

**THE SPATIAL AND LEGAL PERFORMANCE OF PROPERTY AT
SQUATS: THE PRESTES MAIA OCCUPATION IN SÃO PAULO**

**A PERFORMANCE ESPACIAL E JURÍDICA DA PROPRIEDADE EM
OCUPAÇÕES: A OCUPAÇÃO PRESTES MAIA EM SÃO PAULO**

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Matthew Wellington Caulkins

Universidade de Concepción (UdeC) (Concepción, Bío Bío, Chile)

<https://orcid.org/0000-0003-2544-1518>

mcaulkins@udec.cl

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ABSTRACT

This paper seeks to unpack the spatiality and legality of efforts to obtain property beyond the narrow parameters of state-sanctioned property regimes. Property at a residential squat is analysed as performative in specific legal and spatial ways. The findings are based on non-participant observation and semi-structured interviews with local government officials, residents, coordinators, and members of the support network of an occupation at the Prestes Maia building, in the neighbourhood of *Cracolândia* (crack cocaine land) in São Paulo. Squatters' spatial performances include owner-like homemaking and neighbourly actions, as well as street protest demonstrations that engage with property-law concepts such as the *função social da propriedade*. In addition, the conventionally legal but aspatial performativity of the previous owner's claims is examined through his purchase of the building at auction, the service of eviction notices, and negotiations for its sale to the municipality. The conclusions discuss the political and intellectual gains of distinguishing spatial and legal performativity in property politics.

KEYWORDS: spatio-legal worldmaking; property; performativity; squatting.

RESUMO

Este artigo busca desvendar a espacialidade e a legalidade dos esforços para obter propriedade para além dos estreitos parâmetros dos regimes de propriedade sancionados pelo Estado. A propriedade em uma ocupação residencial é analisada como performativa de maneiras específicas, tanto jurídicas quanto espaciais. Os resultados baseiam-se em observação não participante e em entrevistas semiestruturadas com agentes do governo local, moradores, coordenadores e integrantes da rede de apoio de uma ocupação no edifício Prestes Maia, na vizinhança da Cracolândia, em São Paulo. As *performances* espaciais dos ocupantes incluem práticas de constituição do lar semelhantes às de proprietários e ações de vizinhança, bem como manifestações de protesto nas ruas que mobilizam conceitos do direito de propriedade, como a função social da propriedade. Além disso, analisa-se a performatividade convencionalmente jurídica, porém desprovida de espacialidade, das reivindicações do proprietário anterior, expressas na aquisição do edifício em leilão, na emissão de notificações de despejo e nas negociações para sua venda ao município. As conclusões discutem os ganhos políticos e intelectuais de se distinguir a performatividade espacial da performatividade jurídica no âmbito da política da propriedade.

PALAVRAS-CHAVE: produção de mundos espaço-jurídica; propriedade; performatividade; ocupação.

INTRODUCTION¹

“Aí tinha uma menina da noite que dizia assim ‘Dona Fulana, quem não luta tá morto. Vamo pra luta’. Aí eu falava, ‘Que luta?’ Aí ela falava assim ‘Pra moradia dos sem-teto’, aí eu falei ‘Então eu vou ver, vou conhecer’”.² What did this “*Dona Fulana*” (Mrs. So and So) see when she arrived at the Prestes Maia occupation in the Luz neighbourhood in the rundown centre of São Paulo? She was received by a *porteiro* (concierge) who asked for her RG (Brazilian ID card) just like everyone else when they first go to the occupation. She was then invited to participate in informative meetings. At the third meeting she was asked to sign the *ata* (minutes) which function as a social contract for the occupation, spelling out the rules and regulations that govern life there.

This occupation at the Prestes Maia building is the result of the coordination of multiple, simultaneous occupations of different buildings on the night of October, 3, 2010, helping thin out police forces and increase chances of success. This included breaking the padlock and chains on the front door, waiting for the first 72 hours, after which police no longer attempt evictions and when the building becomes a problem for the justice system. Then came cleaning out truckloads of rubbish, organizing cleaning shifts and groups to cook meals, and setting up spaces as homes for the 430 families that would live in the 21 floors of the Prestes Maia building.

A few years ago, legal geographer Nick Blomley (2005) provocatively asked if we still “remember[ed] property.” Though we are constantly enmeshed in property relations (Blomley 2020), how much of them are we actually able to perceive (Li 2014, Gray 1991)? As the saying goes, seeing “is in the eyes of the beholder”. When these people broke the padlock on the Prestes Maia building and rushed inside in the dark, what were they doing? Were they illegally breaking and entering? Or can we understand their actions through a different spatio-legal lens? I argue here they were performing property both spatially and legally. They were creating property through a spatial politics that engages with legal concepts such as the *função social da propriedade* (social function of property) from the 1988 Constitution and by participating in local property politics.

Conventional legal literature insists squats are not property (de Soto 2000). This literature focuses on the importance of maintaining a property regime where well-defined formal titles are crucial for its proper functioning (Klick and Parchomovsky 2017). By extension squatters’ only

¹ The ideas that make up this paper have benefitted from the attention and comments of audiences at multiple conferences: IAG NZGS 2018 Auckland, READU 2023 Talca, READU 2025 Puerto Montt, Critical Legal Geography Conference 2026 Concepción.

² My translation: “There was a girl from the nightshift who said, ‘Mrs. So and So, if you don’t struggle, you’re dead. Come to the struggle.’ Then I said, ‘What struggle?’ Then she said, ‘The struggle for housing for the roof-less people.’ Then I said, ‘Then I’ll go and see, I’ll see what it’s about.’”

relation to property would be their *lack* of it (Porter 2014). However, by reifying property in the title, this literature misses the ubiquitous processes of social construction of all property.

Important recent work insists that for all their apparent solidity, property is contingent on its continual performance (Cooper 2007). This literature focuses on how titled property depends on its performance in surveying plots and in filing at registry offices (Mitchell 2002). For some, property is constructed through persuasive acts (Rose 1994) while for others (Blomley 2013) the performativity of officially sanctioned property would be a sort of role-play that only gains an impression of solidity through its repetition and the referencing of similar previous acts. For instance, Blomley (2013, 37) cites JL Austin on the performativity of language in the christening of ships (“I name thee Queen Elizabeth”). That same performativity is deployed spatially through fence building and lawn mowing. Decoster (2024) suggests that property is central to the social construction of modern Western patriarchal societies. The author “suggest[s] property, like gender, functions as a script ... that determines what one can or cannot do and requires social recognition or enforcement as well as repetitive enactment to produce effect, that is, to operationalise a relationship of power”. Others extend these ideas to understand how unrecognized acts can also be viewed as property (Keenan 2014). Blomley (2008) presents local activists performing owner-like acts of cleaning up sidewalks around a boarded-up shop that had been an important meeting place for the community. Though they did not have legal title to the shop, their performances are related to their claims for some measure of control over the future of the property.

In this paper I want to return to previous research on the occupation of the Prestes Maia building in downtown São Paulo in order to explore this idea of looking at marginalized property, or property where society sees none. Since the late 1990s, housing movements³ in São Paulo have used a strategy mixing: a) occupation of vacant buildings, b) their adaptation to the temporary residential use of families, and c) street protests to force local authorities to acquire and remodel vacant buildings. This building in particular (Figure 1) has had a relatively long relationship with squatting. After being abandoned for decades due to unpaid taxes, a five-year occupation was evicted from the building in 2007 and there were short-lived attempts in 2008, 2009 and 2010 (Gonçalves 2012).

³ In this paper I follow the preference of interviewees using the terms “occupation” and “housing movement” when describing the case study. When relating that material to the broader literature, I employ the more commonly used English-language terms “squat” and “squatting movement.”

Figure 1 – a vacant building in downtown São Paulo



Source: the author.

This paper presents my research on the occupation at Prestes Maia and how a certain unrecognized property is performed by the movement that occupied it. The following section of the paper presents the conceptual framing to understand property as both a spatial and a legal performance, followed by an explanation of the methods and then the largest substantial section presents the research results. The spatio-legal construct of the occupation is discussed in relation to acts of ownership, acts of good neighbours and street demonstrations. A final section presents the previous owner's conventionally legal but aspatial performances of property before turning to a discussion of the significance of these results in relation to broader property and social movement literature.

1 SPATIAL AND LEGAL PROPERTY LITERATURE

In this first section literature on “spatial politics” can help illuminate the recent history of squatting in downtown São Paulo. The current wave of squats started exclusively as *ocupação denúncia* (protest occupations) in 1997 but progressively came to include *ocupação moradia* (housing occupations) in subsequent years (Gonçalves 2012). This distinction in the literature mirrors Ananya

Roy's (2017) discussion of poor people's movements politics of emplacement. The author insists this politics is never more than (mere) postponement as poor people's movements have no guarantee of permanence. Their emplacement is, in one sense, placing themselves as one places a gun (politicizing property) and, in another, creating a place for themselves (constructing a compromised domesticity).

This is similar to Vasudevan's (2011) explanation of how occupations create a prefigurative politics. De Carli, Frediani, Barbosa, Comarú and Moretti (2015) similarly discuss the "pedagogy of confrontation" (echoing Paulo Freire's famous formulation) whereby residents at occupations in São Paulo are educated through participation in occupations, learning to understand how their personal problems are shared by others. Multiple studies have further shown the occupation of symbolically important spaces like public squares in order to politicize issues: the Mothers of May in São Paulo and Santos in Brazil (Alves 2014), the *Indignados* movement or 15-M in Spain (Dhaliwal 2012) or the Tiananmen Square protests in Beijing, China (Hershkovitz 1993).

Struggles presented in this spatial politics literature creatively use space to increase public support. Moore (1998) emphasizes how space participates in symbolic and material struggles in rural Zimbabwe. "Gendered protest practices played off a colonial politics of embarrassment" allowing women in particular the ability to defy evictions (Moore 1998, 363). In this example, suffering land gave moral rights to women that led to concrete gains for them. Anderson (2004) explains how activists creatively occupied physical space to create political space for their interests. In one example, environmental activists dug tunnels under a disputed site. Developers had to stop works on the site for fear heavy machinery would collapse the tunnels and lead to injuries or deaths of activists. In this way, heightened spatial vulnerability led to a certain moral advantage at the negotiation table.

Asaf Bayat (2000) brings both threads together in his paper on the quiet encroachment of the ordinary, discussing how the poor encroach quietly on land in order to avoid violent repression by the authorities. But when whatever gains they have managed to secure are threatened, they move to more overt protests. In this sense they are engaging in a spatial politics that is either quiet or loud, depending on the situation and on authorities' reactions.

Legal scholars, on the other hand, have discussed property outside the narrow parameters of state sanctioned property regimes. Cover (1983) presents the idea of *jurisgenesis*, the genesis of legal meaning, as occurring not in state institutions but in tightknit communities of utopian activists and religious groups. These groups create new laws whereas judges simply kill the excess of law (exercising the *jurispathic* function) when they decide between competing claims to legitimacy.

A.J. van der Walt (2009) in his book, *Property in the Margins*, seeks to de-centre property law by focusing on the margins, beyond the stability of the owner's rights, to look at the needs of marginalized groups in South Africa and under what conditions they can be brought in to create structural changes to the property regime. The author describes how current property systems tends to insulate themselves against change through the stability-seeking tendencies of legal culture and tradition even when these changes are promoted by legitimate transformation efforts specifically focusing on evictions.

Peñalver and Katyal (2006, 1095) argue the performative disobedience of property outlaws – squatters, pirates or file-sharers – can at times lead to positive changes in “the distribution or content of property entitlements”. One of the authors examples explains how squatters’ persistent actions slowly changed federal US law over the course of the nineteenth century. The federal government originally favoured selling public lands in the West of the country to speculators to generate revenue. But “[o]ver the course of the nineteenth century, the law [accommodated squatters’ claims over those of absentee owners,] slowly but surely adapt[ing] itself to the reality the settlers had created on the ground” (1106).

In order to bring both these spatial and legal literatures together, we turn now to recent work on legal geography. Blomley (2020) suggests we are all precariously propertied since we all access property held by others. But the homeless provide us with the most visible example of the relationality of property and their relatively precarious position in these relationships. Similarly, Blomley et al. (2022) insist we can best learn about property from the legal margins. This is because most of us take property for granted whereas the precariously housed are constantly exposed to the exclusionary effects of others’ more powerful positions.

Sarah Keenan (2014) further unpacks the spatiality and legality of property. Poor people belong in a poor neighbourhood because that belonging is held up by the surrounding space. A wealthy person does not belong there because they are not held up by those same local spatial relations. In this way she links property, not to the conventional right to exclude, but to belonging and space. However, while her term “subversive property” speaks of *subverting* the legal order, squatters (at least in Brazil) are less interested in subverting than being included in the conventional property regime.⁴

⁴ Regarding occupations in São Paulo, Earle (2012, 97) questions if they can be considered subversive “for the way they have unsettled entrenched social inequalities”, preferring the term transgressive “to reflect the challenge the housing movement makes to the state as it uses text-based law to justify building occupations”. Others have used the term “insurgent” (Tango 2026, Caulkins 2022).

David Delaney (2010), echoes Cover's (1983) contribution, showing how spatio-legal projects and counter-projects contribute to the creation of new spatio-legal worlds.

2 METHODS AND MATERIALS

In social scientific work, discussing the researcher's positionality is at least as important as issues of validity and reliability. Positionality as a Christian anarchist (Illich 1988) frames my criticism of the nation-state's exclusive control of what property is and ought to be. In this respect my work finds echoes in local São Paulo scholar Gonçalves's master's (2006) and doctoral (2012) theses at the Prestes Maia occupation. Echoes in his search for a punk, anarchist revolutionary subject and in his survey that puts the percentage of charismatic Christians at 75% of residents at the Prestes Maia occupation in São Paulo. As one resident explained to me: "every occupation always has that pastor who will come to pray. All do, all of them." Or as another said to me, blowing my spatial categories out of the water: "This building here was a blessing to a lot of people. It converted them."

This paper explores the idea of the Prestes Maia occupation as an alternative property arrangement by drawing on semi-structured interviews held with residents and coordinators from the Movimento Moradia, Luta e Justiça (Housing Struggle and Justice Movement) at the occupation, and a selection of government officials, between October 2015 and May 2016. For this, 27 residents and floor coordinators were interviewed (including one building administrator and the top coordinator of the housing movement that coordinates the occupation). Interviews were also held with allies (advocate lawyer, architect and two consultants from umbrella organizations União dos Movimentos de Moradia, or UMM, and Frente de Luta por Moradia, or FLM).⁵ Five interviews were held with public officials: representatives from the Departamento da Função Social da Propriedade, Companhia Metropolitana de Habitação, Conselho Municipal de Habitação, Caixa Econômica Federal and Tribunal de Justiça de São Paulo.⁶ Semi-structured interviews were analysed for spatial and legal themes including community governance, residents' place of origin and line of work, their relations to the building, to neighbours, and to collective spaces. Participants' names were coded to protect their anonymity.

⁵ The names of these umbrella organizations can be translated as Union of Housing Movements (União dos Movimentos de Moradia) and Housing Struggle Front (Frente de Luta por Moradia).

⁶ Names of the public offices can be translated as Department of the Social Function of Property (Departamento da Função Social da Propriedade), Metropolitan Housing Company (Companhia Metropolitana de Habitação), Municipal Housing Council (Conselho Municipal de Habitação), Federal Savings Bank (Caixa Econômica Federal) and São Paulo Court of Justice (Tribunal de Justiça de São Paulo).

3 PERFORMING PROPERTY BOTH SPATIALLY AND LEGALLY

The following sections present results regarding the performance of property at the occupation under three broad headings: performing owner-like acts, contributing to the neighbourhood and performing street demonstrations. A fourth section presents the previous owner's performances of titled property.

3.1 PERFORMING OWNER-LIKE ACTS

The neologism *Movimento Moradia Luta e Justiça* has created to identify their residents is performative for their political objectives: the *sem-teto*. The name literally means the “roof-less” identifying residents by their shared lack of – and struggle for – a roof over their heads. The occupation was nothing more than a haphazard selection of people who gained a shared identity as they acted like owners. This included differently marginalized groups including the *morador de rua*

(homeless), those from *cortiços* (informal central rental properties) and others from *favelas* (informal settlements in urban peripheries) who work in the downtown area.

Figure 2 – administration of an *ocupação*



Source: the author.

During my six-month non-participant observation, I was able to get to know the housing movement's work regarding the administration of the building and the maintenance of private spaces anticipating future apartments (Figure 2). There was an administration that invited new residents in off the street and asked them to sign an *ata* (meeting notes) that contained the rules that governed life at the occupation. They also coordinated residents' involvement in cleaning schedules – rather than hiring cleaning staff – and protests (see later section on protests).

The coordination organized cleaning shifts for the building. Two residents helped clean the hallway on each floor twice a week. Two residents from each floor then helped with the collective cleaning of the 23-floor stairwell every Saturday. This was meant to maintain a certain cleanliness in this building that was abandoned for more than 20 years before the first movement occupied it in 2002.

Families prefiguratively performed the private property they were hoping to receive.⁷ There were private spaces where each family lived a little rough, ramshackle version of what would be a private apartment after the expected remodelling. There were 10 to 12 families living on each floor. Most families' spaces in the occupation were 18 m² while social housing units in Brazil tend to be around 40 m² (Nascimento et al. 2015). They were able to inhabit such cramped quarters because most functions were communal and external to the unit itself. Generous shared hallways (roughly 200 m²) doubled as living rooms and spaces for events like birthday parties. There were shared laundry and dishwashing areas with two sinks near the stairwell on each floor and one shared bathroom with only one shower and one toilet per floor.

I asked residents about these collective spaces – hallways, stairs and bathrooms – and found most responses referred to the rules that structured these spaces. Residents were very aware of these rules as they signed the *ata* (literally “meeting minutes” but more like a contract) with the rules (Figure 3) on admittance to the occupation. Residents could not play ball or ride skateboards on the stairs or in the hallways, couples could not shower together, men could not leave the bathroom without a shirt, residents could not dry clothes or leave rubbish in the hallway, they could not drink outside their private spaces, they could not use drugs, no loud noises were allowed after 10 pm, birthday parties had to be notified to the coordination.

⁷ A recent discussion on social housing in the neighboring country of Chile, by Alvarado et al. (2023), insists it is property's expectation of wealth accumulation – through inheritance, expectations of rising property prices, etc. – that lends the impression that social housing units similarly have the capacity for wealth accumulation. However, the reality of social housing in Latin America is very different.

Figure 3 – rules on admittance to an *ocupação*



Source: the author.

The severity of this list of rules does not mean they were never broken or bent. Rather it speaks of the *throwntogetherness* (Massey 2005) of the community. Families accepted these strict rules in the hope of obtaining well-located central housing they could not aspire to individually.

The performance of strict regulations was also meant to keep the occupation safe. Wife beaters were expelled on the spot and only later called back to plead their case to the coordination. Drug *dealing* was not allowed because, as the top coordinator put it, drug dealers cannot be given an inch or they take over. Drug *use* was not completely unheard of at the site. Rather this points to the need for strong practices of leadership to avoid losing control of the occupation. But it also reminds us of the rough nature of the neighbourhood where they are located, known locally as *Cracolândia* (crack cocaine land).

3.2 CONTRIBUTING TO THE NEIGHBORHOOD

Occupations of vacant buildings in the centre of the city of São Paulo initially grew out of *cortiço* (slum tenement) resident mobilizations in the 1990s. Originally buildings were occupied to draw attention to the lack of social housing stock in the area (Kohara 2013) starting exclusively as *ocupação denúncia* (protest occupations) in 1997 but progressively including *ocupação moradia* (housing occupations) (Gonçalves 2012). A few years ago, the municipality counted 51 occupied buildings in the centre (Prefeitura de São Paulo 2018). In São Paulo, housing movements target unused public buildings, those vacant due to inheritance problems or those vacant for speculative reasons.

The Prestes Maia occupation is located in this area with high property vacancy rates known as *Cracolândia*, which is a gravitational point for the local drug economy and the street population (Machado 2019). These are the people who stayed in the centre – along with a thriving informal economy – when elites moved out in the 1960s as car-based transportation made it possible to travel longer distances in daily commutes (Pereira 2012).

The housing movement morally justified the occupation through their contributions to this surrounding area. The top coordinator explained that before the occupation the building was full of drug addicts and homeless people who would burn electric wire to sell the copper and “would defecate and urinate there”. Thus, the vacancy and filth of the building contributed to the insecurity of the surrounding *Cracolândia*. In contrast, the occupation contributed to the area’s safety by filling the building with families and maintaining it clean.

As the building administrator insisted, rich people do not want poor people in the centre. Occupations like the one at Prestes Maia have an ambivalent relationship with their physical and social surroundings (Keenan 2014). They could be seen as belonging to the decadent rot left in the vacant centre or as *not* belonging to the valuable properties of the rapidly gentrifying central areas of the city. It was only performatively keeping the building full by constantly inviting people to live at the occupation, that the movement was able to be recognized as fulfilling a *função social da propriedade*⁸ and thus contributing to the neighbourhood. While on fieldwork in São Paulo, I remember watching the popular TV news program called *Aqui Agora*. I was especially surprised to

⁸ This legal concept is present in many South American countries, including Brazil, due to the influence of the French legal scholar Léon Duguit. According to Mirow (2010), a reasonable English equivalent would be the “social obligation norm of property”.

hear the sensationalist journalist speaking positively about occupations because they house homeless people, thus showing how these acts of good neighbours help them gain acceptance in public opinion.

At the time of my interviews in 2016, an architect had contributed his own professional help to the movement's desired future property. He had drawn up plans pro-bono for the eventual remodelling of the building. The fact that Prestes Maia was zoned exclusively for social housing in the 2014 spatial plan gave further credibility to their aspirations vis-à-vis the owner's interests. Then Prestes Maia was expropriated by the municipal administration on 17 October 2015. The lawyer who looked after the Prestes Maia case explained that it is in fact a micro-zone made up of only the one building. The building was bought for R\$22 million (Resk 2015) and eviction orders from the owner ceased. The building passed the first phase of the federal social housing finance stream *Minha Casa Minha Vida*. That public bid indicated an *entidade* (entity) that would remodel the building. However, their hopes were set back when the impeachment of President Dilma Rousseff in May 2016 dried up federal social housing funds.

Even before this set back, their performance of future property was never secure. Then mayor, Fernando Haddad, promised the remodelled apartments of Prestes Maia would be given to residents at the occupation (Resk 2015). But as one of the residents so eloquently explained to me, if the "government and municipal administration send in the police, the residents will have to leave". When I reminded her the building had already been expropriated and, in my view, the remodelling was certain, she responded: "They bought it. But we can't trust them." She then told of a building that was remodelled and whose occupants were given rental assistance vouchers. When the work was almost finished a nearby favela was destroyed in a fire and the favela residents became the political priority of the moment. Rental assistance dried up for the previous residents of the occupation and they were back on the streets. Undoubtedly, this quote shows there are no guarantees when performing expectations of future property. Government promises are also no more than that – merely performances – and are only valid as long as politically convenient.

However, not all performances that make up the property at this occupation are quiet and owner-like. Some are loud like the street demonstrations the housing movement asks residents to participate in.

3.3 STREET DEMONSTRATIONS

At the time of interviews, the Movimento Moradia Luta e Justiça housing movement was not the legal owner of the building. The occupation was created by entering the building when it was

vacant. Prospective residents were called to participate in this *dia de festa* (party day). This name *dia de festa* for the break-in was performative of a certain joyfulness in spite of the danger of breaking into vacant buildings. Multiple simultaneous occupations meant police numbers were thinned out and had less numerical strength (Ferraz and Diógenes 2016). Existing residents from other occupations were invited to elevate numbers on the night. The uncertainty of large numbers of people and indeterminate quantities of rubbish in the dark, occupied buildings helped stall immediate police eviction. Once successfully delayed beyond the seventy-two-hour limit (Jiménez 2016), the occupation became a judicial problem, and a court order became necessary for evictions.

The insecure beginning of the occupation was extended mainly by postponing evictions.⁹ One key performance for residents at Prestes Maia then was to participate in street protests to put pressure on the city administration when evictions were decreed. The housing movement received support in legal matters from a legal advocacy firm, Centro Gaspar Garcia, that assigned a lawyer to follow up their case. Lawyers were often able to argue for postponement of evictions because of the logistical nightmare they would create of putting large numbers of children and adolescents out on the street. According to the lawyer assigned to the Prestes Maia building, the police feared the logistical nightmare of evicting more than four hundred families and their furniture down the stairwells of the two buildings and out through the single door onto the street. The result was a tacit acceptance of the occupation, including visits by social workers and fire fighters.¹⁰

The housing movements inherited many elements of their repertoire from the Movimento dos Trabalhadores Rurais Sem Terra (MST). MST is a massive landless workers' movement which has organized rural land squats on unproductive farmland since the 1980s (Carter 2010). It is famous for the belief that politics can change society through a more radical form of participatory democracy, including public activism, extension of basic citizenship rights and fostering a sense of hope and utopia (Wolford 2003). In the urban realm, the MST's practices were picked up by the pro-democracy favela mobilizations of the 1980s which proposed the conceptualization of basic-needs-as-rights (Earle 2012). Housing movements, like the one at Prestes Maia, inherited their strategies of creating a concrete utopia-through-occupation from the MST and from these mobilizations in favelas and brought them to the context of the abandoned city centre starting in the mid-1990s.

This interpretation is further supported by the analysis movement veteran and lawyer Barbosa (2014) makes of the struggle for housing in the city centre in his master's thesis. When they

⁹ Roy (2017) explains that poor people's movements can only aspire to a similar politics of postponement.

¹⁰ Though firefighters attempted to argue the occupation should be evicted as a fire hazard.

arrive at the movement, individuals are only interested in solving their own individual housing problems. It is only through participating at the occupation that residents learn to belong not only to Prestes Maia but also to the housing movement and even to the wider phenomena of a national housing struggle itself through what De Carli et al. (2015) have termed the *pedagogia da confrontação* (pedagogy of confrontation).

Curiously, the housing movement also performed a close relationship with the municipality's social housing programs.¹¹ The Movimento Moradia Luta e Justiça's point system was kept in the online software of the municipal Secretaria de Habitação (Housing Secretariat) called Prohabit. Points for participating in street protests and cleaning at the occupation were recorded in this system which is the same one the municipality uses to grant social housing. Beyond the practical reason of not wanting to lose participation records in the confusion of possible evictions, this inclusion brought the added benefit for families in the movement that, if/when the building was remodelled, the movement decided which families were assigned units. Thus, families were able to avoid what a coordinator of the umbrella organization Frente de Luta por Moradia called "impossibly long waiting times" of formal social housing lists. The housing movement's political performances further include participating in the city's Conselho Municipal de Habitação (Municipal Housing Council) the deliberative council that supervises municipal housing policy (Tatagiba, Paterniani and Trindade 2012). Housing movement coordinators are often elected as civil society representatives in the Council. In this way they have privileged access to information about evictions.

However, the present discussion of the housing movement's spatial and legal performances of property at the Prestes Maia occupation would not be complete without looking also at the simultaneous performances made by the person who sold the building to the municipality.

3.4 PERFORMING TITLED OWNERSHIP

The Prestes Maia building originally housed a cloth factory called the Companhia Nacional de Tecidos (as can still be seen on the façade in Figure 4). The factory went broke in the 1970s and was handed over to Citibank (Pereira 2012). Two investors, Jorge Hamuche and Eduardo Amorim, bought the building at a public auction in 1996. But they were not able to produce a registered title. In all subsequent dealings they only produced the receipt of the purchase (*"carta de arremate de um*

¹¹ Though water and light utilities were set up throughout the building in a very ramshackle fashion with wires and pipes everywhere, the housing movement regularly paid water and light bills to avoid having services cut by the municipal administration. This paying of bills is another owner-like action at the occupation.

leilão”) (Aquino 2008). They further did not pay any of the property taxes owed to the state since 1986 (Pereira 2012) and continued not to pay taxes to the very end. At certain times, they owed more in taxes than the building itself was worth; at other times the building was worth more (Gonçalves 2006). Proprietary ownership, it seems, is always mere performance. Here it appears less solid than in other cases because of the owners’ attempts to gain returns on their investment without being able to produce a proper title.

Figure 4 – the Prestes Maia building façade



Source: the author.

The owners, Jorge Hamuche and Eduardo Amorim, had to regularly perform acts of ownership during the period of the occupation to avoid losing the building to the housing movement through *usucapião urbano* (urban adverse possession). And the only way they could show they had been acting like owners while the building was occupied was to serve eviction orders.

On February 24, 2007, the day before the occupants were removed from the first prolonged occupation, Jorge Hamuche, met the top coordinator of the housing movement, Neti (Aquino 2008). When confronted by the coordinator with his speculative purchase and abandonment of the building, he explained he had bought the building to build offices. He insisted the building could not be turned

into residential units like the movement wanted. And that he had only not been able to complete his investment because the building was occupied. Here again performance is central to property. When confronted for not giving the building a social function – which is mandated by the Constitution, he performatively describes an *intended* function that was frustrated by the occupation itself. However, he does not reference the fact that the building was vacant more than 5 years (1996-2002) before it was first occupied. And he would then leave it vacant for 3 years (2007-2010) before the second longstanding occupation began.

The occupation's legal advisors from the *Centro Gaspar Garcia* regularly question what they see as procedural defects of the eviction processes that owners use to perform their property. In Brazilian law, there are two routes to evict occupations. The more commonly used and quicker legal route of *reintegração de posse* (reintegration of possession) would technically depend on owners proving they were in possession of the building prior to the occupation. This is never actually the case as housing movements only seek out unmistakably vacant buildings. The building administrator explained to me how they specifically looked for buildings with indicators of vacancy like unpaid bills and property tax debt but also broken windows, graffiti and overgrown weeds.

The alternative *reivindicatória de propriedade* (reclamation of property) does not depend on owners being in possession of the building but is a much slower process, thus rarely used, as it depends on the production of witnesses. *Centro Gaspar Garcia* lawyers insist the owners should not legally be able to say they were in possession of these buildings. However, judges conceptually perform away this distinction through reference to the objective theory of possession (*A Teoria Objetiva da Posse*),¹² bypassing the debate and insisting that property in Brazil already includes possession.¹³ In the words of another lawyer at Centro Gaspar Garcia:

the judiciary applies the formality of the law; you will hear them say “The procedure of the discussion of possession is very formal” ... It is conservative and gives preference to [formal] property ... If there is an owner who is presenting a legal claim, the very fact that he presents that claim already means [in the judge's eyes] that he is exercising his possession [of the building].

This quote highlights how the regime is structured to favour official owners and against housing movements and their occupations. Even when those owners are not able to produce a registered property title.

¹² In Chilean legal scholarship the term is even more straightforward: the theory of registered possession (*teoría de la posesión inscrita*) (Rabat and Mauriziano 2012).

¹³ Conversely, long-standing favela residents' possession does not equally include property. I am thankful to Débora Ungaretti for raising this point at an RC-21 conference in Santiago, Chile.

3.5 DIFFERENT PERFORMANCES AT THE OCCUPATION

In this section I want to bring together the strands presented so far regarding the performance of property at the Prestes Maia building. The previous owners, Jorge Hamuche and Eduardo Amorim, performed a conventional legal ownership by purchasing the building at auction, but without ever paying property taxes or registering the title. However, this property is extremely aspatial as the owners could not access the building, serving eviction notices instead in order to continue to perform what are legally considered owner-like acts. The housing movement Movimento Moradia Luta e Justiça spatially performed owner-like acts of creating a collective home, maintaining that home, and contributing to their neighbourhood. They did not purchase the building or register the title, but they gathered a collection of needy individuals they called the *sem-teto*. These included homeless people, *cortiço* and favela residents who work in the central areas of town. Rather than their economic right to call the building theirs, it is their collective need that seeks to gain a certain legal right (Earle 2012) that is then backed up by their continued and productive inhabitation of space at the site; or what they refer to as their giving the building a social function. But ultimately it was the local state who bought the building in their name.

Recently the building was remodelled (Ribeiro 2023). Works started in September 2022 and finished in April 2025 (Prefeitura de São Paulo 2025). Thankfully for residents, after more than 20 years since its first occupation in 2002, the Prestes Maia building is no longer an example of property outside the narrow parameters of state recognition. But the fact that this one occupation has been formalized into registered property for the residents at the occupation should not detract from the importance of the present discussion for other future similar instances.¹⁴

The progressive critical insight that official property is *merely* legal fiction (Blomley 2013) does not illuminate property enactments outside the formal property regime such as those at occupations. It is an empty insight because it merely implies the obvious fact that occupations are not currently legally accepted. Further, it presents an uncomfortable politics as it might contribute to the weakening of occupants' already tenuous grasp on the concrete reality they are hoping for.

Rather, in the present paper, I have insisted all property is performative. The previous owners, Jorge Hamuche and Eduardo Amorim, performed their property of the building in order to negotiate better with the municipal administration. The housing movement also performed to negotiate better as well. Remembering Bayat's (2000) discussion of the "quiet encroachment of the ordinary", we can

¹⁴ The movement's architect believes gentrification will probably rid the building of its original inhabitants in a few years after they receive remodelled units.

better understand these spatial and legal tactics under two headings: quiet and loud performances. Most conventional owner-like acts fit under the quiet heading. Cleaning and fixing a property as well as being a good neighbour. Spatially present. Conventionally quiet precisely because they are legally unconventional. The previous owners' acts of serving eviction notices as well as selling the building all fit similarly under this conventional heading. Conventionally legal. Spatially absent. However, the distinctiveness of the occupation by the housing movement is that it also includes performances that fall under the second, loud category. These include street demonstrations to put pressure on the local municipal administration to expropriate and/or buy the building and later to remodel it. They similarly include participation in local politics as a way to gain privileged information about evictions. As Harvey (1987) said, the poor are "trapped in space" whereas the rich are much less so.

In this sense, the case reviewed here shows how property performances outside state systems of recognition are most clearly distinguished precisely by this loudness, by street demonstrations. As Bayat put it, poor people usually encroach quietly but are pushed to louder actions to protect their encroachments that are threatened. The housing movement includes louder street demonstrations in their repertoire to proactively seek control of the building. The term "demonstration" can be useful to understand the special case of performances – property and otherwise – under conditions of marginality and duress. Different to controlled, quiet performances in theatres, squatting in buildings implies rough and tumble, loud street demonstrations.

4 CONCLUDING THOUGHTS

In this paper, I have indicated that all property is performative. Acting as an owner is important in cases of adverse possession both for squatters and for previous owners as they serve eviction notices. The housing movement cleaned the building, contributing to the area and to the three *sem-teto* groups present at the occupation (homeless, *cortiço* and *favela* residents). But the current vocabulary of performativity is insufficient to make sense of these expressions of property outside state sanctioned systems of legal recognition. In the case of squatting, not only quiet performances of owner-like acts and neighbourly contributions but also loud performances, including street protests, are important to gain public support and put pressure on the state to buy or expropriate buildings and remodel them.

Recent progressive legal and geographic scholarship insists property is not a fixed essence but a social construction (Mitchell 2002, Cooper 2007, Blomley 2013). These works criticize the performativity of officially sanctioned property but say little about how more progressive forms of

property can be created outside the bounds of state-sanctioned property regimes (though see Keenan 2014). In fact, if we take the legal pluralist challenge seriously, this scholarship leads either to an empty statement about squats – they do *not* yet have official property – or, what is worse, they can be taken as a criticism of squatters’ tenuous grasp on concrete reality – they are *less* than the mere legal fictions of official property. As I argue elsewhere in this study, the occupation can be thought of as *de facto* property relations that managed to maintain control of the Prestes Maia building for more than 10 years without property title. Here that analysis is complemented, describing the occupation as a property performance in space including owner-like acts and street demonstrations. It is a specific kind of performance that engages with legal concepts seeking to influence public opinion and public policy to support their struggle.

Rather than simply calling this performance, with its negative consequences, I suggest that this discussion of the paradoxical performances of property in the margins, can productively be described through the concept of demonstrations. These are not the mere fictions of controlled theatrical performances but closer to messy street protests. It is my hope that this paper can contribute to broader discussions about the place of marginalized property in a legal pluralist framework; thus valuing all performances of property – both official and marginalized – for the work they attempt to do to convince others of their right to access land and resources.

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