owned property, public sympathies altered substantially. During the final day of the squat, Ottawa city councilor Rainer Bloess announced that the squatters overstayed their welcome, “It’s time to leave. The people in [there] have made their point but it’s time to leave. I’m not impressed. The place is a mess...it’s an eyesore...and they’re trespassing. You don’t take over a private property”.<sup>34</sup> By consciously challenging commonly held beliefs in the ownership model of private property and by refusing to vacate 246 Gilmour Street at the request of city officials and police, the space of the squat was further marginalized. As a result of their social and political marginalization, the squatters were able to challenge the dominant understandings of space while at the same time attaching new meanings to a chosen space.

The use of the marginalized position, whether forced or chosen is central for the creation of a viable *Thirdspace*. Using lived space as a strategic location, according to Soja, is central in both the transformation of all dominant spaces and in establishing *Thirdspace*. Living in 246 Gilmour Street was a strategic use of space because, through

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<sup>33</sup> Clive Doucet (City Councilor) *R. v. Ackerley et al.* Official Court Transcripts at 860.

<sup>34</sup> Sheri Levine “Squatters Issue Trio of Demands” *The Ottawa Sun* (July 3, 2002), 12.

utilizing a ‘Do-It-Yourself’ grassroots politics<sup>35</sup>, the squatters revealed their serious intentions for establishing long-term housing from this location and unveiled how alternatives to private property ownership are possible. The squatters conducted renovations on the foundation of the house, cooked regular meals, planted a garden and completed other daily household chores, and through this the squatters asserted their grassroots politics and claim to 246 Gilmour Street through ‘everyday’ living.

According to Mystica Rosling, a neighbour of 246 Gilmour Street, “[the squat] was very different at the beginning than it was at the end. At the beginning, if I walked into the house, the first thing that hit me [was] a disgusting mess and confusion. Towards the end, it was, you know, a makeshift home. People had brought books and plants and it was home”.<sup>36</sup> Similarly John Baglow, neighbour and then-President of Public Service Alliance of Canada, “observed that a group of people were busy fixing the place up” and Robert MacDonald “saw a real sense of camaraderie there, people that were really connecting with each other. I mean, it was evolving into a community”.<sup>37</sup> Thus, living in the property and treating it as a home enabled the squatters to establish 246 Gilmour Street as a strategic location for creating an alternative mode of property ownership and showing new ways to generate affordable housing.

In addition to living in the house, the squatters highlighted how the visibility of the house itself provided an opportunity to critique the current political situation concerning the housing crisis in Ottawa. Situating the occupation of the squat as part of a

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<sup>35</sup> Do-It-Yourself politics stem from anarcho-punk rock (sub)cultures. Instead of relying on institutions or formal organizations, some people choose to ‘Do-It-Yourself’. During his interview, Dan Sawyer referred to squatting as Do-It-Yourself politics because squatters see a need for housing and simply create it themselves.

<sup>36</sup> Mystica Rosling, *R. v. Ackerley et al.* Official Court Transcripts at 880.

<sup>37</sup> John Baglow, *R. v. Ackerley et al.* Official Court Transcripts at 996,1042.

broader political campaign made the strategic use of 246 Gilmour Street pivotal in critiquing government inaction and in reinforcing the squatters' grassroots claims to space. According to Dan Sawyer (squat defendant), "The squat reignited a debate about poverty and the housing crisis, which was lacking and needed during one of the worst housing crisis the city had seen."<sup>38</sup> The space of social struggle create through this specific occupation was visible, loud and pervasive.

"When this squat took place, it managed to put the whole issues of homelessness on the front burner, to attract attention to it, to attract debate, to attract interest broadly across the region in the problem [of homelessness]. I would have to say they [the squatters] were more effective than any means that I have employed personally or that my union has employed up to that time".<sup>39</sup>

"It think what the squatters did was manage to put that agenda and turn into a very high profile issues in a way that a lot of the agencies who actually work [on] homelessness on a daily basis were not able to do. I mean, they made an impact; there's no doubt about that".<sup>40</sup>

The alternative and politically charged space created by the squatters significantly altered how the property at 246 Gilmour Street was perceived. The squatters revealed how everyday actions, such as planting a garden, renovating the front steps or sleeping in the house have the potential to become politically significant. They changed the space at 246 Gilmour Street by challenging the dominant legal geographies of private property ownership by radicalizing everyday actions.

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<sup>38</sup> Dan Sawyer. Personal Interview. December 14, 2004.

<sup>39</sup> John Baglow. *R. v. Ackerley et al.* Official Court Transcripts at 1032.

<sup>40</sup> Robert MacDonald. *R. v. Ackerley et al.* Official Court Transcripts at 1039.

#### *iv. Squatting Legal Spaces*

The following section will explore how the legal representations of space, in the context of 246 Gilmour Street influenced the actions and grassroots politics of the squatters. This analysis is based on the notion that legal spaces are not passive backdrops from which social conflicts superficially occur. From this perspective, I am hoping to discover how the grassroots politics of squatting stay intact through contact with restrictive and dominant legal representations of space, both in the city and in the courtroom.

On the surface, the interaction between the Gilmour street squat and law enforcement agencies resembles the situation of many urban squats in Canada. However, the legal response to this action stands alone. The lengthy eviction process utilized multiple city vehicles, including fire engines, city buses and paramedics, the police officers were excessive in their use of force and the ensuing criminal charges had the potential to result in a jail terms exceeding two years.<sup>41</sup> According to Mandy Hiscocks (squat defendant),

“this arrest was, the way the police arrested people was pretty typical of a squat action. Coming in strong when they decide to arrest, forcing people out. Other squats in Toronto, that has been what has happened. This arrest was [at a] different level, because it was really brutal. The police were a little more armed. A guy with a machine gun, I don’t think that is very common in a political operation to evict people from an empty building. A battery arm may be common, smashing the house. It seemed over the top.”<sup>42</sup>

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<sup>41</sup> For more information on police evictions. Lisa Freeman, & Sarah Lambie “Squatting and the City” 38:6 *Canadian Dimension* (November/December 2004), 44-46 and Martin Patriquin “Squatters 1, Montreal 0 in battle over housing” *Toronto Star* (18 August 2001), K03. [Lexis]

<sup>42</sup> Mandy Hiscocks. Personal Interview. December 2, 2004.

Even though “the takedown of the squat was violent [and] upsetting...it was not unexpected”.<sup>43</sup> The arguably excessive use of force in the eviction of the Gilmour Street squatters represents an accelerated police presence and militancy in response to urban squats in Canada.

The Gilmour Street squat came to an end on July 3, 2002. During a police operation that took place between (approximately) 2am and 9am several police sections “including the Tactical Unit, Public Order Unit, Forensic Evidence Unit, and a Command Station” evicted the squatters.<sup>44</sup> In addition to a police force armed with the “regular weapon, a MP-5 machine gun, a rubber bullet, less than lethal type of weapon and...a gas gun”, fire engines, a battery ram (used to breach window frames from the outside) and the deployment of “a number of different gas substances” were used in the removal and arrest of the twenty-two remaining Gilmour Street squatters.<sup>45</sup> Squatters were detained, charged under multiple sections of the criminal code and given restrictive conditions and myriad criminal charges. The criminal charges included break and enter (in a dwelling house), three counts of mischief over \$5000 and obstructing police.<sup>46</sup> The Gilmour Street squatters were the only squatters in recent Canadian history to face criminal charges and jail time potentially exceeding two years.<sup>47</sup>

In the process of evicting the Gilmour Street squatters, the Ottawa police enforced and protected the legal geography of private property ownership. They did so by creating

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<sup>43</sup> Dan Sawyer. Personal Interview. December 14, 2004.

<sup>44</sup> Michael Compter. *R. v. Ackerley et al.* Official Court Transcripts at 388.

<sup>45</sup> Conns. Maloney. *R. v. Ackerley et al.* Official Court Transcripts at 669; Srgt. Pritchard. *R. v. Ackerley et al.* Official Court Transcripts at 560.

<sup>46</sup> *Official Disclosure of Evidence*. Ministry of Attorney General, Province of Ontario (Unpublished: Ottawa, August 21, 2002).

<sup>47</sup> *Ibid.*

their own legal representations of space. With the use of yellow crime scene tape, the police implemented boundaries and created a landscape of control.

As people were forcibly dispersed into the newly established space of the crime scene, it quickly became evident that the boundaries of this legal space were subjective and contextual. Officers attempted to enforce law and punish social behaviour by “[cordoning] off the entire building [of 246 Gilmour] and all of the streets around the building...police came around with their tape and decided what was the area that was the crime scene”.<sup>48</sup> The yellow tape extended well beyond the private property of 246 Gilmour Street. The crime scene encompassed nearly an entire city block, effectively enveloping the public space of the street and sidewalk as well as the neighbouring private properties.<sup>49</sup> During the police operation, Aileen Leo, a member of the Witness group and witness for the defense<sup>50</sup>, found herself locked inside the Public Service Alliance of Canada building, “an officer declared it to be a crime scene...the doors were taped shut by the police so we couldn’t physically go back outside”.<sup>51</sup> Since the boundary of the crime scene was no longer simply surrounding 246 Gilmour Street, the police reinterpreted the meanings assigned to the legal space of private property in order to evict the squatters. The meanings the police assigned to the boundaries of both private property and the crime scene revealed how legal boundaries are not fixed but are indeed contextual.

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<sup>48</sup> Mandy Hiscocks. Personal Interview. December 2, 2004.

<sup>49</sup> Lisa Freeman. Participant Observation. July 3, 2002.

<sup>50</sup> The Witness Group is a local Ottawa grassroots group aimed at monitoring police interaction with protesters. This group emerged out of open community discussion forums around police brutality (involving K-9 unit and riot cops) against protestors at the G20 demonstration in Ottawa in 2001.

<sup>51</sup> Aileen Leo. *R. v. Ackerley et al.* Official Court Transcripts at 784.

In this sanctioned landscape of control, police officially “flooded the area”.<sup>52</sup> The influx of different police units, along with the deployment of fire engines, emergency vehicles, a mobile ‘Command Post’ ready to “take charge of the scene”, and the presence of OC Transpo buses utilized as makeshift police processing facilities for the arrestees, clearly marked the emergence of a landscape of law enforcement.<sup>53</sup> By creating a crime scene comprised of public and privately owned space enforced by a legal ‘yellow tape’ boundary, the actions of the Ottawa police represent how challenging the dominant legal geographies of private property lead to the creation of subsequent legal spaces. If legal meanings are derived from a particular location, then, did the grassroots politics of the Gilmour Street squat change significantly when they became immersed in this restrictive legal space?

David Delaney’s concepts of ‘legal landscape’ and the ‘translation effect’ help in answering the above question by providing a framework from which to examine how social actions can transfer into different environments. According to Delaney, a legal landscape consists of an “ensemble of lines and spaces—territorial configurations that give legal meaning to determinable segments of the physical world or actual lived-in landscapes”.<sup>54</sup> Defining the territorial configurations of law within a given space by identifying a ‘legal landscape’ clarifies the space where law has power and where legal discourses are applied and interpreted. Thus, when law (or legal actions) interact with a specific space (or spatial action), a transfer occurs and creates a ‘legal landscape’. Legal terminology and classifications alter the landscape and define a territory based on legal

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<sup>52</sup> Kevin Maloney. *R. v. Ackerley et al.* Official Court Transcripts at 669.

<sup>53</sup> Const. Compter. *R. v. Ackerley et al.* Official Court Transcripts 388. Rick Lavigne. *R. v. Ackerley et al.* Official Court Transcripts at 548.

<sup>54</sup> David Delaney. *Race, Place and the Law 1836-1948.* (University of Texas: Austin, 1998) at 25.

interpretations of a specific location. Thus, Delaney's concept of the 'translation effect' is essential for the success of a legal landscape because it enables legal arguments and discourses to be 'translated' into legal action as a political practice.<sup>55</sup>

During and after the eviction of the Gilmour Street squat it can be argued that a type of 'legal landscape' emerged. A territory was defined through the enforcement and creation of boundaries protecting the 'crime scene' and a legal landscape was evoked where legal discourses were applied and interpreted. The squat was no longer a community space or a potential housing complex but was depicted as a crime scene in a police operation. The arrest, detention and charging of the squatters generated a further legal apparatus of meanings. The squatters were now referred to as the 'accused'. Their actions were now depicted as 'crimes' of break and enter, mischief and obstruct police.<sup>56</sup>

Legal terminology and classifications altered the Gilmour Street squat—a 'landscape of resistance'—into a landscape of property crime. The encompassing power of the legal landscape endured as the legal discourses of charges and allegations, were translated in to legal (and political) action throughout the two and a half year long court process. The squatters were able to 'translate' legal arguments and court structures into a specific form of political action. However, for the remainder of the court process, the actions of the squat defendants were confined to the constraints of legal discourse and the decorum of the trial process.

My interest in the remaining section of this chapter is to consider one particular aspect of the way legal actions become spatial-legal actions. Delaney's notion of the

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<sup>55</sup> *Ibid.*

<sup>56</sup> *Official Disclosure of Evidence*. Ministry of Attorney General, Province of Ontario (Unpublished: Ottawa, August 21, 2002).

'translation effect' highlights how legal meanings interpreted through particular spaces can act as a catalyst, not unlike the fluid, ephemeral and open space of *Thirdspace*. The transferable nature of the grassroots politics of squatting, through interactions the criminal courts will help to further develop how dominant legal geographies can be challenged.

#### *vi. Transferring Spaces, Translating Politics*

The 'transferability' of the grassroots politics was reaffirmed when the Gilmour Street squatters represented themselves in court. From the previous discussion, it can be argued that the establishment of a 'legal landscape' during the eviction of the squat modified the squatter's political arguments into legal discourse. Predominant legal doctrine and regimented procedures of the trial process had the potential to quash and neutralize the squatters' political claims. Although seeming out of place in the courtroom, the grassroots politics used by the squatters did not disappear. In the following discussion, I argue that the squatters were able translate legal discourse into political action through three techniques: self-representation, collective action and by establishing a new space.

Representing themselves (without the presence of any legal counsel) allowed the Gilmour Street squatters to transfer their grassroots 'Do-It-Yourself' politics into the courtroom. Generally, self-representation is not a legal strategy the courts strongly encourage. All four lawyers interviewed in this case study commented on the negative attributes of self-representation. According to Susan Morris, duty counsel at the Ontario Provincial Criminal Court in Ottawa, "The system doesn't like to see people self-

represented for a variety of reasons. It causes systemic delay [and] it doesn't work for the adversarial system to have that power imbalance [between Crown and accused]."<sup>57</sup>

Despite these drawbacks, self-representation resonated favourably with the squatters.

Self-representation enabled the squatters to frame their own arguments, question witnesses, actively participate in the trial process and retain their autonomy. The basic Do-It-Yourself (anarchistic) politics of squatting made it possible for the squatters to outline their case from a particular political perspective. They approached the task of self-representations as part of a broader political perspective, thus their choice was not openly discouraged and did not seem to adversely affect the outcome of the case. In fact, the actions of the squat defendants were consistently viewed in a positive light, even by skeptics. Defense Counsel James Ford commented that, "they were good, articulate, intelligent and better than some lawyers", while Susan Morris noted that they were, "very well prepared. [They] knew how to prepare law [and] knew case law".<sup>58</sup> Defending themselves in court enabled the squatters to consistently insert their grassroots political arguments within the confinement of legal procedure.

The grassroots politics of squatting were transferred into the courtroom through a specific approach to the act of self-representation. The squat defendants utilized consensus-based decision-making and primarily worked as part of a non-hierarchical collective. All the important decisions were made collectively and the squatters embodied 'one voice' before the court. All of the squat defendants were able contribute to their defense strategy and participate equally in the collective court process. During the six week trial each of the defendants questioned and re-examined witnesses and presented

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<sup>57</sup> Susan Morris (Duty Counsel) Personal Interview. December 16, 2004.

<sup>58</sup> *Ibid.* James Ford. (Defense Lawyer) Personal Interview. January 13, 2005.

different sections of the opening and closing statements. At times, the group would ask the judge for a quick break to confirm and consult on the process or imminent decision. Overall, their approach to the act of self-representation re-affirmed the political process of consensus (non-hierarchical) decisions making, was respected by the judge and accepted by members of the jury.

For the most part, the squat defendants respected the general decorum of the courtroom, yet firmly organized their case in a manner resembling the politics used in the squat, "Our actions in the summer of 2002 were undertaken as collective actions. The defense that we have prepared has been the result of consistent collective decision-making and deliberation".<sup>59</sup> According to Mandy Hiscocks,

"We brought politics into the courtroom in how we were organized. When we had ten people with no lawyers, we worked by consensus. The court had to adjust their own process to accommodate us. The judges didn't really mind it as an effective way for a lot of people to represent themselves...stop, huddle, take discussion outside. Then one person would speak for everyone. Highly abnormal for the courts [but it] ran smoothly. Judge's were really tolerant of that, all they way through to the end. A big shift they had to make, [it] worked really well. An extension of how things happened in the squat."<sup>60</sup>

Thus, the squatters translated their grassroots politics into the courtroom by conducting their defense in a non-hierarchical collective manner through the act of self-representation.

As both self-represented accused and as activists, the squatters occupied a type of marginalized position in the courtroom. They were not familiar with the detailed procedural aspects of a trial, did not have any formal legal training and were conducting their defense in a manner unfamiliar to the Court. However, they utilized the strategic

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<sup>59</sup> Rachelle Suave. *R. v. Ackerley et al.* Official Court Transcripts at 1215.

<sup>60</sup> Mandy Hiscocks. Personal Interview. December 2, 2004.

space of the courtroom to defend the political action of squatting, to reinforce attributes of non-hierarchical decision-making and to continue fighting for the rights of homeless people into the courts.

In a nuanced fashion the squatters did translate their grassroots politics into the court. They adapted to certain aspects of court decorum, utilized formal legal language and structured their defense in a manner consistent with court expectations. Even though their grassroots politics may not have been as visible and vocal as they were during the occupation of 246 Gilmour Street squat, they were present nonetheless. Their grassroots politics were not only evident through their line of questioning witnesses and closing arguments, they were apparent in how the squatters organized themselves and generally approached their case. Translating their politics into the courtroom is important for squatters and activists alike. It reveals how the legal apparatus does not always diminish and extinguish grassroots politics through arrests and criminal trials. It reinforces how challenging the legal spaces of the courtroom have the potential to establish a space of resistance within an already legally constituted place.

### *Conclusion:*

Ottawa's Gilmour Street squatters challenged the dominant and commonly understood interpretations of both space and law by confronting the legal geographies of private property. They exposed the underlying political, subjective and contextual aspects of legal representations of space. By living in the house, the squatters created a vibrant social space from an otherwise derelict property. Whether or not people agreed with the actions of the squatters, this confrontational 'performance' engaged the public in a debate

surrounding affordable housing in Ottawa in a way that regular press releases and city council meetings could never do. Once the squatters were evicted, the space of 246 Gilmour Street changed significantly.

Legal meanings interpreted through particular spaces became important. The space of the squat changed during the police-led eviction, but the politics of the action did not. As the squatters challenged the dominant abstract and absolute spaces of property legislation and police enforcement, a new space emerged. The squatters negated legal meanings attributed to the house at 246 Gilmour Street and continued to carve out a new political space by radicalizing their everyday actions.

The squatters strategically utilized space to implement their political claims in the squat as well as during court. Representing themselves in court was one way the Gilmour Street squatters continued to challenge legal norms in restrictive spaces. The squatters continued to challenge the dominant spaces within the courtroom by 'Doing-It-Themselves'. Even if the grassroots politics of the squat modified when the squatters reached the courtroom, they did not fully disappear.

In challenging the legal geographies of private property and subsequently being criminalized, the squatters successfully transferred their political organizing methods and approaches to the criminal court. Yet, what else results from this political action and accompanying trial? The squatters revealed how dominant spaces can be challenged through the creation of alternative space, how political spaces are produced, and how grassroots politics can withstand excessive police force. Still, I am left to wonder, how do squatters challenge the dominant spaces within the courtroom in a manner consistent with the politics established during the squat?

### Chapter Three: Redefining the Space of Resistance: Fuck the Law, Squat the Courts?<sup>1</sup>

*“Law is understood as a demobilizing force that operates to limit radicalism and the participatory nature of social movement politics”*

-Byron Sheldrick<sup>2</sup>

*“The State tries to disempower activists with the law. It had the opposite effect on me. A lot of people were following this case and were inspired. Trial should never be an end in itself. It was a victory for activists”*

-Mandy Hiscocks<sup>3</sup>

The Gilmour Street squatters boldly challenged the dominant legal geographies of property ownership by transgressing the boundaries of private property, resisting arrest and loudly publicizing the political motivations behind their actions. The radical character of the squat was not quashed by a forced eviction, arrest and trial. As I discussed in chapter two, the squatters claimed space for themselves (and their political arguments) in the courtroom through the act of self-representation. Establishing space within the rigidity of trial was important for the squatters as it reinforced their collective organizing methods, grassroots politics and reluctance to conform to legal procedures.<sup>4</sup>

Participating in a criminal trial hardly necessitates radical politics. The squatters were forced to defend their actions in court. This was not a choice. However, deciding to work *with* the court was. While five anarchist squatters making the conscious decision to fully participate with the legal institution seems out of place, it is not unusual for activists to appear before and even cooperate with the courts as a means to advance their political causes. For example, social movement organizations often work with the courts

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<sup>1</sup> “Fuck the Law, Squat the World” is a common squatter slogan used worldwide.

<sup>2</sup> Byron Sheldrick. *Perils and Possibilities: Social Activism and the Law* (Halifax: Fernwood, 2004) at 13.

<sup>3</sup> Mandy Hiscocks. Personal Interview. December 2, 2004.

<sup>4</sup> Throughout this chapter I will refer to the Gilmour Street squatters as both squat defendants and accused interchangeably. Changing the terminology enables me to differentiate between the squatters during the occupation and in the trial. Not only does it reveal how they were perceived in the court but also the squatters referred to themselves as ‘squat defendants’ during the trial while the Crown and Judge referred to them as ‘accused’

to advance public policies.<sup>5</sup> Sometimes activists transgress the hierarchy of the courts, resembling Abbie Hoffman's famous theatrical mockery trial, through performances negating and 'spoofing' law's power, resulting in using the courtroom as a stage for their political claims. In any case, there are many ways for activists to politically engage with the courts.

In keeping with the confrontational tactics exercised during the occupation and eviction of the Gilmour squat, it would appear logical (or even expected) for the squatters to work against, rather than with, the court system. However, this particular group of activists decided to fully participate in the trial process and even took on the added responsibility of representing themselves. A contradictory tension emerges. How can working within the legal institution of the criminal courts coincide with radical grassroots politics and subsequently challenge the law?

In this chapter, I intend to explore the ways in which the tension between law and activism in *R. v. Ackerley et al* reveals how the squat defendants redefined how we view and use the law. The Gilmour Street squat defendants utilized a particularly nuanced approach that enabled them to work with, yet challenge the law. They created space for resistance in the courtroom by politicizing their everyday actions in court.

Throughout the trial, the squat defendants followed court procedures assiduously, yet at the same time they were apprehensive about working within the law. They took their legal responsibilities seriously and predominantly conducted their case in the 'formal' manner prescribed by the Court. The self-represented accused submitted factums

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<sup>5</sup> Anna-Maria Marshall & Scott Barclay. "In Their Own Words: How Ordinary People Construct the Legal World" *Law and Social Inquiry* (2003) at 619.

and charter motions<sup>6</sup>, wrote opening and closing arguments, examined and cross-examined witnesses, participated in jury selection, and utilized the traditional defenses of necessity and colour of right.<sup>7</sup> They clarified questions about court procedures, sections of the Criminal Code, rules for evidence and legalities with the Duty Counsel and Judge.<sup>8</sup> The squat defendants were clearly prepared for trial and knowledgeable of the applicable case law. During the six weeks of trial, interactions between the squatters, the Judge, and the Crown appeared to be ‘professional’, cordial and mutually respectful.

Any misgivings the squat defendants held concerning the legal system were not consistently visible. They did not openly oppose the hierarchy of the court nor did they ‘perform’ any obvious resistance. For example, the squatters stood for the judge when he entered the room and consistently referred to him as ‘Your Honour’.<sup>9</sup> Further, on the last day of trial, J. MacKinnon thanked the Accused for the “responsible way they acted in their defense” and for the respect they showed the Court.<sup>10</sup> After the trial, several of squat defendants commented on how they were proud of their achievements in court, referred to the experience as ‘empowering’, and remarked that it was “one of the more worthwhile activist projects” they had been involved in.<sup>11</sup>

Despite the positive verdict, compliments from the judge and the generally positive experience of the trial, most of the squat defendants remained critical and wary of activism in the legal system. Days after trial ended, two squat defendants in particular

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<sup>6</sup> The main Charter Motion was 11B unreasonable delay. It took two years for the squat defendants to stand before the Judge at trial. (Mandy Hiscocks. Personal Interview. December, 2, 2004.)

<sup>7</sup> Lisa Freeman. Court Observation. September 30-October 14, 2004.

<sup>8</sup> Susan Morris. Personal Interview. December 16, 2004.

<sup>9</sup> Lisa Freeman. Court Observation. September-30-October 14, 2004.

<sup>10</sup> J. MacKinnon. *R. v. Ackerley et al.* Official Court Transcripts at 1431.

<sup>11</sup> Amy Miller. Personal Interview. January 4, 2005; Dan Sawyer. Personal Interview. December 14, 2004; Mandy Hiscocks. Personal Interview. December 2, 2004; Rachelle Sauv . Personal Interview. December 2, 2004.

continued to vocalize their apprehensiveness about using the courts as a venue for political activism. In comparison to the political challenges poised by the Gilmour squat action itself, Dan Sawyer commented, “Court is different. In court we were not calling (powers) into legitimacy”, concluding that court should be “one of the packages of last resort [and] not part of a comprehensive strategy” for social activism.<sup>12</sup> Similarly squat defendant Mandy Hiscocks remarked that, “Once I thought that the best way to make social change was to get arrested, change the law. Law is not a good place to make social change but people are going to end up there if they are trying to make social change. Might as well get something out of it. I think you can affect change in the court, not through the laws. Trial shouldn’t be the goal of activism.”<sup>13</sup> This willingness to engage with the courts while remaining cautious and critical of them reveals an astute recognition of law’s pervasive role in constituting grassroots politics.

Throughout this chapter I will examine how the Gilmour Street squatters approached the courts in a manner that challenged how we view the interaction between the law and activism. They worked with the criminal courts to establish a place of and for resistance without overtly compromising their politics. The squatters did not vocally dismiss the courts, instead they used court procedures and legal arguments instrumentally to transgress and challenge the dominant (and constitutive) influences of law in activism. The squatters created a space for political resistance in the court. Their approach to trial was subtle and nuanced, yet it was significant and political nonetheless. Overall, this exploration will reveal how law does not simply demobilize grassroots activism, but may present a new, albeit forced, space of resistance.

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<sup>12</sup> Dan Sawyer. Personal Interview. December 14, 2004.

<sup>13</sup> Mandy Hiscocks. Personal Interview. December 2, 2004.

### *i. Approaching Law*

Contrary to the bold and confrontational tactics developed in the occupation and eviction of the squat, the actions of the squatters in court appeared regimented and controlled. Acting in accordance with court procedures and decorum enabled the squat defendants to establish a form of political resistance that was nuanced and subtle. They choose to work with the courts, instead of against them, and altered how we look at and use the law. They did not simply dismiss the legal procedures of court nor did they comply with every rule.

The squat defendants were forced to use the law as an instrumental tool, it was necessary to avoid a conviction. They altered how law is performed and viewed in the courts by using the law instrumentally as they cultivated an awareness of and resistance to the constitutive role of law in the criminal courts. A constitutive approach to law recognizes the law as intimately permeating all aspects of social life. From this perspective the “law doesn’t govern society in either an instrumental or ideological fashion; it is part of social life not above or outside it” and is “hegemonic in everyday life, where it works unobtrusively, inseparably from social practices themselves”.<sup>14</sup> The squatters revealed an awareness to the constitutive role of law, as will be discussed later in this chapter, by refusing to accept the social rules derived from law as commonplace and taken-for-granted aspects of everyday life.

Integrating the traditional legal defenses of ‘necessity’ and ‘colour of right’ in their closing arguments was a primary example of how the squatters used the law to bring

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<sup>14</sup> Austin Sarat. “Legal Effectiveness and Social Studies of Law: On the Unfortunate Persistence of a Research Tradition” *Legal Studies Forum* 9:1 (1985) at 31: See Sarat & Kearns (1993) at 51.

about instrumental change. They applied the defense of necessity to their case by attempting to reveal how they were in peril at the time of the squat, how the situation was urgent and how a ‘reasonable person’ would act under similar circumstances.<sup>15</sup> Rachelle Sauvé did this by asking the jury the following questions:

“was there really a choice? Were [we] really wrong to act? Could we have protected the right to housing without taking shelter and occupying it? In the reality and extremity of a housing crisis, where people in the city needed housing immediately, while buildings sat abandoned, a decision needed to be made”.<sup>16</sup>

Similarly, the squat defendants integrated the ‘colour of right’ into their closing statements by arguing that they had an honest belief that there was a “lawful justification or excuse of a person’s conduct” for occupying the house at 246 Gilmour Street.<sup>17</sup> The use of these two traditional legal defenses enabled the squatters to merge their political arguments while adhering to the structure of trial.

It is clear that an instrumentalist approach to law was useful for the squatters as it gave them the opportunity to defend their political actions and was essential for the possibility of an acquittal. Sarat and Kearns argue that only viewing the law instrumentally as a “tool for sustaining or changing aspects of social life” that is “brought to an already constituted social situation and does or does not make a difference” reduces an analysis of the role of law in society to a debate concerning effectiveness.<sup>18</sup> A simplification of law’s influence in society would result from only examining (and utilizing) an instrumentalist approach to law. However, it is important to identify the instrumental role of law in *R. v. Ackerley et al.* The squatters were not convicted. It was

<sup>15</sup> J. McKinnon. “Charge to the Jury” *R. v. Ackerley et al.* Official Court Transcripts at 1350.

<sup>16</sup> Rachelle Sauvé. “Closing Address” *R. v. Ackerley et al.* Official Court Transcripts at 1266.

<sup>17</sup> J. McKinnon. *R. v. Ackerley et al.* Official Court Transcripts at 1347.

<sup>18</sup> Austin Sarat & Thomas R. Kearns (eds.) *Law in Everyday Life* (Ann Arbor: University of Michigan Press, 1993) at 23; Bryant Garth & Austin Sarat. *How Does Law Matter? Fundamental Issues in Law & Society Research* v3 (Illinois: Northwestern University Press, 1998) at 2.

the squatter's nuanced and critical approach to conducting that trial that potentially redefined how the law is applied and responded to in activist-led criminal trials.

The squatters also transgressed the constitutive role of law by integrating political arguments into the 'everyday' routines and procedures of court. Before the official trial commenced, the squatters presented constitutional challenges arguing that the two year long court process (including administrative dates, pre-trial etc.) was an unreasonable time delay. The squatters were willing to challenge the commonly understood 'slowness' of the courts' through their case.<sup>19</sup> In addition to submitting constitutional challenges, the squatters also transgressed the 'everyday' by subverting particular assumed norms in the court procedure. They attempted to call expert witnesses regarding squatting on the stand.<sup>20</sup> Most experts on squatting do not fit within the court's definition of an expert because they are not institutionally defined and often learn through experience breaking the law (by squatting). The squat defendants also submitted pamphlets created during the occupation of the Gilmour Street squat as evidence of the political motivations of the squat, in attempts to negate the charge of 'intent to commit mischief'.<sup>21</sup> By politicizing the mundane procedural aspects within trial, the squatters were able to remain consistent in their political arguments and approach and resist the constitutive role of law in shaping their daily routines (and views) in court.

After attending the trial of *R. v. Ackerley* for just over one month, I observed a confidence in the squatters that I was not expecting. Their awareness of law's evasive and constitutive role in intimidating and demobilizing people appeared to instigate an

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<sup>19</sup> Mandy Hiscocks. Personal Interview. December 2, 2004.

<sup>20</sup> Lisa Freeman. Court Observation. September 27-October 14, 2004.

<sup>21</sup> *Ibid.*

unfettered determination to be consistent, assertive and well-organized in presenting their case. “Even if social movements must engage with the language and discourse of legal liberalism when approaching the courts, this does not necessarily mean they will adopt the ideological perspective of the court into their core values.”<sup>22</sup> It revealed a new way of observing how activists relate and use the courts politically. They worked with the courts but did not give up their politics.

Thus, the squatter’s disrupted the theoretical divide that exists between viewing and approaching the law from either an instrumentalist or constitutive perspective. They did use the law instrumentally but were also acutely aware of its constitutive role. By working with the courts in a cautious yet accommodating manner the squatters attempted to redefine how activists use the law. They did not use the courts as a theatre for their political performance, instead they worked with them as necessary. Most importantly, this legal consciousness regarding law’s constitutive role was not simply a result of going to trial. A look at the actual occupation of the squat shows that it was there when the squatter’s cultivated a hesitation to, and keen awareness of, law’s constitutive role.

## ii. *Constituting Grassroots Politics*

The surprise and horror expressed by journalists and many residents of Ottawa during the week of the Gilmour Street squat reflected how legal interpretations of private property have become commonplace ‘truths’, inseparable from, and constitutive of everyday life.<sup>23</sup> Minutes after the squatters occupied 246 Gilmour, a journalist standing beside me on the sidewalk appeared openly nervous about this political action. He

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<sup>22</sup> Byron Sheldrick. *Perils and Possibilities: Social Activism and the Law* (Fernwood: Halifax, 2004) at 22.

<sup>23</sup> Lisa Freeman. Participant Observation. June 28 2002.

cautiously asked me if the squatters were going to occupy the new house he had just purchased. I quickly assured him that squatters occupy abandoned buildings with political motivations to create housing and that he had no reason to worry. Once his private property was no longer in any (perceived) danger, he calmed down and proceeded to initiate a conversation about the connections between the lack of affordable housing and activism in Ottawa.

My interactions with this journalist intrigued me. I had just witnessed the constitutive role of law in everyday life. His reaction to the squat was clearly yet 'invisibly' influenced by legal understandings of private property ownership. The constitutive role of law was evident through public reactions to the active take-over of the house at 246 Gilmour. How then, did the constitutive role of law during the occupation influence the politics of the Gilmour Street squatters?

If legal meanings attached to particular spaces shape everyday understandings of property law, surely the political perspectives of the squatters were altered in some way. In this section I will examine how the squatters initially interacted with and became aware of law's constitutive role in activism. This exploration into the constitutive role of law during the occupation is important because it reflects how the legal strategy used in the courtroom was not isolated from the radical grassroots politics utilized during the squat.

It has been argued by many scholars<sup>24</sup> that the constitutive role of law is omnipresent and taken for granted in everyday life. Within grassroots political actions,

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<sup>24</sup> Alan Hunt. *Explorations in Law and Society: toward a constitutive theory of law*. (Routledge: London, 1993); Austin Sarat & Thomas R. Kearns, eds. *Law in Everyday Life* (University of Michigan Press: Ann Arbor, 1993); Austin Sarat. "Legal Effectiveness and Social Studies of Law: On the Unfortunate Persistence of a Research Tradition" 9:1 *Legal Studies Forum* (1985), 23.

the constitutive role of law is not (always) hidden and unacknowledged. Community activists, including the Gilmour Street squatters, are often aware of the constituting nature of law. But what exactly does this awareness result in? Do activists alter their politics in accordance with or in conscious opposition to legal norms? How does law influence politics? Since law is deeply implicated in all spaces and aspects of social life, it can be argued that law (and legal meanings) constitutes grassroots politics and community activism.

The squatters occupied a space already constituted by legal norms of private property and thus many of their political claims were reflective of commonplace understandings of regulations regarding urban land use. Despite their public opposition to norms of private property ownership and institutional organizations, the squatters demands for the city to, enact a 'use-it-or-lose-it' by-law, change policies regarding the use of abandoned properties in Ottawa, reinstate rent control, and replace current legislation around tenant protection<sup>25</sup>, coincided with yet challenged legal norms and governmental regulation concerning affordable housing. As a result of these demands, the squatters attempted to schedule meetings with the local mayor, city councilors and the police negotiator.<sup>26</sup> The squatter's use of language and their political focus on housing were, in part influenced by more 'regulatory' and institutional legal procedures. Law's constitutive role did influence the language and demands the squatters vocalized. The squatter's political claims were also constituted but not diverted, as I discuss below, by the overt police presence and criminalization of their actions.

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<sup>25</sup> *The Seven Year Squat: Why Squat?* (Unpublished Pamphlet: Ottawa, June 2002).

<sup>26</sup> Amy Miller. Personal Interview. January 4, 2004.

Criminalizing the actions of the squatters, including acts of police intimidation, coerced mediation, eviction, arrests and the laying of criminal charges, modified the squatter's tactics and grassroots politics in two ways. The regular police cars stationed outside the building, the presence of police video cameras during arrest, and the constant threats of eviction by force led the squatters to remain cautious of all communication with the police.<sup>27</sup> The squatters continued to focus their efforts on renovating and living in the house, yet their tactics became more militant when the police presence escalated. The squatters barricaded themselves in the house, stopped welcoming people in, and prepared for a police-led eviction.<sup>28</sup> The criminalization of their actions also gave strength to squatter's claims to 246 Gilmour Street by increasing the political significance of their actions and accelerating substantial public support for the squat. During the 2:00am eviction, hundreds of supporters flooded Gilmour Street, journalists recorded the events, and once the squatters were arrested community members rallied outside the Ottawa Police Station and packed the courtroom when bail hearings commenced.<sup>29</sup> Therefore, the influence of the law does temporarily affect the grassroots politics of squatting. In a response to an overt police presence, the squatter's politics became reactionary and more militant. Yet, were the fundamental grassroots politics of squatting, present during the actual occupation and the forced eviction, substantially constituted by law? The struggle against gentrification in the Lower Eastside of Manhattan sheds light on how law's constitutive role interacts with urban grassroots activism.

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<sup>27</sup> Dan Sawyer. Personal Interview. December 14, 2004.

<sup>28</sup> Lisa Freeman. Participant Observation. June 28, 2002.

<sup>29</sup> Amy Miller. Personal Interview. January 4, 2004.

The squatter history and struggle against gentrification of Manhattan's Lower Eastside differs substantially from the temporary actions of Ottawa's Gilmour Street squatters. Still, it is a useful example in analyzing how law interacts with social activism. The struggle over Tompkins Square Park in New York City was a momentous landmark of urban resistance and presents an opportunity to explore how law constitutes grassroots politics. With a growth of 'homesteading movements', community gardens, and artists' community spaces since the 1960s<sup>30</sup>, squatters there have provided,

“an alternative voice (or more accurately, ‘voices’) to local debates that extend far beyond controversies around their own occupation of abandoned tenements: the fight against gentrification, the closing of Tompkins Squat Park, the recurring police brutality in the neighborhood, the eviction of poor street peddlers from local sidewalks, the city's demolition of buildings (usually squatters' homes) in order to assemble land for sale on the open market”<sup>31</sup>

Based on the experience and pamphlet material produced in the community struggles over the Lower Eastside, John Brigham and Diana R. Gordon presented a discussion focused on law's role in community activism.

Brigham and Gordon developed an argument situating law as an active agent in constituting community struggles over urban space. They demonstrated how law constituted the political landscape of local community activism and thus concluded that law makes politics.<sup>32</sup> From their perspective, law constituted the grassroots politics in the Lower East Side in three ways. First, law structured community politics through the

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<sup>30</sup> For more information on the gentrification of New York's Lower Eastside refer to , Janet Abu-Lughod et al. (1994) *From Urban Village to East Village: the Battle for New York's Lower East Side.*, Neil Smith *The New Urban Frontier: Gentrification and the Revanchist City*: Karen Schmelzkoph “Incommensurability, Land Use, and the Right to Space: Community Gardens in New York City” (2002) 23:4 *Urban Geography* (323-343) and Peter Lamborn Wilson & Bill Weinberg. *Avant Gardening: Ecological Struggle in the City and the World (Autnomedia: New York, 1999).*

<sup>31</sup> Andrew Van Kleunen. “The Squatters: A Chorus of Voices...But is Anyone Listening” in Abu-Lughod, Janet L (et al.). *From Urban Village to East Village: the Battle for New York's Lower East Side.* (Cambridge, Mass., Basil Blackwell Ltd, 1994) at 286.

<sup>32</sup> John Brigham & Diana R. Gordon, “Law in Politics: Struggles over Property and Public Space on New York City's Lower East Side” 21:2 *Law and Social Inquiry* (1991), 265-283.

creation of public forums organized by the Community Board, an advisory board implemented by the city designed to foster communication and hear community responses to city initiatives.<sup>33</sup> Second, differing social interpretations of property laws influenced and shaped how community activists viewed each other's political position in the struggle against gentrification. Third, law gave meaning to the "ideological perspectives" held by activists, either through adherence or opposition to legal norms.<sup>34</sup> Law's influence in shaping the community politics, according to Brigham and Gordon, did not determine the politics of activists, but revealed how different forms of law's constitutive role can uncover what types of political arguments are possible.

From their field research, Brigham and Gordon suggested that the Community Board, a representation of law in this setting, influenced resistance and set political constraints on community organizing. Activists' political claims to urban space were structured to fit within legally defined categories and participants in these community forums were quickly turned into passive audience members.<sup>35</sup> Law did constitute grassroots politics within these forums but also influenced the political claims and ideological perspectives of activists. According to Brigham and Gordon, how the community activists interpreted property laws greatly influenced the political gains that resulted from the community organizing. For example, many anarchist squatters in the community did not respect solutions reflecting the norms of private property ownership while other community members found certain governmental solutions acceptable.<sup>36</sup> Thus, varied interpretations of the role of law put some activists on the periphery and

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<sup>33</sup> Ibid at 273.

<sup>34</sup> Ibid at 277.

<sup>35</sup> Ibid at 273-275.

<sup>36</sup> Ibid at 277.

others at the centre of this community debate. Overall, Brigham and Gordon's identification of law's constitutive role in grassroots politics is important for highlighting how legal meanings are engrained in everyday actions of community activists and for emphasizing how law constitutes politics.

In the case of Ottawa's Gilmour Street squatters, law's constitutive role was present, and Brigham and Gordon's general analysis is applicable, even though there was not a community board and the squatters were a politically homogenized group of political activists. Legal meanings did, to a degree, constitute the grassroots politics of the Gilmour Street squatters by giving 'legitimacy' and context for their political demands.<sup>37</sup> Attempts to negotiate with the city government through police agent Pat Frost revealed how the squatter's were (possibly) willing to alter their political stance in order to establish 246 Gilmour Street as 'legitimate' affordable housing for people in Ottawa.<sup>38</sup> In addition to subtly influencing the direction of the squatter's grassroots politics, the law indirectly constituted their politics by identifying their 'ideological arguments' as out of place. The squatter's oppositional attitude, confrontational anarchist politics, and refusal to respect the norms of private property clearly situated the squatters outside the boundaries of law. Their grassroots politics were constituted by law because they did not fit within the law. Law's influence was apparent throughout the occupation of 246 Gilmour Street but its constitutive influence did not go unnoticed.

The Gilmour Street squatters exhibited a keen awareness to the ways law, as expressed through government and police interactions, attempted to influence and alter their politics. On several accounts, the Gilmour Street squatters refused to accept

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<sup>37</sup> *The Seven Year Squat: Why Squat?* (Unpublished Pamphlet: Ottawa, June 2002).

<sup>38</sup> Amy Miller. Personal Interview. January 4, 2005.

symbolic solutions proposed by the city and ended negotiations with the police when it was apparent that vacating the property was the only ‘compromise’ available.<sup>39</sup> This hesitation and refusal to accept ‘not in good faith’ negotiations with the city government revealed an awareness (on behalf of the squatters) to law’s constitutive influence. Thus, Brigham and Gordon’s article erroneously underestimates the social agency and political awareness of grassroots activists. While there is no doubt that law does constitute political activism to some degree, their discussion emphasized the law’s agency above that of the community members. Law’s constitutive role in activism can hinder or potentially ‘legitimate’ the grassroots politics of community activism. However, it is important to clarify that many activists are aware of law’s influential role in activism, do not view it as beneficial and strategically work to confront it.

#### *iv. Challenging the Constitutive Role of Law*

In the following discussion, I will examine how the squat defendants specifically challenged and changed the constitutive role of law through their trial. They made social gains from challenging the law and also demonstrated how activism can constitute legal meanings and procedures in court.<sup>40</sup> The squatters redefined how activist political claims influence the criminal courts by transgressing traditional perspectives of law and by (potentially) changing the constitutive role of law in activist trials.

Documenting and analyzing how the Gilmour Street squatters challenged the constitutive role of law is not a straightforward process. A good starting point for this

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<sup>39</sup> *Ibid*; Dan Sawyer. Personal Interview. December 14, 2004.

<sup>40</sup> It is important to clarify how the constitutive role of law does not simply affect society one-sidedly. Interactions in the everyday do have the power to ‘influence’ and constitute law. The constitutive role of law may in fact be relational. Refer to: Alan Hunt. *Explorations in Law and Society: toward a constitutive theory of law*. (Routledge: London, 1993).

inquiry is present in the questions posed from Michael McCann's analysis of the how social movements interact with the courts. He explores how legal norms sustain the hierarchy of the court and also provide a venue for opposition and change within the institutional terrain.<sup>41</sup>

According to McCann, there are three questions useful for evaluating the changing characteristic of law's constitutive powers in the courts. First one must ask, "whether the [social] movements efforts altered the legal (or rights) consciousness of constituents and publics" and how did the "specific movement struggles [contribute] to the development of new legal resources for disadvantaged groups".<sup>42</sup> Then ask the second question, "whether both types of gains might expand the opportunities for action by creating new vulnerabilities in institutional power".<sup>43</sup> Social activists do not need to challenge every aspect of law's constitutive role, as outlined in the above questions, to make social change. In the confines of a courtroom, certain social gains may appear as irrelevant or minimal, yet are important harbingers of changes in law's constitutive powers. Thus, McCann's questions are useful in addressing how activists are able to make change within the courts without relying on a debate concerning the effectiveness of their particular approach to trial.

The political approach used by the squat defendants during trial, indicative of McCann's first question, had the potential to alter the legal consciousness and opinion of the public. Still, it is difficult to pinpoint if and how 'the legal consciousness of constituents and publics' were altered by *R. v. Ackerley et al.* Several lawyers and

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<sup>41</sup> Michael W. McCann. "How Does Law matter for Social Movements" in Garth, Bryant & Austin Sarat. eds. *How Does Law Matter? Fundamental Issues in Law & Society Research* v3 (Northwestern University Press: Illinois, 1998) at 82.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid* at 97.

accused interviewed for this research project were confident that *R. v. Ackerley et al.* changed (or had the potential to modify) public awareness concerning the criminality and/or acceptance of squatting as a legitimate means to secure affordable housing. The decision (or indecision) of the jury was frequently referred to as a signifier of public opinion. Since the jury was unable to make an unanimous decision, Mark Ertel (defense lawyer) surmised that it was possible that the twelve jurors adjusted their political opinions and possibly incited a “long term ripple effect” on the public at large.<sup>44</sup> Although this ‘trickle down effect’, as described by Ertel is broad and vague in its potential for altering the legal consciousness of the public at large, it does insinuate that the (in)decision of the jury members may be significant outside the courtroom.

Similarly, Yavar Hahmeed, a civil liberties lawyer who provided support and advice for the squat defendants, remarked on the broader positive social implications of *R. v. Ackerley*. He noted that going to trial, self-representing and not being convicted under criminal law is a tremendous victory for the squatters because it extends beyond the immediate needs of the accused and provides an opportunity for ‘constituents and publics’ to observe how it is possible for activists to fight their charges in court and win.<sup>45</sup> As I noted in chapter two, John Baglow and Mystica Rosling, neighbours of the squatters at 246 Gilmour Street, testified on behalf of the squatters in trial. The continued support of neighbours, union activists and housing activists within trial reveals how the broader Ottawa community supported and worked with the squat defendants. By acknowledging the merits of this social precedent set by *R. v. Ackerley*, it is clear to observe how the

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<sup>44</sup> Mark Ertel. Personal Interview. January 6, 2005.

<sup>45</sup> Yavar Hahmeed. Personal Interview. February 7, 2005.

positive effects of this trial were not simply constituted by the establishment of legal precedent.

Even though it is tricky to accurately assess if and how the legal consciousness of the public was altered in *R. v. Ackerley*, the potential influence of this trial should not be underestimated. The jury did not reach a conclusive verdict, and yet, the criminality of the act of squatting during a housing crisis was put into question. The constitutive role of law was challenged because, in terms of public awareness, squatting was not necessarily viewed within the strict definition of the law.

The second way this trial challenged and potentially altered law's constitutive powers was apparent in how particular social gains established from *R. v. Ackerley* contributed to the development of new legal resources for disadvantaged groups. During pre-trial motions<sup>46</sup> the squatters presented an argument outlining the reasons why they (as self-represented accused) deserved financial support from Legal Aid Ontario. Even though the Legal Aid documentation and testimony clearly indicated a lack of jurisdiction for the squatters' request, the presiding Judge suggested that the Crown should appeal to the Attorney General for a set sum of money in order to ensure a fair trial for the accused.<sup>47</sup> In the end, the Attorney General's office supplied financial support for the basic costs of trial, including paying for daily court transcripts, photocopies and other court-related costs amounting to over \$1000.00.<sup>48</sup>

It should be clear, however, that while the allocation of this money was a 'victory' for the squat defendants, it did not establish any legal precedent. The Crown clearly

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<sup>46</sup> Before the official trial began, the squatters presented several constitutional challenges to the judge. Mostly they used cases to support self-represented accused with financial support from legal aid. Refer to Mandy Hiscocks. Personal Interview. December 2, 2004.

<sup>47</sup> *Ibid.*

<sup>48</sup> *R. v. Ackerley et al.* Official Court Transcripts at 57.

indicated that the circumstances of *R. v. Ackerley* were 'exceptional' and future self-represented accused may not receive the same funding.<sup>49</sup> Despite, the lack of substantive legal precedent, the squatters did challenge the constitutive role of law. The decision was thus a victory for the defendants but did not establish direct benefits for other social activists or self-represented accused. Despite the lack of a substantive legal precedent, this 'victory' may have established two 'social' precedents. First, J. McKinnon's awareness of the inadequacies with Ontario Legal Aid's ability to financially support self-represented accused was fostered. Second, the case law used by the squatter's in asking for financial support may provided an 'unofficial' guideline as well as motivation for other defendants in similar situations. Even if strict legal gains were not made, the social precedents cultivated by *R. v. Ackerley et al.* has broadened the scope and acceptability for such arguments in the future.

The third way the squatters attempted to change and challenge the constitutive role of law was through exposing new vulnerabilities in institutional power, and in turn expanding the opportunities for social action.<sup>50</sup> The squatters established further space for political resistance in the courtroom and challenged the institutional powers of the legal system, by defying traditional understandings of the law and legal procedures.<sup>51</sup> For example, by taking on the serious legal responsibilities involved in self-representation, the squatters revealed how people untrained in the legal profession can successfully stand

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<sup>49</sup> Lisa Freeman. Court Observation. September 27, 2004.

<sup>50</sup> Michael W. McCann. "How Does Law matter for Social Movements" in Garth, Bryant & Austin Sarat. eds. *How Does Law Matter? Fundamental Issues in Law & Society Research* v. 3 (Northwestern University Press: Illinois, 1998) at 97.

<sup>51</sup> It is important to clarify that by identifying 'vulnerabilities' within the institution of the Criminal Courts I am not pointing to specific weaknesses in any of the legal actors involved in *R. v. Ackerley*. In fact, the Judge in this case was quite extraordinary in his attempt to continually balance the playing field in ensuring the squatters were provided with a fair trial.

trial. They did not passively accept the hierarchical and intimidating nature of the courts. In doing so, the squat defendants revealed a weakness in the ‘institutional power’ of a legal system distinguished as an impermeable professional institution whose formal rules and procedures should be followed.

The squat defendants exposed an additional weakness within the institutional power of the courts by demonstrating how a ‘political backdrop’ affects the court and effectively challenges the separation of politics and law in the courts.<sup>52</sup> The politics of the housing crisis in Ottawa were at the forefront of their case. The squatters integrated a grassroots political stance within their opening and closing arguments and they brought witnesses to the stand, including city councilor Clive Doucet and housing advocate Robert MacDonald, who commented on the social consequences of the local housing crisis.<sup>53</sup> This open discussion of the political significance and backdrop of their case, was sometimes discouraged by the judge. However, doing so revealed a primary weakness in the institutional power of the legal system—the separation of law and politics. According to James Ford, “strictly speaking politics and law are separate, but law and politics do merge...to think that law is not political would be an error even though it claims to be blind but not political, that is why social justice [cases] are important”.<sup>54</sup> While the squatters did not necessarily create ‘new’ vulnerabilities in court, they reinforced how political arguments do have an affect on trial proceedings.

During his interview, James Ford verified that the political backdrop in *R. v. Ackerley* did have an effect, especially in regards to the specific criminal charges. For

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<sup>52</sup> James Ford. Personal Interview. January 13, 2005. Ottawa

<sup>53</sup> *R. v. Ackerley et al.* Official Court Transcripts at 869, 1066.

<sup>54</sup> See Neil Smith (1993) at 39.

example, “for some people when it looks clear they were guilty of Break and Enter and Mischief...the political backdrop has an affect, the bonefide good will of [the squatters], with a non-criminal purpose had an affect on how people [jurors] view the case.”<sup>55</sup> Even if the squatters did not reveal new weaknesses within the legal institution, they did establish new circumstances and methods for highlight longstanding contradictions and weaknesses within the legal system itself.

The squat defendants used the law instrumentally to avoid a conviction. Their actions in court did altered public opinion in regards to how activists interact with the legal system and in the criminality of squatting during a housing crisis. Though significant gains for homeless, marginally housed people, and/or other self-represented accused were not outwardly produced, a group of squatters who maintained a strong anti-poverty political argument throughout their trial were not convicted.

The case of *R. v. Ackerley* represented how law’s constitutive powers can be challenged within the confines of the criminal courts. Even though it is rare for activist-led trials to change the law<sup>56</sup>, an awareness of and challenge to law’s constitutive powers “underlines the complex way in which legal conventions at once express, channel and contain citizen efforts to achieve justice over time”.<sup>57</sup> Legal conventions can and do shape grassroots politics in court, however, the “social precedence” and political implications of activist trials like *R. v. Ackerley* must not be overlooked.

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<sup>55</sup> *Ibid.*

<sup>56</sup> When referring to activist trials I am referring to small independent grassroots activists. I acknowledge the successes and difficult trials experienced by people fighting for social justice, particularly in regards to s. 15 violations of the charges. By no means does this comment mean to exclude the recent success of the same-sex marriage legislation or the gains made by pro-choice activism in the courts.

<sup>57</sup> See Michael McCann (1998) at 97.

Evaluating changes in law's constitutive powers can be problematic. Challenging law's constitutive power could (mis)represent the burgeoning of 'liberal' attributes of the criminal courts. The lenient acceptance of political arguments and the self-representation utilized by the squatters in the courts had the potential to reinforce the 'liberal' and unbiased nature of the courts. *R. v. Ackerley et al* may have represented how the criminal courts are becoming less dogmatic and strict in regards to political 'activist' trials. However, this was an extraordinary case and generalizations should not be made. It could be argued that the squat defendants did re-constitute the space of the courtroom. By challenging the constitutive role of law in trial, the squatters revealed how people, through 'everyday' actions, can constitute the law.<sup>58</sup>

#### *v. The Space of Court*

During trial the squat defendants illustrated knowledge of how to instrumentally use the law in challenging the constitutive role of law in activist trials. In doing so, the squat defendants directly challenged the dominant spaces in the criminal courts. They transgressed the commonplace understandings of how 'The Accused' should behave in the courtroom and they strategically inserted politics into their legal arguments, thus establishing a new space for political resistance in the court. In this section I will explore how the squatters redefined the space for political resistance by challenging the abstract and absolute space in the courtroom.

The courtroom is comprised of both absolute and abstract space. The absolute space of the courtroom is represented by the sanctions and rules enforced by bailiffs,

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<sup>58</sup>Anna-Maria Marshall & Scott Barclay. "In Their Own Words: How Ordinary People Construct the Legal World" *Law and Social Inquiry* (2003), 617.

police and Judges. As a conceived political space saturated with “enormous powers because it is the locus and medium of power”, absolute space is best understood through threats and sanctions.<sup>59</sup> In turn, the abstract space of the courtroom is supported and reinforced by a particular set of ideals. Described by Lefebvre as an ideological lens<sup>60</sup> from which to view the world, abstract space is a perceived space that appears to be homogenous and consistent yet is comprised of various meanings and understandings of the world.

Justice McKinnon in *R. v. Ackerley* appeared to be quite progressive and dedicated to ensuring a fair trial for the self-represented accused. Even so, he had a view about the proper place of law and politics, clearly indicating that the courtroom is not place for politics. He adhered to a more positivist conception of law as operating from a distinctly different place than the social. J. McKinnon’s reaction to the squat defendants’ closing arguments and his final address to the jury exemplifies how notions of abstract space were reinforced in court. Once the squat defendants had completed their closing arguments, J. McKinnon reprimanded one of the accused<sup>61</sup> for making a political speech and “stepping outside of the boundaries of proper closing arguments”, demanding that, “all you can do is comment on the evidence”.<sup>62</sup> He clearly defined the boundaries of abstract space within the courtroom by re-enforcing the ‘apolitical’ nature of law and by bluntly asking the accused if they were “going to make a political speech or...[were]

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<sup>59</sup> Henri Lefebvre, *The Production of Space* Donald Nicholson-Smith Trans. (Oxford: Blackwell, 1991) at 55.

<sup>60</sup> Note: Henri Lefebvre did not apply his theoretical notions of abstract and absolute space in the courts. However, they can apply to (and are present) the courtroom when the perceived beyond the limiting strict economic Marxist analysis presented by Lefebvre.

<sup>61</sup> Justice McKinnon reprimanded one of the accused for saying the following in her closing argument “the connection between people without homes and homes without people is an obvious one, It’s so obvious that it seems outright strange to us that we’re forced to use a court of law to justify it” (Transcripts, 1258).

<sup>62</sup> J. McKinnon. *R. v. Ackerley et al.* Official Court Transcripts at 1258-60.

going to talk about the evidence”.<sup>63</sup> By asserting his ideological perceptions of proper court procedures, J. McKinnon attempted to confine many of the political arguments and claims made by the accused<sup>64</sup> within a purely legally structured abstract space.

J. MacKinnon’s charge to the Jury outlined his strict legal perspective, clearly representing the role of abstract space in the courtroom. He directed the jury to decide solely on the facts of the case and to make all decisions within the boundaries of the charges.<sup>65</sup> In addition he asserted his authority by addressing the jury to:

“accept all the rules of law that I tell you apply [to the case]...even if you disagree with or do not understand the reasons for the law, you are required to follow what I say about it. You are not allowed to pick and choose among my instructions or the law...it is manifestly important that you accept the law from me and follow it without question”.<sup>66</sup>

Justice McKinnon revealed how the abstract space of law directly influences the absolute space of the courtroom by instructing members of the Jury to unquestioningly follow his directions. His positivistic legal perspective is representative of the ‘ideological lens’ of how abstract space would be actualized in the courtroom. By telling the jury to ‘accept all the rules of law’, he was simply following court procedures and clearly defining the dominant ‘abstract’ space of the court. In clarifying his adherence to a more positivist perspective, J. McKinnon’s ‘charge to the jury’ represents how abstract space influences and restricts the space for social agency or resistance in the courtroom.

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<sup>63</sup> *R. v. Ackerley et al.* Official Court Transcripts at 1259.

<sup>64</sup> *R. v. Ackerley et al.* Official Court Transcripts at 1216, 1249, 1234. Political comments were interspersed throughout the closing arguments. Amy Miller commented that “everything occurred during a housing crisis and everything must be put in that context”, and Mandy Hiscocks stated that the squat was a “criminalization of a political action...it’s about the way society values property and the people who own it versus how it values people who are poor”. Dan Sawyer bluntly stated, “we did occupy this building and we do not dispute it. Because we occupied this building people who were homeless has for seven days, somewhere to live”. Some political comments were accepted by the Judge, while others were criticized.

<sup>65</sup> *R. v. Ackerley et al.* Official Court Transcripts at 1323-1324.

<sup>66</sup> J. MacKinnon. *R. v. Ackerley et al.* Official Court Transcripts at 1324.

The squatters established a social space in the courtroom that wasn't strictly legal. They challenged the dominant spaces in the courtroom by creating a space that enabled social, political and economic-based perspectives to overlap. The social space they constructed was not just a product or a social condition. It was a direct result of past political actions and it also created space for new actions to occur. The squatters identified the spatial nature of law's constituting powers by challenging both absolute space and abstract space in the court by implementing an ephemeral and fluid social space that was adaptable and flexible.

Thus, working with the courts provided room for the squatters to challenge the dominant abstract and absolute space of the legal terrain while carving out a space for themselves. When they used the law instrumentally to defend themselves in court, the squatter's challenged the dominant spaces in the courtroom by confronting the constitutive role of law in everyday 'legal' actions. By politicizing their everyday actions they created a space for resistance within the criminal court. While it may not have been obvious or theatrical, the squatters approach to self-defense most certainly was intentional and arguably very effective.

### *Conclusion*

Victories in the courts do not need to be defined within an explicitly legal framework. By challenging the constitutive role of law, the squatters met their main objective of an acquittal while making several social gains as well. Therefore, in establishing a nuanced space of resistance in the courtroom, the Gilmour Street squat defendants were helping to redefine the space for activist achievements in the criminal courts. Their victories do not need to be defined (or constituted) within the parameters of

legal language. Activist resistance in the courtroom, resulting from large sensational and confrontational political actions, need not reproduce the action that landed them in court. Sometimes, as in the case of the Gilmour Street squat defendants a nuanced, knowledgeable, strong and determined grassroots political approach will inch by inch carve out the spaces for resistance in the courtroom.

## Conclusion

As of July 2003, the empty lot at Gilmour Street has been strewn with garbage and weeds. While I write this conclusion, I think about what happened on that now derelict property and what could have been possible. During the initial occupation, the house and accompanying streets were filled with people, hope and anxiety. Anything was possible. After seven days the squatters were evicted by police force and a lengthy court battle ensued. Hope was not yet lost. When the jury's verdict was announced and the criminal charges were subsequently dropped, the courtroom filled with cheers. Victory was declared. The squatters were not going to jail, activists did not get convicted in a criminal court and the criminality of squatting in Canada was questioned.

My intention with this research project was to present an analysis that moved beyond simply sensationalizing squatting and anti-poverty activism in Canada. I was interested in examining what the experiences of the Gilmour Street squatters signified about activism in the city and in the courts. Even though the details of the occupation, eviction and trial of *R. v. Ackerley et al* were detailed throughout this paper, a comparative study evaluating the effectiveness of squatting and activist trials was not intended. Conducting personal interviews with the squatters and several supportive lawyers, as well as observing the *R. v. Ackerley et al* trial helped me to realize that the police and legal response to the Gilmour Street squat was significant beyond the 'sensation' of the political action. I intended to write an inquiry exploring how the 'everyday' actions of the Gilmour Street squatters exposed legal meanings and understandings of 'space' that are often overlooked and unquestioned. I think this was accomplished.

The initial occupation of the Gilmour Street squat challenged common understandings of private property ownership. By taking over an urban space the squatters exposed the political, economic and legal meanings attached to a particular space. During the eviction, the landscape of 246 Gilmour Street physically changed and was perceptually altered. An urban space that had momentarily redefined and challenged dominant understandings of space was transformed into a crime scene. Police flooded the area, arrests were made and the Gilmour Street squat soon became *R. v. Ackerley et al.*

Once on trial, the politics and actions of the squatters were translated into legal discourse and confined to the structure of the courts. The squatters chose to work with the court system, a seemingly unusual decision for a group of anarchists. They represented themselves and used the law instrumentally to avoid a conviction. Although a full acquittal did not occur and a legal precedent was not established, *R. v. Ackerley et al* was important. The Gilmour Street squatters used the law instrumentally in meeting their immediate objectives and displayed how activists can transgressively work within the courtroom to re-constitute the role of law in activism. By defending themselves, integrating political arguments into legal discourse and by challenging the constitutive role of law, the squatters broadened the space for activism in the courts. They created a space for political resistance.

In combination with the theoretical understandings derived from the urban and legal geography literature within this paper, the experiences of the Gilmour Street squatters' moves beyond a debate limited to the effectiveness of the actual squat or accompanying trial. Their actions represented the repercussions that result from challenging the dominant (legal) spaces in our cities and in the courts. The social

implications of this specific squat reveal the centrality of space to political actions, the way legal interpretations of space alter activism in the city and in the courts, and most importantly clarify and disrupt commonplace (mis)understandings of 'radical anarchist' grassroots politics in Canada.

Challenging and recreating interpretations of 'space' are a central element of political activism, including but not limited to squatting. Henri Lefebvre is correct. Space is not just an empty container in which social actions superficially occur. Space provides a focal point for political actions to dynamically create new alternatives through challenging dominant understandings of space. An awareness of the underlying economic, political, legal and social norms within 'space' enables squatters and activists alike to emphasize the overt inequalities in our society by exposing the overlooked (and sometimes discriminatory) meanings attached to space.

Legal interpretations of space similarly alter and affect grassroots political activism. Legal meanings attached to space are not always overt and overwhelmingly restrictive. The Gilmour Street squatters definitely felt the 'iron fist' of the law during the police-led eviction. However, social interpretations of legal spaces similarly influenced and affected their grassroots politics. The manner in which the media, city councilors, police and the citizens of Ottawa interpreted the legal space of 246 Gilmour Street directly altered the space of the squat. While some people clearly placed the squat into a rigid category of an illegal and criminal action, many people were supportive and sympathetic to the squatters. By exposing the social and political implications resulting from this unused piece of property, the squatters began to alter the legal interpretations of this space. The boundaries of private property were perhaps becoming to be viewed as

negotiable and the criminality of squatting an abandoned property with the intentions to create affordable housing was questioned. Thus, the squatters at 246 Gilmour Street did challenge the legal geographies of private property and in doing so they created a new social and legal interpretation of a particularly significant urban space.

The occupation, eviction and trial of the Gilmour Street squatters represents a window into the world of recent grassroots 'anarchist' political activism in Canada. In fact, this particular squat action and accompanying criminal trial clarifies how radical activism is not always confrontational, 'sexy' and theatrically political. Without a doubt, the experiences of the Gilmour Street squatters were viewed as a 'sensationalized' spectacle by the media, community supporters and possibly even the squatters themselves. However, the political significance of this squat and trial were not substantiated by theatrics alone. Instead, the everyday actions of renovating a house and planting a garden during the squat and writing legal arguments, submitting evidence and questioning witnesses throughout trial gave substance and stability to the squatters' grassroots politics. The radical politics of the Gilmour Street squatters were not continually abrasive and confrontational. They were intentional, determined and flexible when needed. The squatters picked their battles, adapted to legal structures when necessary and continued to carve a space for political resistance in the city and the courtroom.

The trial of *R. v. Ackerley et al* began in September 2004. There has not been a public and political squat action in Ottawa since the take-over of 246 Gilmour Street in June 2002. Most of the squat defendants have moved on to other political projects. Yet, in September 2005, I am still writing about this particular political action. It resonates with

me. Urban squatting in Canada continues to be criminalized. Not one squat has directly been converted into social housing, yet people continue to overtly and covertly squat. The experiences of the Gilmour Street squatters reveal that common understandings of space and law can be challenged by any means necessary. Whether by confrontationally taking over privately owned property or by efficiently fighting criminal charges in court, space for political resistance is out there. We just need to find that space and occupy it.

## Bibliography

Abma, Derek & Andrea Lanthier. "Squatter Slams Door on Council" The Ottawa Sun (25 July 2002), 7.

Abu-Lughod, Janet L et al. *From Urban Village to East Village: the Battle for New York's Lower East Side*. (Basil Blackwell: Cambridge, Mass., 1994).

Adamson, Walter L. *Hegemony and Revolution: A Study of Antonio Gramsci's Political and Cultural Theory*. (University of California Press: Berkley, 1980).

Allen, Timothy "Squatters are back and upwardly mobile" The Independent (London) (12 October 2003), 8. [Lexis]

Arsenault, Chris "From Street to Squat in Halifax" 37:1 Canadian Dimension (January/February 2003), 8-10.

Blomley, Nicholas. *Unsettling the City: Urban Land and the Politics of Property* (Routledge: London, 2004).

--- "The Boundaries of Property: Lessons from Beatrice Potter" 48:2 The Canadian Geographer (2004), 91.

--- "From 'What?' to 'So What?' Law and Geography in Retrospect" in Holder & Harrison, eds. *Law and Geography: Current Legal Issues v.5* (Oxford University Press: Oxford, 2003).

--- "The Properties of Space: History, Geography, and Gentrification" 18:4 Urban Geography (1997), 286-295.

--- *Law, Space and the Geographies of Power* (Guilford Press: New York City, 1994).

Blomley, Nicholas, Delaney, David & Richard T. Ford, eds. *The Legal Geographies Reader* (Blackwell Publishers: Oxford, 2001).

Brigham, John & Diana R. Gordon. "Law in Politics: Struggles over Property and Public Space on New York City's Lower East Side" 21:2 Law and Social Inquiry (1991), 265-283.

Castells, Manuel. *The City and the Grassroots: A Cross-Cultural Theory of Urban Social Movements* (University of California Press: Berkley, 1983).

"Community Alliances Ready to Renovate Pope Squat" Canadian Press Newswire (11 November 2002). [Lexis]

- Conradi, Peter. "Tenants from hell with the law on their side" The Sunday Times (London) (18 April 2004). [Lexis]
- Conway, Isabel. "City Life: Amsterdam-Evictions Stir up sympathy for the Squatters with a Social Conscience" The Independent (London) (15 Jan 2001), 13. [Lexis]
- Cooper, Davina. *Governing Out of Order: Space, Law and the Politics of Belonging* (RiversOram Press: London, 1998).
- "Out of Place: Symbolic Domains, Religious Rights and the Cultural Contract" in Blomley, Nicholas, Delaney David & Richard T. Ford, eds. *The Legal Geographies Reader* (Blackwell Publishers: Oxford, 2001), 42-51.
- Corr, Anders. *No Trespassing: Squatting, Rent Strikes and Land Struggles Worldwide* (South End Press: Cambridge, MA, 1999).
- Cox, Kevin, R. "Territoriality, Politics and the 'Urban'" 20 Political Geography (2001), 745-762.
- Cresswell, Tim. *In Place Out of Place: Geography, Ideology, and Transgression* (University of Minnesota Press: Minneapolis, 1996).
- Davis, Mike. *City of Quartz: excavating the future in Los Angeles* (Verso: New York, 1990).
- Delaney, David. *Race, Place and the Law 1836-1948*. (University of Texas: Austin, 1998).
- Elayoubi, Nelly & Andrew Seymour. "Squat's Next? Residents of home dig in their heels after owner tell them to get out" The Ottawa Sun (30 June 2002), 3.
- Ertel, Mark (Defense Lawyer). Personal Interview. January 6, 2005.
- Freeman, Lisa. Court/Participant Observation. Ontario Provincial Criminal Court, Ottawa (September 27-October 22, 2004).
- Freeman, Lisa & Sarah Lamble. "Squatting and the City" 38:6 Canadian Dimension (November/December 2004), 44-46.
- Fitzpatrick, Peter & Alan Hunt. *Critical Legal Studies* (Basil Blackwell: Oxford, NYC 1987).
- Ford, James (Defense Lawyer). Personal Interview. January 13, 2005.

Ford, Richard T. "Law's Territory (A history of jurisdiction)" in Blomley, Nicholas, Delaney David & Richard T. Ford, eds. *The Legal Geographies Reader* (Blackwell Publishers: Oxford, 2001), 200-218.

Friedman, Lawrence. *Law and Society: An Introduction*. (Prentice-Hall: New Jersey, 1977).

Garth, Bryant & Austin Sarat. *How Does Law Matter? Fundamental Issues in Law & Society Research* v.3 (Northwestern University Press: Illinois, 1998).

Gregory, Dereck & John Urry, eds. *Social Relations and Spatial Structures* (MacMillian: Hampshire, 1985).

Hahmeed, Yavaar (Civil Liberties Lawyer). Personal Interview. January 7, 2005.

Harvey, David. *Spaces of Capital: Towards a Critical Geography* (Routledge: New York, 2001).

---*Spaces of Hope*. (University of California Press: Berkley, 2000).

---*The Limits to Capital*. (Blackwell: Oxford, 1982).

--- "The Geography of Capitalist Accumulation: a Reconstruction of the Marxian Theory" 7:2 *Antipode* (1975), 9-21.

--- *Social Justice and the City* (John Hopkins University Press: Baltimore, 1973).

Hermer, Joe & Janet Mosher, eds. *Disorderly People: Law and the Politics of Exclusion in Ontario* (Fernwood: Halifax, 2002).

Hiscocks, Mandy (squat defendant). Personal Interview. December 2, 2004.

Holder, J. & C. Harrison. eds. *Law and Geography: Current Legal Issues* 5 (Oxford University Press: Oxford, 2003).

Hunt, Alan. *Explorations in Law and Society: toward a constitutive theory of law*. (Routledge: London, 1993).

Jacobs, Jane. *The Life and Death of Great American Cities* (Random House: New York, 1965).

Johnston, R.J. "Territoriality of Law" 11:6 *Urban Geography* (1990).

Katznelson, Ira. *Marxism and the City*. (Clarendon Press: New York, 1992).

- Katsiaficas, George. *The Subversion of Politics: European Autonomous Social Movements and the Decolonization of Everyday Life* (Humanities Press: New Jersey, 1997).
- Kiros, Teodros. *Toward the Construction of a Theory of Political Action: Consciousness, Participation and Hegemony*. (University Press of America: New York, 1985).
- Lamble, Sarah & Lisa Freeman. "No Room for Squatters Except in the Big House" 33: 7 Briarpatch Magazine (October 2004), 19(2).
- Lamble, Sarah. *Peterborough Coalition Against Poverty Guide for Squatters: Legal, Practical & Historical Information for Anyone Considering Squatting* (Ontario Public Interest Research Group: Peterborough, 2003).
- Lefebvre, Henri. *The Production of Space* Trans. Donald Nicholson-Smith. (Blackwell: Oxford, 1991).
- Lefebvre, Henri. "Reflections on the Politics of Space" Trans. Michael J. Enders. 8:2 Antipode 1976 (30-37).
- Levine, Sheri. "Squatters Issue Trio of Demands" The Ottawa Sun (3 July 2002), 12. [Lexis]
- MacAfee, Michelle. "Seven People Arrested as Montreal Police evict about 30 squatters" Canadian Press Newswire (3 October 2001), O3'01. [Lexis]
- Manning, Erin. *Ephemeral Territories: Representing Nation, Home, and Identity in Canada* (Minneapolis: University of Minnesota Press, 2003).
- Marshall, Anna-Maria & Scott Barclay. "In Their Own Words: How Ordinary People Construct the Legal World" Law and Social Inquiry (2003), 617.
- Massey, Doreen. "Geographies of Responsibility" 1 Geogr. Ann. 86 B (2004), 5-18.
- McCann, Michael W. "How Does Law matter for Social Movements" in Garth, Bryant & Austin Sarat, eds. *How Does Law Matter? Fundamental Issues in Law & Society Research* v3 (Northwestern University Press: Illinois, 1998), 76-108.
- McKibbin, Sean. "Squatters' Fate in Limbo: Jury Undecided on All but 2 Charges Against Protestors" The Ottawa Sun (22 October 2004), 16.
- Miller, Amy (squat defendant). Personal Interview. January 4, 2004.
- Mitchell, Don. *The Right to the City: Social Justice and the Fight for Public Space* (Guilford Press: New York, 2003).

---"The Annihilation of Space by Law" in Blomley, N., Delaney D. & R. T. Ford. eds. *The Legal Geographies Reader* (Blackwell: Oxford, 2001), 6-19.

Merrifield, Andy. *MetroMarxism: A Marxist Tale of the City* (Routledge: New York, 2002)

Merrifield, Andy & Erik Swyngedouw. eds. *The Urbanization of Injustice*. (New York University Press: New York, 1997).

Morris, Susan (Duty Counsel). Personal Interview. December 16, 2004.

Neuwirth, Robert. *Shadow Cities: A Billion Squatters, A New Urban World* (Routledge: New York, 2005).

*Official Disclosure of Evidence*. Ministry of Attorney General, Province of Ontario (Submitted to L. Freeman, August 21, 2002).

*Ottawa Police Occurrence Reports: 246 Gilmour Street* (Unpublished: Presented as Evidence during *R. v. Ackerley et al*, 2004).

Puddicombe, Derek. "Jury Considers of Gilmour St. Squatters vs. City" The Ottawa Sun (19 October 2004), 10.

*R. v. Ackerley et al*. Official Court Transcripts. Ontario Provincial Criminal Court, Ottawa. Transcribed by Lynne Carriere (September 27-October 22, 2004).

Patriquin, Martin. "Squatters 1, Montreal 0 in battle over housing" Toronto Star (18 August 2001), K03. [Lexis]

Peterborough Coalition Against Poverty *Squat Reports: Media Releases* (Unpublished: Peterborough, 2003) Online: <[www.ocap.ca/pcap/](http://www.ocap.ca/pcap/)>.

Pue, Wesley. "Wrestling with Law: (Geographical) Specificity vs. (Legal) Abstraction" 11: 6 Urban Geography (1990), 566-585.

Sack, Robert David. *Human Territoriality: its theory and history* (Cambridge University Press: New York, 1986).

Sarat, Austin & Thomas R. Kearns. eds. *Law in Everyday Life* (University of Michigan Press: Ann Arbor, 1993).

Sarat, Austin. "Legal Effectiveness and Social Studies of Law: On the Unfortunate Persistence of a Research Tradition" 9:1 Legal Studies Forum (1985), 23.

Sarat, Austin "Pain, Powerlessness, and the Promises of Interdisciplinary Legal Scholarship: An Idiosyncratic, Autobiographical Account of Conflict and Continuity

(2000) 18 Windsor Y.B. Access Just. 187.

Sauvé, Rachelle (squat defendant). Personal Interview. December 2, 2004.

Sawyer, Dan (squat defendant). Personal Interview. December 14, 2004.

Sayer, Andrew. "The Difference that Space Makes" in Derek Gregory & John Urry, eds. *Social Relations and Spatial Structures* (MacMillian: London, 1985), 50-114.

Schmelzkoph, Karen. "Incommensurability, Land Use, and the Right to Space: Community Gardens in New York City" 23:4 Urban Geography (2002), 323-343.

*The Seven Year Squat: Why Squat?* (Unpublished Pamphlet: Ottawa, June 2002).

*The Seven Year Squat: Our Time in Court Has Finally Come* (Unpublished Pamphlet: Ottawa, September 2004).

*The Seven Year Squat Basic Legal Guide* (Unpublished: Ottawa, August 2002).

Sheilds, Rob. *Places on the Margin: Alternative Geographies of Modernity*. (Routledge: London: 1991).

Sheldrick, Byron. *Perils and Possibilities: Social Activism and the Law* (Fernwood: Halifax, 2004).

Shantz, Jeffery Arnold. "Countering Convention: Active Resistance and the Return of Anarchy" in Marilyn Corsianons & Kelly Amanda Train *Interrogating Social Justice: Politics, Culture & Identity* (Canadian Scholar's Press: Toronto, 1999), 25.

Smith, Neil. *The New Urban Frontier: Gentrification and the Revanchist City* (London: Routledge, 1996).

Soja, Edward. *Postmodern Geographies: The Reassertion of Space in Critical Social Theory*. (Verso: London, 1989).

Soja, Edward. *Thirdspace: Journey to Los Angeles and other Real and Imagined Places* (Blackwell: Cambridge, Mass., 1996).

Susser, Ida (ed.). *The Castells Reader on Cities and Social Theory*. (Blackwell: Malden, Mass., 2002).

"A Tale of Two Systems-Reforms to the Law of Adverse Possession"  
RadcliffeLeBrasseur (12 May 2004) [Lexis].

Trubek, David M. "Where the Action Is: Critical Legal Studies and Empiricism" 36 Stan L. Rev. 575 Jan (1984). [Lexis]

Van Kleunen, Andrew. "The Squatters: A Chorus of Voices...But is Anyone Listening" in Abu-Lughod, Janet L (et al.). *From Urban Village to East Village: the Battle for New York's Lower East Side*. (Basil Blackwell: Cambridge, Mass., 1994)

"Victims of housing crisis, Montreal squatters facing eviction" Canadian Press Newswire (4 September 2001). S 4. [Lexis]

Ward, John "Police used fire department ladders and blasts of pepper spray Wednesday to evict a ragged band of squatters from a vacant house they had occupied for seven days" Canadian Press Newswire (3 July 2002). [Lexis]

Wilson, Peter Lamborn & Bill Weinberg. *Avant Gardening: Ecological Struggle in the City and the World* (Autnomedia: New York, 1999).

Weigand, Erin. "Trespass at Will: Squatting as Direct Action, Human Right & Justified Theft" 2 LIP Magazine (Winter, 2004), 32-38.

Ziff, Bruce. *Principles of Property Law* 3<sup>rd</sup> Edition. (Thompson Canada: Toronto, 2000).