

Seven

SQUATTING IN LONDON:

SQUATTERS' RIGHTS AND LEGAL MOVEMENT(S)

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INTRODUCTION

If you see a house, take it and let the law do its damnedest.

—Gerald Dworkin¹

Remember—trying to stop squatting is like stamping on a greasy golfball.

—All Lambeth Squatters²

TRYING TO UNDERSTAND HOW the law is interlaced within the actions of squatters is an emotional, historical project. To put this in context, in 2010, ‘The Library House,’ a social centre in Camberwell, London, was evicted. Not concerned for themselves but for the previous tenant, the social centre collective used their knowledge of the law and their rights in order to ensure that a single, black mother could return to her previous home.³ The council had illegally evicted the lady mentioned while she was away (in prison). The collective used the argument: ‘You are not entitled to evict us, because we believe that you evicted the previous tenant illegally and she is the one who should take us to court.’⁴ The council, after a while, dropped her case and took her back as a secure tenant.

Despite this, the library building remained boarded up, the social centre collective’s use of the law in the name of housing a single mother, was taken over once again by the abandonment of property rights. Nevertheless, a clear use and interference of law had become part of the daily lives of the squatters, and the importance of using the court process to result in a benevolent outcome, is indicative of the ambiguous role that law has played over the last decades within the practices and beliefs of squatters, and carried within the discussions of this work, too.

This is an analysis of the path that the law relating to squatting has taken in the UK in the last forty years. While the focus of this collection of essays is squatting movements that have developed since 1980–81, the focal characteristic of what can be described as the *legal* movement in the UK, as we know it, emerged after 1968 and during the 1970s.

Given this juncture in legal history and where it sits with regards to this collection, it would be wrong to begin the legal history of UK squatters' rights from 1980. Thus there will be a relaying of the legal genesis of squatters' rights that occurred during the 1970s, prior to a reflection on the legal and political atmosphere surrounding squatting around 1980, which will be illustrated through the presence and activities of the Advisory Service for Squatters (ASS). In order to place the relevance of the developments during the 1970s and 1980s in the context of today, the current climate regarding squatting in the UK will be looked at, including the recent change in law relating to squatting in residential buildings.

The focus of this essay is to highlight the experiences of squatting movements in various locations and through the use of various case studies. Of particular interest is the interplay between the law changing within the courts and parliament, and the actions of squatters on the ground. Is there what can be described as a 'legal movement' expressed through the actions of the squatting movements? What is the law reflecting in its development, or is it reflecting anything at all? The focus on the importance of law is to understand whether the legality or illegality of squatting is something that, firstly, effects the practices and actions of squatters, and secondly to understand how law reacts and responds in turn to the actions of squatters, not forgetting the endemic role of politics and the policies of political parties at specific times. The focus is specifically on squatting movements in London.

Any presence of a 'legal movement' (and this concept shall be explained shortly) can be understood in two ways:

—The legal and political decisions taking place within Parliament and the courts, constituting the characteristics of a movement of politics and policy since 1968 to 2011 and beyond. This is looked at in comparison and contrast to those movements constituted by squatters themselves, and whether there is a legalistic and institutional movement that has worked in tandem and infiltrated into political, social, and subcultural occupations.

—The practices and actions or reactions of squatters to changes in law, whether their legal awareness and organisation alternates depending on the movement of state law itself. This could be seen as an expression of 'legal activism.'

What is to be assessed are the characteristics of the interpenetrating nature of squatting law and the actions of squatters, within the UK (and London specifically), and how this interplay has been incorporated within the practices and actions of the squatting movements themselves, at the same time as its expression with the events and historical manoeuvres of the UK's legal and political institutions throughout the 1970s, up until today.

The Advisory Service for Squatters (ASS) has been chosen because of its historical significance in relation to the squatting movement in London during the 1970s and around 1980, at the same time as their proposed exemplification of legal activism, such as their offering advice on the legality of squatting in the face of changes to the law, as well as practical guidance. 'Squatters' Action for Secure Homes' (SQUASH) has been chosen as a second example of where squatters (and their affiliates) can be seen using their legal knowledge as a form of legal activism, and at the same time being an extant example of the development of the squatting movement in London and the rest of the UK in 2011–12. Both have been chosen in order to assess whether they were expressing the changes in law during the 1970s, to display a snapshot of the situation in 1980, continuing through to changes in UK squatting law after 2011. Do these groups illustrate the effects of any state institutionalised legal movements in squatting law, and the presence of any movements of legal activism within the squatting movement itself? Or is there a phantom 'mirror' between the law and the effects on the ground?

The chapter will be structured as follows. First, the concept of 'legal movement' will be introduced, followed by a brief history of UK squatting since the Second World War, and on into the legal developments during the 1970s. The year 1980 shall be taken as a juncture of reflection on the previous actions during the 1970s through the example of the ASS and its composition at the time. Changes in the law that followed from 1980 to 2012 shall be discussed, with the campaign organisation SQUASH as a second example of a squatting movement, as felt on the ground. The role of social movements, violence, and human rights shall be discussed in relation to squatting and law to conclude. It should be noted that at this point, the majority of the piece was written before the change in laws relating to squatting in 2012 in England and Wales, whereby as a result of the Legal Aid and Sentencing and Punishment of Offenders Act 2012 (hereinafter LASPOA), squatting in a residential building became an act of criminal trespass.

LEGAL MOVEMENTS

Legal movements happen throughout history and act to change the way in which we deal with the social and political, through the use of legislation and resultant measures attached. Without legal movements for change, it is argued that the law is not a 'mirror' of society, the very basis for a constantly

the case for squatters

1
no
fire
risk

2
no
health
risk

3
no
vandalism

4
occupied
houses
cut costs of
eventual
council
rehabilitation



the alternative



protest against council's harrassment of squatters
picket islington town hall tues. 29 july 6.00.p.m.

changing and representative constitution being the need for alteration.⁵ But is this mirror possible at all? And ultimately, is it something that is desirable at the same time? Within constitutional theory, German constitutional theorist Carl Schmitt concludes that a nation's constitution must be constantly upheld, at the moment at which it is not, it no longer has its constituents, or its 'constituent power.'⁶ This is a very abstract understanding of legal movement, and it is widely acknowledged that law does not reflect, indeed cannot reflect, the will of all at the same time, at a given juncture.⁷ And thus when there are legal movements, they are in effect, 'keeping up' with the social, political, and social machinations that are taking place outside the legislature and the courts. At the same time, the majority of laws made are lacking in their constituent power, they lack a legal movement that gives impetus for change however many months or years in hindsight.

This is of significant relevance when considering the legal remit of squatting which lies within a juncture of land law, the middle ground of adverse possession, and the law relating to trespass. Reforms of English land law have been affected since 1925,⁸ with the aim of a complete tabular register of all estates in land within England and Wales, following from the 'Torrens system' as seen in Australia and other common law as well as civil law jurisdictions.⁹ This would enable an exact 'reflection,' as such, at a specific juncture in time, of all the estates and plateaus of ownership in England and Wales as one record: the mirror of law in action so to speak. Nevertheless, and specifically in relation to the role of squatters, this has not proved entirely successful, and this shall be discussed later.

Taking inspiration from social movement theory, legal movements act in a similar fashion. Legal theorist Gary Minda analogises trends within jurisprudence that have been affected by theories from economics, sociology, philosophy, literary criticism, and anthropology, and in the same sense, this is a helpful way of seeing how the movements within squatting law and squatters can be seen to operate.¹⁰ Speaking of the manner in which legal movements have been altered by supposedly 'outside' events, Minda states: 'Academic trends in legal scholarship do not occur in a vacuum, nor are law schools and legal scholars autonomous. To understand what has been going on in contemporary legal theory, one must look to what has been going on [elsewhere].'¹¹ There is a recycling and repetition of movements and themes, 'always reproducing the same common argumentative and normative structures.'¹² Thus, there is a symbiotic relationship, but does this relay to the legal developments and squatting practices of the UK? As an example, it is now illegal to squat in a residential building in England and Wales (and arguably always has been under the Criminal Law Act 1977), and yet there is a very strong tradition of squatting within the main cities in the UK. So does it really matter that one cannot squat legitimately in the eyes of the state? In fact, in many instances there is a clear element of 'breaking the law'

that encourages squatting. The hope is to offer an insight into these conflicting relations.

Squatting as a legal right has been a controversial area of law, and its bracket of adverse possession has developed as a result of the synchronous development of the regime of property rights overall. Within the history of English law relating to property rights, the task is to ascertain whether a cyclical motion that can be observed within the development and recession of the regime of squatters' rights, and the effects this has on the social and political (squatting itself), and whether this results in a form of the squatters themselves 'practising' the law on the ground, so to speak, and whether there are legal movements as such within their practices and actions, which can equate to a form of 'legal activism.'

Legal movements are fuelled by the practices and actions of given sets of actors and participants themselves. In order for squatters to gain access and produce their space, a squat must be sought within the realm of the law, thus they must have knowledge of the relevant law in order for the space to be 'legitimate.' According to recent opinion, 'the new generation of squatters has a greater understanding of the law and how it can protect them, helped in part by sophisticated legal advice available on the Internet.'¹³ In order to ensure that the regime of squatters' rights is kept legal in the UK, those who need to use alternative housing are aware of a need to respect the law, and therefore it is important to understand whether and how those involved in squatting movements, whether of radical political backgrounds or those purely seeking housing, in general, have a sound or 'professional' knowledge of squatting-related law (or are aware of the need for good legal advice by the likes of the ASS and SQUASH).

To pinpoint a form of legal activism within squatting is not something that is confined to the actions and strategies of squatters and land reclamation movements within the UK. According to writer and activist Anders Corr, this is a mechanism used worldwide, particularly within liberation movements of the South. In the words of Corr: 'Authorities exclude land and housing activists from effective use of the law in official legal channels to some extent, but activists can extend the use of law beyond the courtroom and appeal to public opinion. To buttress their legitimacy, indigenous nations use treaty rights, rent strikers cite building codes, and squatters appeal to land reform laws. Broadcasting government failure to follow its own laws strengthens the legitimacy of direct action in the eyes of the public.'¹⁴ Thus, as a definite 'tactic' within social movements dealing with land issues throughout the world, it is prescient to consider the role of law within the UK squatting movement, and the manner in which legalism is manifested within the participants' activities. Again, a reminder that this piece speaks to the legal situation by and large before the onset of residential squatting coming under the remit of criminal trespass in 2012, it is hoped nevertheless that this analysis will be of relevance to understandings of illegality and legality overall and the effects of this on the squatting scene in the UK.

HISTORICAL BACKGROUND

*The law doth punish man or woman
That steals the goose from off the common
But lets the greater felon loose
That steals the common from the goose.*
—Anonymous¹⁵

The squatting movement in the UK that began in 1945, taken within the last century, was directly linked to the housing shortage after the Second World War.¹⁶ This began as more of a direct housing action movement for the homeless, the levels of which were heightened due to the effects of the war on population and the lack of social housing for returning soldiers and their families. There was an out-and-out reaction to the ‘Homes fit for Heroes’ policy that was put forward by the government at the time, which in the words of Ron Bailey, was, ‘enough to say that “homes fit for heroes” just did not exist; returning servicemen successfully seized empty properties to live in—to the astonishment and rage of the government of the day.’¹⁷ It was clear that houses were not going to be provided unless militant action was taken.¹⁸ According to political and moral theorist Gerald Dworkin, the ‘Ex-Servicemen’s Secret Committee’ (one of the many groups of ex-servicemen who installed homeless families into properties by night),¹⁹ had got so desperate they resorted to the adage, ‘If you see a house, take it and let the law do its damndest.’²⁰ This is a phrase that resounds in light of section 144 of LASPOA relating to squatting as a crime of trespass in residential buildings. As the movement spread, it became an early version of an attack on speculation, ‘on the right of landlords to keep property unoccupied for any reason.’²¹ Old army camps started to be occupied, and squatters’ protection societies and federations were formed.²²

According to Steve Platt, writing in *Squatting: The Real Story*, the post-war squatting movement was essentially quashed in 1946, among other reasons, due to political alignment with the Communist Party and lack of support from the trade unions.²³ But in 1968, a new squatting wave could be observed. According to Platt, ‘The main impetus for the 1968–69 squatting campaign came from a loosely knit group of radicals, many of whom had been involved with the Committee of 100 [British anti-war group] and the Vietnam Solidarity Campaign.’²⁴ It was from the end of the 1960s that squatting enacted its role as, ‘a harbinger of a new style of social and political activity that changes demoralised and helpless people from being the objects of social policy to becoming active fighters in their own cause.’²⁵ The ‘London Squatters Campaign’ was set up in November 1968. Those gathered there with the aim of, ‘the rehousing of families from hostels or slums by means of squatting,’ in the hope of sparking off a ‘movement’ of such in radical re-housing.²⁶ This was a response to the continuation of the shortage of housing and the dire work of

councils on the provision of re-homing the homeless, and providing adequate services overall.²⁷ Direct housing action became a viable, if *the* only viable option, whereby homeless families and individuals were taking the 'law into their own hands' and rehousing themselves. A leading figure in the movement, activist and lobbyist, Ron Bailey, recounts how on a morning in 1968, he felt the urge to take housing action: 'All this went through my mind on that evening of the third showing of *Cathy* [*Come Home*]. By three o'clock in the morning I had become convinced that a new squatters campaign was both necessary and realistic. I woke up some friends who were staying in my house, they too were enthusiastic and we immediately began to discuss ways and means to initiate the campaign. On 14 November 1968, the London Squatters Campaign came into being.'²⁸

This practice has continued on through the various squatting groups, particularly characteristic of the movement in London, such as the 'Brent Homeless Families,' and more recently, the 'North East London Squatters,' among many others. After the 1960s and 1970s, there was a move away from families specifically and to individual and group squatters. During the 1970s, the Family Squatters Advisory Service (FSAS) was set up, which then re-grouped and formed the ASS.

This historical narrative is very much one in response to the social needs and deprivation of the time, and yet out of this came the prevalence of punk squats and autonomist movements within London, such as 'The London Autonomists.'²⁹ Given this, the political background to the history of squatting holds an ambiguous link to the understanding of the reasoning of the law that governs it, and therefore the resistance on the ground. Given the infamous history of the 1970s as deep in social and financial difficulty in the UK, the Thatcher era of the 1980s followed with its boom for some, and not for others. How the political atmosphere, from left to right to left again, affected the law on squatting (and the resultant squatting activities on the ground), is of concern.

THE LAW

As mentioned, the law on squatting in England and Wales has recently changed. As of September 1, 2012, under section 144 of LASPOA, it became illegal in England and Wales to squat a residential building. The act defines illegal squatting:

- Offence of squatting in a residential building (1) A person commits an offence if—(a) the person is in a residential building as a trespasser having entered it as a trespasser, (b) the person knows or ought to know that he or she is a trespasser, and (c) the person is living in the building or intends to live there for any period. (2) The offence is not committed by a person holding over after the end of a lease or licence (even if the person leaves and re-enters the building).

Previously, it was not a criminal but civil offence. Traditionally, the UK has had 'squatters' rights.' Section 12 of the Criminal Law Act 1977, as amended by the Criminal Justice and Public Order Act 1994, laid out the distinction that underlies a trespasser and a squatter through whether the said adverse possessor had knowledge of there being a resident living in a said property. As long as there were no clear signs of the owner of the property living there, then Section 6 of the Criminal Law Act 1977 could be used, acting as the legal document through which squatters' rights are upheld. The avoidance of any damage to the property would maintain the entrance into the property as a civil offence, and not as that of a criminal nature. If there was evidence of criminal damage, then the police would have the powers to remove squatters. Occupants had to ensure there was someone in the building at all times, as it was illegal on the part of owner, or anyone else for that matter, to enter a building while it is occupied. In order to ensure legal occupancy, squatters had to have sole access to the property, and thus had to ensure access through replacing the locks and securing the building entirely, with no broken windows or doors. Eviction could only legally take place after a 'Possession Order' ('PO') had been made by the owner, to remove the unwanted residents from the property. The squatters then had the right to remain until this Order was agreed by the local or High Court. Thus, eviction could only take place after it has been agreed civilly within the courts. This is still operative with regard to commercial properties, but not those of a residential nature.

The changes that have taken place with regards to squatters' rights are only just coming to light, and therefore the effects of the law have not been fully felt at the time of this collection's publication.

In September 2011, legal academics, solicitors, and barristers in the practice of housing law, wrote a joint letter stating how they were concerned that a significant number of recent media reports had been exaggerating and misrepresenting the incidence of squatting in the UK, stating: '[These statements are] legally incorrect, as the guidance published by the Department for Communities and Local Government in March [2012] makes clear. We are concerned that such repeated inaccurate reporting of this issue has created fear for homeowners, confusion for the police and ill-informed debate among both the public and politicians on reforming the law.'

Despite the fact that the change in law effects only residential properties, this triumph of mis-information arguably lead to the assumption of all squatting to be a criminal and not civil offence. According to the Advisory Service for Squatters (ASS) in 2011, 'It will be difficult for those squatters who are using commercial properties to remain where they are despite the fact that they are still perfectly in their rights to do so, as the public will assume that squatters' rights have been outlawed entirely.' And yet the social utility of squatting was arguably to be overlooked at a time when 720,000 homes are unaffordable to those on low incomes in England, 60,000 in Scotland, and 30,000

in Wales due to caps on local housing allowance.³⁰ Squatting as a legal right has not always been a controversial area of law, its bracketing under the remit of adverse possession saw the synchronous emergence of property rights overall. Were it not for the stop valve of adverse possession and the taking of land by seizure, it would have been difficult to balance competing claims to land overall. Time limits on claims to land date back to as early as the Limitation Act 1623 and earlier, introducing arbitrary time limits on the assertion of claims. As a result, there developed the novel area of possession by successful taking. The bringing in of Limitation Acts saw possession based on the effluxion of time as one of the foundational concepts of English land law, at once enclosing one's right to land and at the same time opening out the beginning of another's based on a system of relativity of title.

Adverse possession remains a central paradox within English land law, statutory limitation as that which presses the relativity of title to its extremity. Seizure of land is therefore the basis of individual property rights, and the claim to an understanding of ownership. The mixing of labour with the land and the curtailment of the true owner's rights through abandonment and misuse is a very Lockean proviso, and given the fundamental role of adverse possession and squatting (as the control of land) as shaping property rights overall, legislators could have considered what the removal of this doctrine means to the strength of rights to property in sum. At the same time, the social utility to squatting is removed with swift, undemocratic changes to the law and misrepresentations of squatting on the ground.

Actually keeping track on the number of squatters in the UK is not an easy task, as the police and many local authorities do not keep records. In 1979, there were estimated to be 50,000 squatters throughout the UK, with the majority (30,000) living in London. Present day (from the mid-noughties), the ASS, believes there are now roughly 22,000 people living in squats, increased from 15,000 seven years ago. In 1995, there were an estimated 9,500; the figures are believed to be a modest estimate.³¹ This is an increase in England and Wales of 25 percent.³²

LEGAL MOVEMENTS IN THE 1970S

What is a squatter? He is one who, without any colour of right, enters on an unoccupied house or land, intending to stay there as long as he can. He may seek to justify or excuse his conduct. He may say he was homeless and that this house or land was standing empty, doing nothing. But this plea is of no avail in Law.

—Lord Denning MR³³

So what were the legal changes at this time, and how have UK squatters' rights changed over time? And what were the effects of the legal movements on the squatters of the 1970s? During the 1970s, the legal landscape was very different

to now.³⁴ In order to deter eviction without a court order, squatters first relied on the Forcible Entry Act (1381), this act being repealed by the Criminal Law Act in 1977 and the offence of 'violent entry' requiring a person on the premises replaced that of entry alone.³⁵ Section 6 of the Criminal Law Act 1977 was thus printed out and pinned to the doors of squats. According to barrister David Watkinson, until the end of the 1970s, there was no duty on local housing authorities to secure accommodation for the homeless until the Housing (Homeless Persons) Act 1977. There was no security of tenure for local authority tenants until 1980 (Housing Act 1980), nor of tenure for tenants in the private furnished property sector until the Rent Act 1974. These legal movements were a reaction to the direct housing actions that had been going on politically and socially on the ground, and the London Squatters Campaign (among others), taking the housing shortage into their own hands. Also, a continuing homelessness and the existence of substantial areas of empty property as characteristic of the era, played a role. The housing crisis and changes in the law were further propelled by the delayed compulsory purchase schemes that had been ambitiously started in the 1960s; alongside landlord profiteering (the forcing out of established tenants in order to sell); and the housing boom of the early 1970s.

The legal moves forged changes in the process and length of time with regard to possession orders being altered in 1971. It was held that the court could not grant a possession order against persons whose names were unknown, allowing for possession if 'reasonable steps' on behalf of the landowner had been taken to recover the names.³⁶ In 1975, in *Burston Finance v. Wilkins*, a High Court judge decided that even if names were unknown, if squatters knew of the proceedings, then they were impelled to come to court no matter what, and whether or not 'reasonable steps' to consider their names had been taken, was irrelevant.³⁷ Again, in 1975, Lord Denning: 'Irregularities no longer nullify the proceedings. People who defy the law cannot be allowed to avoid it by putting up technical objections.'³⁸ By 1977, however, possession orders were shortened once again and the 'reasonable steps' requirement entirely removed.³⁹ On top of this, possession orders against squatters were made to take effect immediately, as of *McPhail v. Persons Unknown*, with the courts having no power to suspend a court order once it had been made and without the landowner's express agreement.⁴⁰ The Criminal Law Act 1977 made it easier to evict squatters (criminal law), whereby a squatter who resisted a request to leave on behalf of a 'displaced residential occupier' (DRO)⁴¹ or a 'protected intending occupier' (PIO)⁴² could be arrested and removed without a court order. Resisting a court bailiff was also moved to 'obstruction,' but squatting as an act still remained a civil and not a criminal offence.⁴³ This is essentially the same as what has been reproduced with LASPOA with regards to the clarification of squatting as criminal trespass in a building categorised as someone's home.

So what had been the response to the proposed changes to the law by squatters themselves early in the 1970s? In 1972, the Law Commission,

the body responsible for suggesting reforms to the law in England and Wales, requested it be looked into whether the act of squatting could be moved over from a civil wrong to a criminal offence, looking back into the law of forcible entry (laws of 1381 and 1623) that could be made effective in a contemporary context. The Lord Chancellor, the most prominent legal figure in government, responded with a working paper in July 1974 ‘Working Paper No. 54: Criminal Law Offences of Entering and Remaining on Property,’ considering reforms to the law and a new law of criminal trespass. When the Criminal Trespass law was first considered by both the government and the Law Commission, there was widespread discontent and worry on behalf of squatters in London, as this law was first planned to illegalise squatting outright. At an All London Squatters (ALS) meeting in 1974, it was decided there was a need to respond to these proposed changes, and the Campaign Against a Criminal Trespass Law (CACTL) was born.⁴⁴ Because the proposed changes posed a serious threat to other campaigns (and this is reminiscent of the situation in the UK in 2010–12), the CACTL attracted a great deal of support from workers and students who were occupying their places of work and study. As something that has been seen as a link to the push for a change in the law forty years later, CACTL argued that the real purpose of the legislation was not to wipe out squatting but to stop protest occupations.⁴⁵

CACTL grouped together with workers, whereby they proposed the changes to the laws to be an attack on workers, thus focusing the campaign specifically with a strong body of support. By stating the proposed changes to the legislation to be aimed at shutting down factory occupations, CACTL managed to have a great deal of success. CACTL backed occupations and direct actions with commentary and lobbying at more institutional levels. With their following of workerist interests, they took opportunities to canvass about the changes to the law during rallies at trade union branches, student unions, and trades councils.⁴⁶ At the time, there was mass unrest, workers for instance being involved in over two hundred factory occupations between 1971 and 1975.⁴⁷ According to Platt, by 1976, CACTL had the backing of thirty-six trades councils, eighty-five trade union branches, and fifty-one student unions.⁴⁸

By the time the response and support for keeping squatters’ rights had had its effect on the Law Commission’s proposals in 1976, it was a very much watered-down version of their original intent to criminalise the law. There were five new offences created, the most importance of which was the squatting of embassies, houses where the owner was clearly an occupant, etc., which was criminalised (which is explained in the form of DROs, IPOs, etc.). But all in all, CACTL, a group of squatters using a combination of the will to understand and work with legal knowledge, combined with political support, stopped the criminalisation of squatting.⁴⁹ Despite the fact that squatting had not been made illegal, there were those who—due to the visibility of CACTL and their presence in demonstrations and occupations as well as the unclear

nature of the Criminal Law Act 1977—were not sure whether squatting remained legal. Therefore, in 1978, the ASS launched a campaign, Squatting is Still Legal, to reassure squatters that squatting was still a civil and not a criminal offence and encourage them to get back in occupation and directly taking houses.⁵⁰

It was also as a result of big actions, such as that at Redbridge in February 1969, that changes were achieved on the ground. According to Steve Platt:

The most important struggle though was in Redbridge, East London, an area close to the homes of several of the London Squatters Campaign members. Redbridge Council was planning a major central area redevelopment scheme for Ilford. The scheme had not been officially approved and would not be started for several years and yet the Council was deliberately leaving a large number of sound houses empty to rot. Attempts to persuade it to use these houses for short-term lets had failed and some houses were planned to be left empty for ten years. On February 8, four houses were occupied, families installed and barricades erected.⁵¹

Redbridge and other occupations paved the way for a certain degree of protection through the process of the courts, a level of time and security within which squatting was not protected previously at the level of sit-ins. Indeed, according to Platt, 'the London Squatters Campaign's adroit legal defence established precedents which benefitted squatters for many years and many people involved in Ilford went on to promote squatting in other areas.'⁵²

Organised squatting declined more as a result of concessions than repression and the reason for such legalisation was the cost involved in police and state repression. During 1977, five thousand squats in London were legalised. These are 'licensed squatters,' whereby their organised resistance was co-opted through permission from the local authorities or private owners to remain. This is what Pruijt has described as a 'repressive-integration-cooptation' model of relations between states and urban social movements.⁵³ This state intervention and spread of licensed squats propelled certain groups of squatters to continue in the fight for unlicensed squats, as the philosophy and self-management propelling the squatting movement was seen to be contradicted by the strategy of licensing. And yet, paradoxically, there was also the fighting for the protection of squatters' rights at the same time. With regards to licensing, 'Each victory won by squatters, however small, increased the impetus towards further unlicensed squatting, particularly since licensing arrangements involved the use of only a very small proportion of empty dwellings.'⁵⁴ The manner in which this morphed and altered the history of the ASS will be discussed in the coming section, however, it is enough to mention now that there was a General Amnesty following the passing of the 1977 legislation, led by the Greater London Council (GLC).

At the same time as the changes in the law were taking place, the GLC realised there were 1,850 squats in their council, which meant that they were left with the choice of either evicting 7,000 squatters or granting amnesty. They decided to offer tenancies to every squatter living in GLC dwellings on October 25, 1977, as long as they registered within a month. If they did not register, then 'all measures which the law allows' were to be used against future squatters and those who chose not to take up their tenancies. This was a direct election campaign decision, on behalf of the then Conservative administration of the GLC. According to Platt, '[The GLC] adopted imaginative and flexible policies at [that] stage merely to facilitate implementing totally rigid and reactionary policies at a later date.'⁵⁵

What was the political background at the time during these changes? The politics, as has just been demonstrated with the amnesty, comes combined with the legislative changes, and despite the Law Commission being an independent body, its choice of legal changes still showing what issues were being put on the reform table by the governments during the 1970s, and indeed onwards until now. Of course housing issues and squatting were and always will be politically divisive concerns, and it can be seen from the use of negative media campaigns such as those in the 1970s (which are being relayed again today) how strongly there are those against squatting and its movements and participants. Typically, the 1970s are known for their era of punk, which is automatically connected to the squatting movement through their freeing of space and anti-authoritarian practices. And yet, who were the governments during this decade? The government throughout the majority of the Law Commission recommendations was a Labour administration, which traditionally would have been thought to have been in line with supporting the causes of squatting. The political impetus against squatting could have been seen to be quelled through licensing, but this again has also been seen as a tactic of concession as opposed to acceptance. Whether these characteristics of law and politics alter over the next few decades is another consideration.

THE LEGAL MOVEMENT OF 1980: ADVISORY SERVICE FOR SQUATTERS (ASS)

In response to the need for legal advice, both the Advisory Service for Squatters and Release developed considerable expertise in helping squatters to fight cases and through their advice many court cases were won and many squatters successfully resisted attempts by police to con them out of their homes.

—Squatting: The Real Story⁵⁶

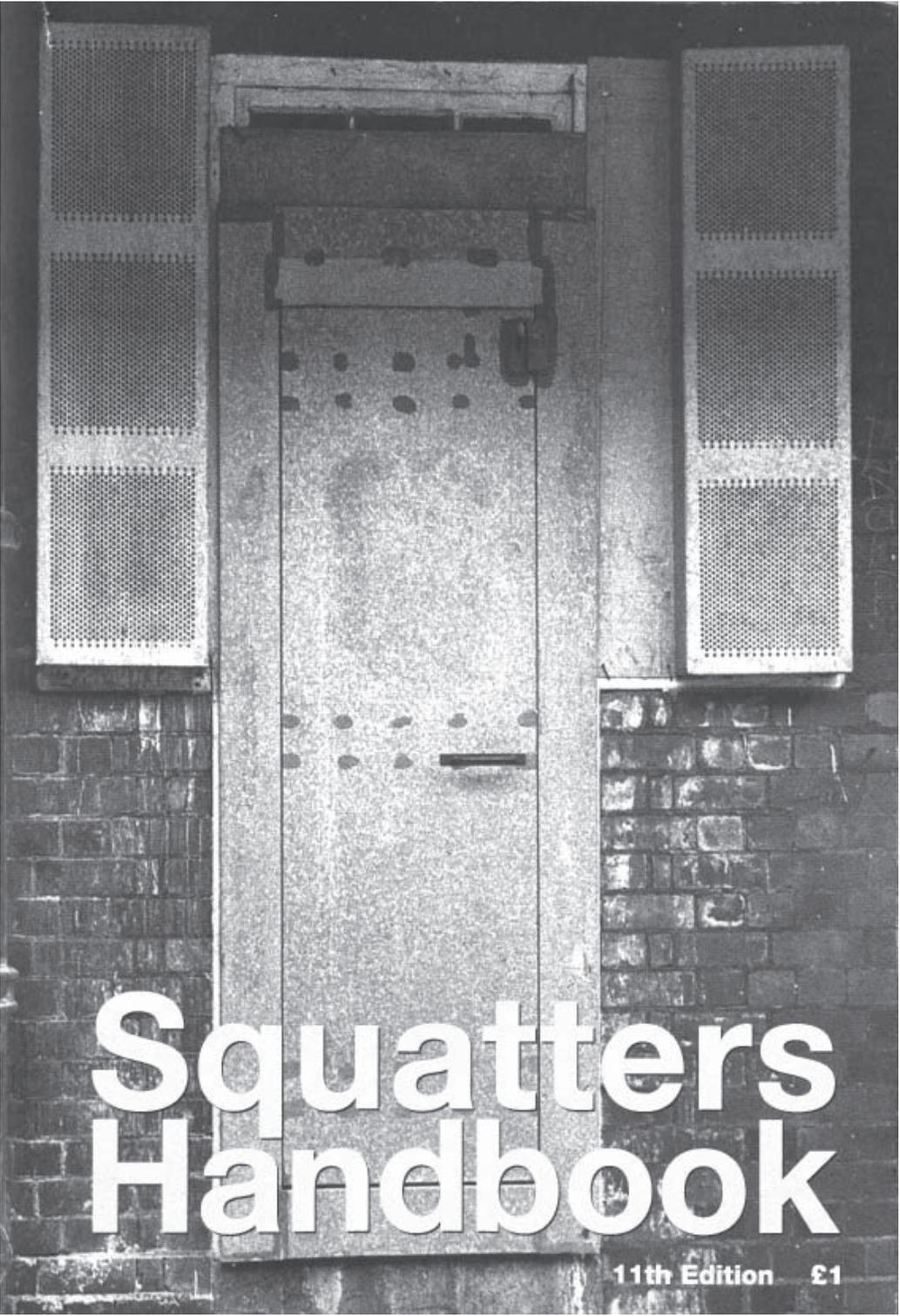
As has already been explained, the legal manoeuvres during the 1970s were the most prevalent with regards to the development of squatting law. An extended version of the law of 'adverse possession' is that, according to the Limitation Act 1980, if the squatter applies for the possession of the property after a period

of twelve years, the property can rightly become their own, unless the owner objects prior to the twelfth year. In order to get a snapshot of how the law was being operated on the ground, observing the actions of the ASS, a voluntary legal advice service for the homeless and specifically squatters, is useful. They are indicative of the reactions and actions of squatters and other groups in light of any form of legal activism, and legal movement overall.

In the late 1960s, the FSAS was founded in London, to help defend the rights of squatters. The idea of the FSAS was to represent squatter communities from different areas in London, and to aid the re-homing of families. At the beginning, it proved difficult to find representatives from the communities alone, and therefore sympathisers were also invited to join.⁵⁷ In *McPhail v. Persons Unknown*, the Court of Appeal reinforced that a landowner could re-enter a squatted property and use reasonable force to evict those occupying the property. As a reaction to the ruling, which placed all power in the hands of the possessor of the property (rather than the occupants), the All London Squatters (ALS) was founded, with the cause of defending the interest of unlicensed squatters. There were activists fighting for squatters' rights at the FSAS, but a new wave of advocates found that the FSAS did not do enough to protect unlicensed squatters' rights.⁵⁸ In fact, the role of licensing created a division within the FSAS, and paved way for the ALS, who were open to more direct action, and squats that were both unlicensed and licensed. The divisions within the squatting movement became obvious during the Centre Point occupation in January 1974. Centre Point is a large office block on Tottenham Court Road in London, by and large unoccupied during the 1970s. Given its location, the occupation was spectacular. The demonstration however lasted only a few days, not nearly as long as some from the ALS would have liked. The ALS preferred much more direct action, while the occupation was organised by the FSAS, which clearly showed the divisions.

The tensions eventually ended in the complete change in make-up of the organisation. By July 1975, the organisation was divided by autonomist and anarchists who wished for a more decentralised organisation, and those of the Trotskyist squatters who did not. Since then it has regrouped and reformed and is now known as the voluntary group previously mentioned, the ASS.⁵⁹ The ASS supports both licensed and unlicensed squatting, and still gives legal and general advice on squatting. They are currently working on a fourteenth edition of their *Squatters' Handbook*, given the 2012 changes in law.

In 1980, the government was dealing with the effects of the laws that had taken place during the 1970s, in order to tighten up the laws on squatting. The ASS acted in their advisory capacity, and arguably exemplified a very professional and legalistic understanding of adverse possession, court procedures and in-depth knowledge to offer those they helped, and sometimes, represented, in various squatting cases (which is still the case today). Even the existence of the ASS at all suggests an acknowledgement of the necessity to be knowledgeable



Squatters Handbook

11th Edition £1

The *Squatters Handbook* produced by the Advisory Service for Squatters. Courtesy of Interference Archive.

in the law in order for squatting to continue, and therefore could be seen as a manifestation of a 'legal activism.' The same can be said for the CACTL and the effects that campaign had on the resultant rescuing of squatters' rights from criminalisation through the watering down of the Criminal Law Act 1977.

Despite the changes in the law, squatting was on the increase again in 1980 in London, and across the UK.⁶⁰ This can be seen as a result of the increasing cost of living and difficulties finding housing, coupled with the effects of the recession of the 1970s. The ASS was at the time, as it is today, overwhelmed with the provision of advice on squatting law, and yet then there was less organised squatting and more squatting as isolated occupations, perhaps than we see today.⁶¹ In 1980, a collection of essays on squatting was published as the now seminal, *Squatting: The Real Story*, which looked back on the actions and reactions that had taken place since 1968. In the book, one member of the ASS stated that the changes in the law made very little difference to the existence of squatting, and this is something that resounds today as the laws on squatting have been altered once again.⁶² The ASS was dealing with instances in law that spoke of 'non-existent' situations, whereby the law was altered due to a prevalence of fear and miscommunication, as again is the case today as a result of negative media coverage.⁶³ Since the original writing of this piece, Deanna Dadusc and E.T.C. Dee have written commendable work,⁶⁴ in addition to Mary Manjikian's exceptional analysis of squatting through a securitisation framework,⁶⁵ both of which have spoken of the way in which the media fuel, if not create, a negative story of squatting, with the squatter resultantly stigmatised as the 'other.' Next to the ASS, there were also other legal movements in operation during 1980, such as Release and the prison movement, who also sought an understanding of law in order to affect resistance. The year 1980 can be seen as a year in which the effects of the direct action of the previous years, in synchrony with the legal movements in the courts and parliament, were felt, but had reached a plateau.

What does this lack of coincidence between the structures of squatting movements, and the remit of law, speak to in regard to the supposed mirror that was introduced earlier in this piece, and the existence or otherwise of legal movements and legal activism? The role of legal movements and any reflection on the ground will be understood at greater length with the introduction of the Land Registration Act 2002, concerning the legal remit of rights available to squatters within terms of the law of adverse possession, and what these changes say about the placement of squatting within (or outside) law.

LEGAL MOVEMENTS IN 2011–12

Since the 1970s and 1980, and in the lead up to 2012, there has been an encroaching shift towards the removal of squatters' rights from English law. The Criminal Justice Act of 1994 made some substantial changes to the law relating to squatting, bringing in interim possession orders on behalf of the owner and

If there is any mirror at all, then there is clearly a repetition of the negative positioning of squatting and squatters that was seen during the 1970s, which propelled the changes to the law and the enactment of the Criminal Law Act 1977. However, in this instance, there is indeed a right-wing government in place, and there was the same during the 2002 and 1994 changes. What Manjikian has concisely recognised is that no matter what leaning of politics a government may be, the grip of neoliberal fears for national security and the protection of tradition, is quite clearly demonstrated in the indiscriminately draconian manner in which squatting has been treated by governments either left or right.⁶⁹

2011 LEGAL MOVEMENT: SQUASH

Squatters' Action for Secure Homes, or SQUASH, was originally formed out of a network of squatters named Squattastic, started in London in December 2010 to counter government and media condemnation of squatting and squatters. They are made up of squatters, activists, researchers, charity workers, lawyers, and academics, and have a Legal and Research Group that during the consultation period worked specifically on keeping abreast of the proposed changes to the law. In November 2011, they tabled some urgent recommendations in the form of an amendment to the proposed government changes to the (then) clause 26 of the Legal Aid bill. Labour MP John McDonnell worked with SQUASH to get their recommendations through parliamentary processes and put forward the amendment to clause 26, which called for there to be no offence if a building has been empty for six months or more.⁷⁰

SQUASH represents a clear awareness of the necessity of a legal understanding and knowledge, when dealing specifically with squatting, and one that replicates the causes of the FSAS and the resultant ASS, but does this say anything about the law they are reacting to? Only that the only response from law-makers is the slow encroachment on squatters' rights, and the cyclical return to the issue in times of economic difficulty, such as that which was seen during the 1970s and since 2008.

When comparing the success of the CACTL and SQUASH, there is a different approach when it comes to their affiliations. CACTL had the workers' movement upon which to latch their campaigns, whereas SQUASH had the option to involve themselves with a number of related causes, but perhaps did not maximise their connections enough. Within the time over which squatting has been pressed to be made illegal, yet again, there were national protests in the form of student occupations during 2010–11, as well as the summer 2011 riots in the UK, finishing off the year with Occupy, the biggest global protest movement since the 1960s and 1970s, aside from the Global Justice Movement. Although there were links made with the students on behalf of SQUASH, having considered how CACTL utilised their connections with the workers and also therefore, gaining support from the workers, the

anti-criminalisation movement of late could be said to have not made the best of the support they could have gathered through the students, the summer of resistance, and the Occupy movement. Despite this, SQUASH worked meticulously with MPs and the Lords to try and put forward the legal argument for not changing the law.

At the same time as all of these events were happening, expressing a summer of discontent, the illegalisation of squatting came as a clear legal reaction during times of repression by those in the seat of authority. It highlights the primeval role of the occupation of space and the constant conflict between the right to protest, to have a home, to occupy public space, as opposed to the rights of those who are the proprietors of the estates involved. The force of private property prevailed, as it often does.

LEGAL ACTIVISM

If squatters are going to frustrate the law by treading a path through its technicalities, they must tread very carefully indeed.

—Ron Bailey⁷¹

In Ron Bailey's account of the squatting movement in London from its birth in 1968, the squatters had to make sure that they were not breaking the law, for the security of the families that were involved. He states early on in his book *The Squatters*: 'It was important for us to avoid breaking the law in order to involve homeless families in the campaign. After all, we thought that if we could say to families that squatting was only civil trespass and not an offence for which they could be prosecuted, then we were far more likely to be able to involve them in squatting activities.'⁷² In fact, there was one instance during the Redbridge occupation in 1974 where the squatters used the law in their favour, using a form of trickery against the police whereby they complied with a possession order in light of eviction, by moving a family out of a building. In their place, and within the time that the bailiffs were round to exact eviction, another family was moved in, and there was not a great deal the police could do. All the actions were completely within the law, knowing the law and the limits of what the law could do in response.⁷³

Compiled by the ASS, is their handbook stating the relevant law, and how to comply with the law in order to secure and occupy a building correctly.⁷⁴ There are also 'Practical Squatters Evenings' that are put on in various spaces around London. By acknowledging the legality of squatting, by being aware and having knowledge of the state system, squatters have acknowledged a loophole in the law. At the same time as finding this loophole, squatters have displayed an admiration for the law and a way of using this to determine a legal activism. This again is all seen in a slightly different light now that squatting is nearly entirely criminalised, and questions whether this admira-

tion for the law will remain and whether squatting will always take place illegally anyway.

At the same time, the role of the courts has sometimes been sympathetic towards squatters, showing an admiration in turn. In a recent case brought against Camden Council on the basis of freedom of information to publicise the number of potential homes currently lying empty across the country, Judge Fiona Henderson stated, 'The public interest lies in putting empty properties back into use,' and argued that publication of the list would 'bring buildings back into use sooner and the housing needs of additional people would be met.'⁷⁵ This has also been argued by legal academic Robin Hickey, whereby the common law is seen to nigh on always uphold the rights of the squatter.⁷⁶

To show a further ambiguity in the relations between squatting law and those it objectifies, the *McPhail v. Persons Unknown* case of the 1970s created the ASS as we know it today. There was the debate between the FSAS and ALS that displayed disagreements over licensing and the legitimization of squatting, and thus the role of law in squatting overall, depending on the division within the squatting community. There were also those who were unsure of the legality of squatting, putting off many potential squatters. This again shows how squatting being legal did make a difference to a number of those who considered squatting.

CONCLUSION

Squatters have always had a close relationship with the law. Many squatters have regarded the law as a source of protection, but the law has only fulfilled this role sporadically and to a diminishing extent. However, were it not for certain 'squatters' rights,' squatting would undoubtedly not have established itself as it has done. The adroit use of the law by squatters has frequently delayed evictions and provided time for organisation and negotiation.

—Squatting: The Real Story⁷⁷

So can there be said to be an interaction in the form of legal movement between the law on squatting and the actions of squatters on the ground? And does the direction of the politics in the background make any difference at all? There is certainly at least one cyclical motion, in that squatters learn the law in response to the threat of draconian changes, but it seems as though the law does not learn from the squatters and the causes they represent. And this one-sidedness is of course embedded in a global system of property transfer and appropriation, which beclouds both politics of the right and the left. The drive to curb any alternative and self-managed use of space, through the death of squatting laws, could be seen as a manifestation of market-driven economic structures and the indiscriminate changes in law despite the political persuasion of national governments. Whether this matters to squatting movements has been highlighted

through the argued legal activism of ASS and SQUASH, who acknowledge law and use it as a tool against the illegalisation of squatting itself. The role of law and the legality of squatting have been highlighted as a positive illustration of the general perception of property rights within a society overall. If the intersection between law and squatting suggests any form of reflection, it may well be deeply placed within the actors and participants of social movements as a whole.

Social movements have been recognised for their potential to reorder order, and this is what the ASS and SQUASH show through their proposed legal activism and their reflection on the legal and political processes occurring from above. To be part of a squatting movement is to be part of 'a network of small groups submerged in everyday life which require a personal involvement in experiencing and practicing cultural innovation.'⁷⁸ It also comes forth from a desire to take hold of law itself, to be autonomous, create law, to self-legislate, which is characteristic of the drive of the ASS and SQUASH.

As in any other movement, there is always the role of violence, and none is more forceful and powerful than that wielded by the state through the use of law. Keeping in line with this collection of work's wish to assess the extent to which violence is an element within the construct of the movements concerned, the legal changes have violent impacts felt by the squatters on the ground. Any squatter will understand the violent force of property rights, just by entering a building and surveying the destruction of the interior of a building. Part of the deterrent that landlords and councils use to stop squatters entering is to destroy any means of basic amenities that those looking for an emptied space may wish to use. This includes 'gutting,' the smashing up of all the plumbing, and the destruction of staircases, rendering floors other than the ground floor inaccessible. Land ownership, according to Andrew Corr's summary of the anarchist-tinged literature on property, 'exists when an individual has the violent forces necessary to evict or subdue the inhabitants of a given piece of land and claims "ownership."⁷⁹ He also highlights how this is a process that has taken place again and again, along different strata, within different areas of the world, and at alternate times and spaces, claiming that such a replication, 'will remain that way inasmuch as the system and ideology of spatial property is the salient inter-human relation to land.'⁸⁰ The squatting movement in England and Wales, and specifically that of London, which has been discussed here in relation to national law changes, is merely a microcosmic example that explains the same age-old processes of law and resistance across the globe.

According to the legal philosopher Jeremy Bentham, 'Property and law are born together, and die together. Before laws were made there was no property; take away laws, and property ceases.'⁸¹ The role of law and violence, and the force of property rights, saturates all accounts of squatting. Critical legal geographer Nicholas Blomley propounds: 'Space gets produced, invoked, pul-

verized, marked, and differentiated through practical and discursive forms of legal violence. And property's violence is itself instantiated and legitimized, yet also complicated and contradicted in and through such spaces.⁸² Despite this, and whether or not squatting is legal or illegal, space will still be produced and reused by those who squat, whether illegal or otherwise. In England, Wales, Germany, Italy, and the Netherlands, squatting still takes place, despite the fact that the laws have criminalised the movement. This is even more so prescient in the case of the Netherlands, which up until 2010 was renowned for its regime of squatters' rights.

This analysis of squatting in relation to law illustrates the ambiguous and fluctuating relation between the two, and how squatting movements and legal movements may alternate in the future. Perhaps it has also provided an interesting insight into how one can utilise law in order to counter law. It is clear that there is a one-way conversation between the activists promoting squatting on the ground, their arguable incorporation of legal activism, and the decisions of governments of all creeds over the years that have been discussed. This is perhaps more a characteristic of the market-oriented drive that infiltrates the remit of property (and thus the need for homes and the use and occupation of space) and the indiscriminate disregard for party politics and the effects on property law. In order to break the cyclical motion of the tentatively proposed presence of both legal movements on the ground and within law-making institutions, it is hoped that by going beyond national law and making use of European Court of Human Rights decisions on adverse possession (despite the fact they are nearly always in favour of the proprietor), the development of the right to housing could create a viable obstacle to the encroachment of anti-squatting laws. The fact that displacing someone from a building that had obvious signs of being their home without the permission of the legal owner has been illegal since the Criminal Law Act 1977, the necessity for a duplicate law just goes to demonstrate the accelerated deification and reification of individual property rights, over the social utility and sharing of resources held within the philosophy and practice of squatting. This recent shift in media-aggravated legislative change is a definitive move further in favour of the landowner as opposed to those who have no land, and those who support the redistribution of land.

What will be of interest will be exactly what effect the clause 144 of LASPOA will have on the prohibition of squatting. As the All Lambeth Squatters said in 1974, 'Remember—trying to stop squatting is like stamping on a greasy golfball.'

FURTHER READING

Not a great deal of resources exist on squatting in the UK, at least not within academia. You can go to any Infoshop or squatted space, however, and be sure to find a wide-ranging and very vibrant collection of independent literature

and alternative publications on squatting. This comes under the bracket of anarchist and autonomist literature as a whole, and guides to achieving a 'DIY' culture. There are a number of key publications that relate specifically to the UK scene and London. The ultimate guide to squatting in the UK and specifically London up until 1980 is *Squatting: The Real Story* (London: Bay Leaf Books, 1980), edited by Nick Wates and Christian Wolmar. It manages to collage together a great number of contributions as well as an array of primary source newspaper cuttings and images. A second famous and comprehensive account of the squatting movement in the UK is *The Squatters* (London: Penguin, 1973) written by Ron Bailey, who was a leading figure and lawyer of the second wave of squatting (1968–1980). This study, however, focuses on the late 1960s. Colin Ward's study *Cotters and Squatters: Housing's Hidden History* (Nottingham: Five leaves, 2002) goes even further back in time and focuses specifically on the post-World War II period in England and the first wave of UK direct housing activism back in the 1940s and 1950s.

Since the writing of this piece, a number of books have been written on squatting, such as those by the Squatting Europe Collective (SQEK), *Squatting in Europe: Radical Spaces, Urban Struggles* (Brooklyn: Autonomedia, 2013), as well as a more theoretically engaged monograph by Mary Manjikian, *The Securitisation of Property Squatting in Europe* (London: Routledge, 2013), to name but a few.

Important sources on the legal movements revolving around squatting are: A.M. Prichard, *Modern Legal Studies: Squatting* (London: Sweet and Maxwell, 1981); and the *Squatters' Handbook* published by the Advisory Service for Squatters. The first is written from a blackletter legal perspective, and although undoubtedly out of date now, it does give an interesting insight into the development of the law relating to squatting in its various guises throughout the past few centuries in England and Wales. Both the SQUASH Campaign and the ASS have excellent websites that have a vast amount of resources and information on squatting, particularly more contemporary debates with regard to the criminalisation of squatting in England and Wales.

Paul Chatterton and his Autonomous Geographies collective in Leeds have written a great number of publications on the social centre scene, not just necessarily that of the squatting kind. A notable contribution of his is 'Autonomy, the Struggle for Survival and the Self-Management of the Commons,' *Antipode* 42 (2010): 897–908.

More on the social centre movement and the supposed (or non-existent) rift between social centres that are squatted and those that are rented or owned, are two texts: Rogue Element, "You Can't Rent Your Way out of a Social Relationship," *Green Anarchist* no. 73–74 (2004) and Text Nothing, All and Nothing: For Radical Suicide, "Towards Some Notes and Confusion on "You Can't Rent Your Way out of a Social Relationship," available through <http://www.56a.org.uk/rent.html>.

Reading the replies on both texts on <http://www.indymedia.org.uk/en/regions/manchester/2004/08/296049.html> was of great influence to the direction of my research and is a useful indication of the divisive role of squatting within the UK social centre scene.