

Between the law and its application: squatted buildings under threat of eviction

No espaço entre a lei e sua aplicação:
ocupações ameaçadas de remoção

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Abstract

The article aims to present changes in the dynamics of urban spaces following the filing of a lawsuit that seeks to remove residents from the analyzed squatted buildings, and the way in which the new dynamics that emerge manage to affect the unfolding of the lawsuit. It shows that judicial practices operate socially, affecting the illegalities that are reproduced in popular settlements. The lawsuit corroborates the indistinction between formal, informal, lawful, and unlawful, so that the actors who come to orbit the squatted buildings, whether to help the residents or not, play with these indeterminate boundaries to achieve their goal: the permanence or eviction of the residents.

Keywords: squatted buildings; lawsuit; illegalities; housing; eviction.

Resumo

O objetivo do artigo é apresentar as mudanças das dinâmicas dos espaços urbanos a partir da instauração de um processo judicial que busca remover os moradores das ocupações analisadas e a maneira pela qual as novas dinâmicas que se apresentam conseguem afetar os desdobramentos da ação. Demonstra-se a forma pela qual as práticas judiciais e jurisdicionais operam socialmente, afetando os ilegalismos que se reproduzem nos assentamentos populares e o modo que opera na gestão diferencial desses ilegalismos. A ação judicial corrobora a indistinção entre formal, informal, lícito e ilícito, fazendo com que os atores que passam a orbitar as ocupações, seja para auxiliar os moradores ou não, atuem com essas fronteiras indeterminadas para alcançarem seu objetivo.

Palavras-chave: ocupação; ação judicial; ilegalismos; moradia; remoção.



Introduction

Across the country, numerous occupations¹—both recent and longstanding—have coexisted for years under the constant threat of eviction. These are residential spaces consolidated precisely with the prospect of eviction. In São Paulo, two occupations have been facing lawsuits seeking to remove their residents for over three years; these areas, located in Brás (downtown São Paulo) and Vila Andrade (South Zone),² have long lived with this condition.³

During the Covid-19 pandemic, in the occupations analyzed, evictions that had been ordered by court decisions were suspended indefinitely. The eviction of the occupation in Brás was suspended in March 2021, while the suspension of the eviction in the South Zone occurred in July 2020. Both measures took place prior to the Supreme Court (STF) ruling in ADPF n. 828/DF, which, as of June 2021, established a precautionary measure suspending forced evictions during the Covid-19 pandemic.⁴

Thus, with the filing of the lawsuit, distinct dynamics formed within these urban spaces, different from those long consolidated. Rents ceased to be paid, land markets were altered, visits by public authorities became more frequent, civil-society actors were present, and assemblies among residents were held, constituting organizational spaces (Santos, 2022).

The everyday life established under the threat of eviction is tied to a constant apprehension that eviction may occur, imposing a temporality through the judicial process that is characterized by indeterminacy. The judicial process operates socially by creating zones of ambiguity and informal circuits involving these subjects' housing (ibid.).

In this context, the article shifts analysis away from the case files or from how the law is applied by the Judiciary,⁵ to examine, from the margins, how the law operates socially, blurring the boundaries between formal and informal and shaping management of illegalities in urban spaces (Telles, 2015; Santos, 2022).

It is argued that urban informality is not a fixed sector or bounded space but consists of transactions that traverse and connect popular territories through differentiation, where judicial eviction actions contribute to the reproduction of urban informality by daily defining spaces and their uses as legitimate or illegitimate through the mobilization of norms, regulations, and instruments that exercise power over particular populations (Roy, 2005; Foucault, 2014; Yiftachel & Yakobi, 2004; Santos, 2022).

The lawsuits targeting the two occupations aim to remove their residents and have the capacity to determine their legitimacy or illegitimacy. With the establishment of the threat of eviction through legal actions— and their suspension during the Covid-19 pandemic— an entire dynamic was established at the sites.

Despite the distinct characteristics of each urban space, in both cases studied the eviction was suspended indefinitely and the occupations are organized by migrants and non-migrants.⁶ These occupations consolidate in an ambiguity of being, momentarily, authorized to exist, offering clues about how judicial action operates socially, producing gray zones and branching practices that foster informal practices, resistance strategies and conflicts (Yiftachel, 2009). They also act as instruments for the differentiated management of illegalities.

With the onset of the threat of eviction, various institutions and agents begin to orbit the occupations.⁷ Everyday life, housing, work,

and the uses developed in these spaces come to the fore, provoking debates about their (il) legitimacy and imposing on the daily lives of these subjects the constant uncertainty and threat of eviction (Santos, 2022).

Between acts of control, repression, formalization and conformity of space, state actions do not merely determine permitted uses and their legitimacy; they inscribe mechanisms for the management of certain populations that resonate in the structuring of cities:

Public authorities seek to control these markets, punish the multiple infractions inscribed in them (informal street vending, smuggling, tax fraud) and regulate the use of spaces, and this means that, amid an intricate combination of formal and informal, legal and illegal activities, state action is part of the modes of constitution and development of these spaces. (Peralva & Telles, 2015, pp. 17-18)

The filing of lawsuits places occupations at risk – at the threshold of law enforcement or, at the very least, of a particular interpretation of it – thereby creating a field of dispute. The law and the judicial actions surrounding the conflict may be analyzed as a “war in action” that extends beyond the boundaries of the case files. (Deleuze, 1988; Santos, 2022).

On one hand, the judicial process makes occupations visible, causing new institutions and state actors to orbit these spaces and affecting their dynamics; on the other, the residents' organization and resistance can influence the development of the proceedings.

Therefore, in an effort to organize the legal transgressions in these urban spaces, the lawsuit affects – and is affected by – the illegalities reproduced in the territories that constitute its object (Foucault, 2014). Actors in the conflict begin to play with the blurred boundaries

between formal and informal that the judicial action itself corroborates, whether to secure residents' permanence or to evict them.

It is from the threat of eviction that dynamics are produced and conflicts emerge at the threshold between permanence and extinction. Municipal services appear, civil-society organizations provide legal defense, traditional housing movements offer support, while internal conflicts emerge under the urgency and imminence of eviction.

Thus, to analyze how law and judicial action operate socially, it is necessary to emphasize that the proceedings are only part of the discussions arising from the land conflict – they are not identical to the entirety of it (Milano, 2017). From the action, a subterranean work begins in which negotiations, alliances, resistances and strategies are formulated to gain time, often influencing the judicial process and how it is processed. In what seems to be the “backstage” of the proceedings, new forms of organization and spatial control are established – political articulations, meetings with public authorities, attempts at conciliation and dynamics that can influence decision-making and compose most of the dispute lodged outside the case files (Santos, 2022, p. 18).

Therefore, to analyze how the judicial action operates in the management of illegalities in the observed occupations, the article is divided into two main parts in addition to this introduction and the final considerations. First, I present how the occupations emerged and consolidated, followed by an account of the legal proceedings and their rationale. In the case of the Brás occupation, the lawsuit was filed by the Municipality of São Paulo due to the building's inadequate safety conditions, seeking the eviction of families because of the risks to their safety. In the case of Vila Andrade, the action was filed by the concessionaire of

one of the metro lines because the occupation consolidated on public land administered by the concessionaire.⁸

In the second part, I analyze the influences, continuities, and changes that occurred in these urban spaces after the lawsuit was filed. New forms of organization emerge, coexisting with long-established dynamics-forms of organization that shift according to the urgency and imminence of eviction.

From the filing of legal actions, the court decisions ordering eviction, and the suspension of evictions, the article examines how the illegalities reproduced in these urban spaces were altered.

Formation of the occupations and their markets

The irregular status of urban spaces is not confined to a specific configuration nor exclusively associated with popular settlements; it also appears in elite neighborhoods. Thus, irregularity in relation to urban norms is not an inherent attribute of a given urban space. In the urban order, diverse irregularities co-exist in which “legal norms may have, in practice, different meanings for social actors depending on the prevailing political and cultural conditions” (Rolnik, 1999, p. 182; Santos, 2022).

Laws, regulations and state practices, by defining the legal urban parameters for appropriation and structuring of formal urban spaces, simultaneously define their opposites – structuring the “informal/irregular/illicit city” and its modes of occupation – positioning neighborhoods, regions, buildings and populations in constant negotiation with state agents and in the space between law and its application.

Within state practices for shaping urban space, the Judiciary, through lawsuits aimed at removing popular settlements, plays its role as an everyday instrument of urban intervention and as a component of urban segregation; law and legal proceedings are part of the operating modes of informal dynamics and urban informality (Milano, 2017; Santos, 2022).

The judicial process accompanying land conflict is one more instrument mobilized to punitively control individuals who move along uncertain borders between formal and informal, legal and illegal (Telles, 2018; Milano, 2017). With the initiation of an eviction action, other elements of contestation are inaugurated:

Laws and judicial proceedings create a dynamic oscillation between conditions of legitimacy and illegitimacy in occupations across the city, whether through the sudden withdrawal of recognition by public authorities, new interventions planned for a given area, or claims by formal owners to reclaim property. This process generates a persistent state of indeterminacy and insecurity. (Santos, 2022, p. 74)

Judicial practices and their apparatus constantly alter the (il)legitimacy of certain areas: they are conjunctures and micro-conjunctures that change and within which law, statutes and judicial processes compose and integrate their transformations – affecting and being affected in this field of dispute that forms in the space between law and its application (Telles, 2010a). Urban spaces structure and consolidate themselves in such indeterminacy, in the uncertainty of their legal or illegal status:

[...] zones of indeterminacy between legal/illegal, planned/unplanned, formal/informal, inside/outside the market, presence/absence of the State. Such indeterminacies are the mechanisms through which a situation of permanent transitoriness is built, the

existence of a vast reserve territory able to be captured “at the right moment. (Rolnik, 2015, p. 167)

These are occupations, settlements and popular neighborhoods marked by ambiguity due to their marginal condition, where “instability, irresolution and temporariness are the keys to understanding how exceptions are politically constructed in cities” (Rolnik, 2015, p. 176; Das & Poole, 2004).

State actions and those of its agents constitute a condition of permanent transitoriness in urban spaces but also interact with social orders in situated contexts, being part of dynamics, regulations and circuits in which order and its inverse are constantly negotiated.

Therefore, the ways occupations, favelas, tenements and various popular settlements organize themselves – such as informal rent collection, sale of public land, dispute resolution among residents, among other dynamics considered informal or illicit – are part of the same legal field and formal governance order; “it is not a matter of the overlap of distinct legal orders” (Rolnik, 2015, p. 169).

To understand how judicial eviction actions affect occupation dynamics and contribute to the reproduction of illegalities in these urban spaces, the law is analyzed as a field of dispute across three dimensions:

First, disputes over the constitution of the city's laws; second, disputes that take place in the judicial action and in how the law is applied in the case files; and third, how law operates socially: the disputes that unfold in the aftermath of judicial action and the execution of judicial orders, thereby presenting the concrete effects of law in the occupations analyzed (Santos, 2022, p. 78).

These dimensions are analytically distinct but overlap in the development of land conflicts; they are not separate, impermeable spheres (ibid.). This article focuses on the third dimension.

Judicial and jurisdictional practices promoted by the Judiciary do not merely blur the boundaries between formal and informal regarding an urban space's regularity or legitimacy; judicial action changes the micro-conjuncture of occupations and affects the illegalities that develop. Sometimes the lawsuit functions as one of the mechanisms regulating informal and illegal markets, affecting, in the cases studied, informal land and rent markets or classifying certain forms of work as inadequate or irregular within these urban spaces.

To analyze how judicial action operates socially – composing and being affected by occupation dynamics – it is first necessary to examine how the occupations were constituted and consolidated.

The Vila Andrade occupation is an expansion of a “favela” long established in the region, its formation associated with processes of “favelização”. The site originated through land occupation, self-construction and the sale of lots.

The property is a remnant area from land expropriation for the construction of a metro line, managed by a concessionary company responsible for its administration. Therefore, the area is public and linked to the State of São Paulo. The occupation began in late 2017 and early 2018 and is organized by Brazilians and Haitians. It is estimated that more than 300 families, both migrants and non-migrants, live there. The occupation continues to expand and consolidate.

Thus, before the lawsuit, residents occupied the site and self-built their homes, while others acquired lots and began to build, and still others constructed dwellings intended for rental purposes.

T.,⁹ one of the occupation leaders,¹⁰ bought a lot from one of the residents who was subdividing the area, acquired his space and built his home independently. T. states that after acquiring her lot, the person who sold it to her sold it again to another family, a practice she says was common, necessitating the involvement of organized crime operating in the region to mediate the conflict.

This practice caused the land speculator to be intimidated into stopping and ending the activity, because “you don’t mess with a worker” (ibid.). The activity was momentarily interrupted by the speculator; however, with the occupation’s persistence and the suspension of eviction over the years, activities that had ceased due to the threat of eviction were gradually resumed.

I., a Haitian and another occupation leader, occupied the area and built his home, spending BRL 50.000 (fifty thousand reais). The construction is not yet finished but is habitable.

I. built his house through his own labor and occasional help; in his words, he is not “a mediocre bricklayer”. He built his home in the hours outside his formal job – at the time he worked at the Outback restaurant chain, constructing his house between seven in the morning and five in the afternoon. Soon after moving into his new home and having exhausted his savings, the threat of eviction emerged.

D., a neighboring resident of the occupation, bought a lot from another resident with the desire to build her own home. However, after the purchase, the threat of eviction arose. For years she kept her lot empty, afraid to invest her remaining savings and see her house

destroyed. Nearly two years later, with the eviction suspension continuing for a long period, she decided to build her house and moved into the occupation. Her decision was almost a gamble: “whatever God wills!” (ibid., p. 144).

In addition to those who occupied or bought lots to live on, there are people who bought or occupied the place to construct buildings intended for rental as a form of investment.

However, in 2019, with the filing of the lawsuit, the creation of new dwellings was constrained, as exemplified by D.’s story, and the land market was affected. Immediately upon the action’s initiation, a preliminary injunction for eviction¹¹ of residents was ordered.

After an appeal by the São Paulo State Public Defender’s Office to reverse the eviction, the São Paulo Court of Justice (TJSP), in its decision, characterized the occupation as illicit, asserting that “the unlawfulness of the occupation is incontrovertible” (ibid., p. 134).

The residents’ mode of living was promptly labeled illicit. Regardless of any other features, because the dwellings are on public land, their conduct is deemed illicit, nullifying any claim to possessory protection or the right to housing for poor families. The illicit nature of the act “prevents its inclusion as a right to be pondered in the specific case” (Milano, 2017, p. 200).

With the appeal decision, in 2020 the eviction of families was ordered, but the concessionaire, instead of proceeding with the eviction, reported the occupation’s expansion and requested a four-month suspension of the case in light of the COVID-19 scenario and the need to organize to make the eviction feasible.

With the case suspended, a new network of actors formed around the occupation to devise the residents’ defense. With the threat’s emergence, several institutions began to orbit the urban space, such as the

State Public Defender (DPE), the Municipal Secretariat for Human Rights and Citizenship (SMDHC) and its services, like the Reference and Assistance Center for Immigrants (Crai). With the suspension, new actors joined the conflict, creating a support network: the DPE forwarded residents' defense to an NGO called Centro Gaspar Garcia de Direitos Humanos,¹² traditional housing movements began to support the occupation, as did universities and research groups.

This network began to craft defense strategies to seek residents' permanence; actors mobilized their expertise and techniques to oppose state violence, connecting various scales and occupations across São Paulo. These actors participate, to greater or lesser degrees, in numerous support articulations for occupations in the capital (Latour, 2012; Santos, E. A., 2023; Santos, 2022).

Thus, with the emergence of this broad network, coupled with the first suspension of eviction and the growing organization among residents, a strategy to ensure the occupation's permanence emerged: attempts to regularize land tenure. Negotiations ensued and the conflict began to unfold beyond the case files, appearing in court only as requests to suspend proceedings because the parties sought a solution.

Therefore, the occupation's dynamics, organization and the assembled network have the capacity to influence the judicial action. It is not only the threat of eviction that alters occupation dynamics; these dynamics also can influence the lawsuit during its course, even if the final decision results in the occupation's extinction.

A field of dispute with multiple dimensions is constituted; negotiations and dynamics unfold even if they do not appear in the case files. What could seem like the "backstage" of the proceedings is, in reality, the

conflict itself and the process – practices that overflow the case files and demonstrate how judicial action operates socially.

The Vila Andrade occupation, analyzed alongside the Brás occupation, offers distinct perspectives on how judicial action operates socially, though similarities also exist. Both occupations comprise migrants and non-migrants, and at the moment of eviction threat the support network formed around Vila Andrade was mobilized to assist the Brás residents.

The Brás occupation is a private property inhabited by fifty families since 2014. Unlike Vila Andrade, whose formation resembles the processes of "favelização" in the city, the Brás occupation has an organization similar to tenement housing. Families paid rent to intermediaries of the owner, who charged rent informally and through threats and violence without contracts or records for families to live and work on-site.

Residents use the building not only as housing but also as sewing ateliers; the property serves both residential and work functions. Thus, informal rent in this urban space reflects exploitation and appropriation of the labor produced there (Santos, E. A., 2023).

The building is a large structure divided between an expansive warehouse and a four-story building. In the warehouse, forty families – Brazilians, Paraguayans, Bolivians, Venezuelans, Peruvians and Colombians – live. Living and work spaces are self-built inside the warehouse using wood, tarps and whatever materials are available. These self-built structures vary in size; some include a room and a kitchen, others accommodate only a mattress (*ibid.*).

The warehouse is used as parking, residence, sewing atelier and storage for vendors' carts used by some residents for work. Between cars and mannequins, spaces were built for habitation and sewing workshops.

The warehouse entrance is a large metal gate; beside it, facing the street, a small door leads to the building's staircase. Approximately seventeen families live in the upper floors – only Bolivians. The first floor functions as a large sewing workshop, the second is purely residential, and the third and fourth floors are divided between housing and sewing workshops. Room and workshop partitions are made with office dividers, unlike the wooden constructions in the warehouse.

The property has been occupied since 2014 and was initially rented by the owner to sewing workshops and residents. The first three floors were originally rented to a single tenant who reportedly paid BRL 1.500 for the first floor alone. This former tenant sublet spaces within those floors, dividing the building as it currently stands, charging rents ranging from BRL 500 to BRL 900 depending on the space size.

Upon discovering the situation, the owner evicted the former tenant and began charging rent to each family living and working there. Thus, in 2019, with the eviction of the former tenant, the owner started charging BRL 500 to BRL 1.500 from each family, whereas previously BRL 1.500 was charged for a single floor (*ibid.*).

In 2019, the building's internal organization was established and remained until the eviction threat. Rent was paid in cash without any record; an “encargado”¹³ – also a resident – collected payments, was chosen by the owner to organize, report on building affairs, and, when necessary, forcibly evict defaulters and the dissatisfied. The owner designated one administrator for the warehouse and another for the building, both Brazilian.

In 2020, the Municipality of São Paulo filed a lawsuit against the residents and the property owner due to the site's unsafe conditions and noncompliance with building

and land-use regulations, requesting residents' evacuation. The eviction request was based on risks generated by precarious housing and work conditions: the risk of fire due to unstable electrical connections, accumulation of flammable materials such as fabrics and room partitions, precarious power connections, and the owner's failure to maintain the property – expelling residents who complained about conditions.

Thus, with the eviction threat and the order to vacate the building, residents stopped paying rent and began organizing, despite conflicts and difficulties. CRAI and housing movements were mobilized to support residents, activating the support network already operating in Vila Andrade. The Centro Gaspar Garcia de Direitos Humanos took on the legal defense and the support network assisted in resident organization.

The eviction of the Brás occupation was scheduled for March 2021 but was suspended by a legal appeal at the moment tactical forces were preparing to break the locks and forcibly remove residents. The TJSP suspended the eviction due to the sanitary risk amid the Covid-19 pandemic, when social isolation was recommended.

Shortly after the eviction was suspended and residents began organizing assemblies to implement risk mitigation measures, tensions and disputes within this organization began to resonate.

Collective organization was fraught with contradictions and turned into an internal dispute within the building; a split emerged between residents of the floors and those in the warehouse, effectively transforming the property into two distinct occupations, though assemblies continued to be held jointly because the eviction threat affected all residents indiscriminately.

Amid conflicts and advances, the eviction suspension remained; the residents' strategies and the support network produced effects. The case files documented measures taken by residents – building repairs, installation of fire extinguishers, a brigades training course, and a socio-economic report by CRAI at the defense's request – recognized by the TJSP, which granted a longer suspension period.

Support networks, contacts, and measures taken became instruments of defense, and the dynamics produced by this socio-technical network influenced the case files and court decisions. It is a field of dispute that affects residents' daily lives, the process's progress, and the illegalities reproduced in the urban space.

Although the formation of these urban spaces resembles “favelização” processes or tenement formation – distinct from occupations organized by traditional housing movements - the term “occupation” was chosen. First, to oppose stigmatizing terms used in case files, like “invasion” or “illicit housing”, expressions used by judges or plaintiffs; this underscores the right to housing and the social function of property. Second, because, under eviction threat, families begin to organize and break prior dynamics, prompting political and collective resistance. Third, due to the emergence of a support network including traditional housing movements, some residents joined these organizations and began to refer to their place of residence as an occupation.

Thus, the occupations studied show that with the emergence of eviction threats the micro-conjuncture of the area changes: where rents were paid, residents organize and stop paying them. Where state agents had never frequented or mapped the area, they begin to appear and activate networks and strategies to promote eviction. Where illegal power connections (“gatos”) were tolerated, electricity

is often cut. Where land sales formerly occurred, lot sales cease and later resume according to the ebb and flow of eviction threats.

Dynamics change, reformulate and transform, affecting residents' daily lives in this space between law and its imminent application. They live with constant uncertainty and the real possibility that their urban space might cease to exist the next day.

(Re)production of space: changes in the micro-conjuncture

Numerous agents operate in the locality prior to an eviction threat - residents, owners, forces regulating territory, land speculators and police. However, with the lawsuit and the resultant visibility of these territories (Foucault, 2003), new actors emerge: housing movements (when the occupations are not organized by them), NGOs, court bailiffs, judicial experts, and universities. Thus, the dispute is not limited to space use or its classification as regular or informal. The contest between law and its application – aiming to make a space formal or to extinguish it – also concerns the management of populations:

The dispute is not only about space appropriation and uses, but also about modes of managing populations in those spaces; and not only by the State and its agents, but by the diverse actors and repertoires present and active in conflict, in composition and accommodation, in the production and territorial management of these places. (Santos, R. A., 2023, p. 285)

Residents' housing and work come into view under eviction threat. It is not only the mode of dwelling that is discussed, nor solely which right should apply or who has the “better possession” as the judiciary may assume. Modes of work, diverse uses of space and the

governance of these populations become subjects of contestation in the judicial process. Court decisions legitimize or delegitimize modes of living and working in an urban space but also inscribe these lives within a temporal regime, always pending eviction and situated between law and its application.

These are people whose lives are built upon permanent uncertainty and transience – shared experiences of housing precarity and constant movement in the city, not only in search of housing but also employment (Rolnik, 2015). Migrants and non-migrants become precarious workers who reside in occupations while also moving through prisons and confinement institutions, such as shelters for homeless people; they enter and exit these places, inhabit new occupations until the next eviction, and remain subject to police and state violence (Teles, 2018).

Eviction lawsuits are one of the state's punitive control devices in attempts to organize law transgressions within its regime of subjection (Foucault, 2014). With their initiation, dynamics in urban space change and judicial action operates in the differentiated management of illegalities. The analyzed occupations show alterations in the micro-conjuncture from the moment families become aware of the imminent threat.

In Vila Andrade, the eviction order affected residents' organization and the construction of new dwellings. As noted, people who had bought lots stopped building, lot sales were suspended – at least temporarily – residents began selling houses for fear of eviction, state agents and civil-society organizations became present, and social movements mobilized. Residents organized and coordinated with neighbors threatened with eviction, forming the “Articulação Vila Andrade”¹⁴ and conducting near-monthly assemblies.

This socio-technical network and residents' organization enabled progress toward tenure regularization: water service was regularized, the Municipal Housing Secretariat officially signaled interest in regularizing the area, and these developments affected the case's proceedings, suspending the eviction ordered by the TJSP to date.

Between law and its application – or between a judicial decision and its execution – a strategic game unfolds, constituting a dispute in which the process influences and is influenced by local dynamics. However, as the suspension lengthens – three years in the cases studied – dynamics continue to change, and the new organization coexists with dynamics that had been suppressed.

Monthly assemblies became less frequent and attendance fluctuated according to events in the occupation: power cuts, new judicial decisions, and conflicts increased participation in organizational spaces. In Vila Andrade, lot sales ceased after conflicts but resumed over time as evictions failed to materialize.

The threat of eviction becomes normalized; residents begin to believe in their permanence and that nothing will happen, or, as D. did when building her house, they treat it as a gamble and trust divine intervention. Yet confidence in permanence is always fragile; any event or intervention renews residents' concerns and fluctuates assembly participation.

The longer a suspension holds, the more dynamics return to their initial state and coexist with newly established organizations and actors orbiting the locality. Rapid expansion and construction of new dwellings resume; areas once vacated are reoccupied through lot sales by the same residents who sold lots at the occupation's outset (Santos, 2022).

Leaders who have emerged and closely monitor the proceedings – participating in traditional housing movements and in emergent

articulations – become exhausted over time. Some focus on their lives and withdraw from meetings, assuming fewer responsibilities. They often remark that residents are indifferent or ungrateful, saying that only when “the water reaches their necks” will they organize again.

The temporality imposed by the lawsuit, over time and after eviction suspension, is naturalized, and displacement becomes a vague memory - yet remains present with procedural developments, public visits, or conflict.

Following occupations from the inception of imminent eviction threats through suspensions and prolonged continuance, always under the perspective of possible extinction, allows observation of changes in urban space dynamics and effects on the reproduction of illegalities. Dynamics shift with each event and over suspension time, and actors, including state agents, take advantage of uncertain borders between formal, informal, legal and illegal to effect or prevent eviction.

Judicial action blurs boundaries between formal and informal. Territories characterized as illicit by the TJSP, as in Vila Andrade, can be momentarily legitimized to exist. In 2019, when the lawsuit involving Vila Andrade first emerged, eviction was immediately authorized but quickly suspended by the Public Defender's appeal until its judgment. The appeal was judged, the occupation deemed illicit, and eviction ordered. However, the concessionaire requested suspension and articulations formed, maintaining the occupation's existence to date.

There is a continuous back-and-forth, a permanent uncertainty: evictions are constantly awaited while families organize to suspend them. Organization focuses on immediate needs – the strategies devised seek only to buy more time in response to the urgency of impending eviction. Through successive suspensions, they aim to have the case dismissed and secure residents' permanence, though success is not

always attainable. In some cases, the objective is merely to prolong occupation duration as much as possible.

In Brás the eviction threat likewise produced new urban governance, affecting the informal rental market and the illegalities reproduced by that housing arrangement. This rental market appropriated the wealth generated by labor in the occupation and was intrinsically linked to the thriving popular commerce in Brás (Santos, E. A., 2023).

With the impending eviction, residents stopped paying rent and organized autonomously. The “encargado” – who had managed the site and evicted residents – became just another resident and ceased interfering in organization, participating only through the assemblies instituted by families.

That space, deemed irregular, unsafe and in violation of building and land-use laws, was momentarily authorized to remain. The rental market rooted in violence, similar to the tenements in São Paulo's central region, ceased to exist and another organizational form arose from residents' and partners' coordination. These are competing forms of organization.

With suspension, immediate tensions arose among residents, creating disagreements over management: some wanted to re-divide spaces, others lived in tiny rooms, and families in better conditions argued they paid rent and were not “invaders”. Some sought help from traditional housing movements to organize the space and joined their base groups; others opposed such intervention. A dispute over space and room management emerged where none had existed before.

Amid disputes, conflicts, fights and insults, families secured their permanence and measures undertaken by residents were recognized in court to justify the eviction suspension during the Covid-19 pandemic.

As shown in Vila Andrade, it is not only organization, spatial governance or land and rent markets that change due to judicial action. In Brás, for example, illegal electric hookups became an issue. The reason is unclear: ENEL¹⁵ workers claim power cuts occur due to complaints, but it is impossible to know whether complaints were a retaliatory action by the owner because rent was not paid or initiated by the Municipality – plaintiff in the case – claiming that one risk was the power connections and distribution within the building. ENEL began cutting illegal connections almost weekly.

At each power cut a negotiation emerged: sometimes workers left the connection intact, other times they cut it but implied residents could reinstall illegal connections later.

Judicial action blurs formal and informal boundaries and various actors exploit this indistinction, including municipal and judicial staff. Early in the case, notification of residents by court bailiffs took place while rent was still being charged. During enforcement, a bailiff informed the “encargado” and asked residents to sign a blank sheet claiming it was a “Bolsa Família”¹⁶ enrollment form. Families were officially informed of the lawsuit under false pretenses, believing they would receive “Bolsa Família”.

In the space between law and its application, and between a judicial decision and its materialization, a strategic game plays out. Strategies used in enforcement flirt with the indeterminacy between formal, informal, lawful and unlawful. Another episode illustrating these dynamics during the execution of a court order occurred during the police operation decreed in March 2021, when the Centro Gaspar Garcia de Direitos Humanos began defending residents.

The eviction order required temporary housing assistance¹⁷ before eviction; however, after the Centro Gaspar Garcia sought a

suspension in the first instance, temporary housing assistance was not initially granted, authorizing the eviction and prompting the appeal that later canceled it.

The suspension decision arrived only while the police operation was already underway. Negotiations that day centered on the discrepancy between two decisions. On one side, the Municipality and bailiffs claimed eviction would proceed regardless of provisional housing assistance; on the other, families insisted eviction could only occur if rental assistance were provided.

At one point residents' arguments cast doubt on whether eviction would occur, prompting municipal agents to assert “Gaspar Garcia always causes trouble”. Ultimately bailiffs chose to comply with the eviction order, at which point the TJSP ordered the operation halted (Santos, 2022). The negotiations and the time taken to reach a decision allowed the TJSP to entertain the appeal and suspend the eviction.

The final appeal decision determined that the Municipality could not evict families during the pandemic's most restrictive period without ensuring their rehousing to preserve social isolation. Consequently, municipal officials visited the occupation to have residents sign formal refusals to be relocated to shelters. With formal refusal, the municipality could claim compliance with its judicial obligation to relocate families and thus proceed with eviction, but residents did not sign.

These events highlight judicial actions' effects and decisions on the dynamics and illegalities reproduced in urban spaces that are objects of litigation. They also reveal the games played between decision and enforcement, and the strategic use of laws and judicial rulings that exploit the flexible boundaries between formal/informal and lawful/unlawful - an indistinction corroborated by judicial action itself (Telles, 2010a; Santos, 2022).

Judicial action redefines legal boundaries, and in the space between law and its application new dynamics are established. Illegalities are not merely unlawful acts or legal transgressions but strategic uses of the law by suspending codifications of formality, informality, legality and illegality, depending on micro-conjunctural shifts.

Strategic uses are employed even by actors in the judicial process. On this uncertain legal frontier shaped by the lawsuit, a field of dispute emerges that redefines the margins of tolerance and repression, as residents, litigating parties, and institutional actors move around the occupation. (Santos, 2022).

The strategies mobilized by residents and support networks to maintain the occupation are not merely insurgency; “they are the way illegal practices change and establish themselves; they are ambiguous and conflictive practices, survival tactics to secure housing and workspace” (Santos, 2022, pp. 185-186).

When law, statutes and judicial action operate socially, they compose a field of dispute that transcends the formal/informal binary invoked in court. The process muddies those boundaries, creating a back-and-forth of acceptance or rejection of occupations' existence:

Decisions that suspend eviction recognize actions taken by residents; judicial actions are suspended by an organized network seeking alternatives to conflict that bypass litigation; broader strategies of social movements aim to politically mobilize the judiciary and affect its decisions; forms of urban organization that change with the initiation of litigation and events occurring along its course; services and public policies that for the first time reach specific populations; councilors, institutions, social movements, NGOs, universities, researchers and agents that

begin to orbit an urban space that was previously unmapped or unrecognized by the municipality. (Ibid., p. 189)

Judicial practices frame residents' lives between law and its application, a zone of indeterminacy that at any time can impose the elimination of an urban space and relegate residents to form new dwellings elsewhere, thereby reshaping the city and transforming the urban landscape. The disputes extend beyond determining land use; they are struggles over how to govern populations relegated to informal urban existence, across transactions that traverse and connect popular territories through differentiation (Roy, 2005; Santos, R. A., 2023).

Final considerations

Through their decisions in land conflicts, the Judiciary is not merely enforcing the law but organizing forms of transgression. It is not only deciding specific cases or applying laws while balancing the right to housing and property or adjudicating the best legal argument – this is an illusion.

These lawsuits function as instruments of urban planning and intervention, assisting in structuring what lies outside formal planning and constituting devices that create urban informality.

In judicial decisions, interpretations, choices, language, values, interests and the framing of certain rights – legitimizing some and nullifying others – contribute to constructing what is understood as legalized urban space. These rulings determine which irregularities will be permitted and by whom, consecrating particular uses and occupations of urban space (Santos, 2022).

Thus, a certain normativity is constructed and the legal nature of planning instruments is delimited (Grupta, 2016), causing such decisions to operate socially:

[...] the courts' agency in constructing normativity goes beyond that because the rights of the individuals caught up in these decisions themselves become a matter of judicial intervention and construction. When courts endorse the governing body's rendering of a 'modernist' use of land, for example, they simultaneously legitimize particular ways of life and, by consequence, the subject associated with those lifestyles. And so, a close look at land use jurisprudence reveals the legal processes through which other populations get dropped through the cracks of the economic structural shifts [...]. (Ibid., p. 57)

Judges determine the understanding of legal urban space and the uses of that space to be legitimized, circumscribing a population that is removed by such arrangements and thereby structuring its inverse. Decisions define legitimate ways of living, working and inhabiting the city.

The Judiciary is porous: its actions operate socially and are also affected by situated contexts and political struggles that gain visibility. Political struggles, organized through networks and with social movement participation, can "politically mobilize the judiciary" (Oliveira, Stuchi & Silva, 2021), as seen during eviction cases in the pandemic and the National Campaign Zero Evictions - In Defense of Life in the Countryside and the City (Campanha Nacional Despejo Zero – Em defesa da vida no Campo e na Cidade).¹⁸

Porosity is not only the product of "economic power lobbies" or major political struggles. Territory dynamics, the visibility of specific occupations, residents' organization, socio-technical networks and actors orbiting

urban spaces can also affect proceedings. Agents promoting eviction, moral discourses such as the invader/occupant dichotomy, and the diversity of events, repertoires and conflicts that unfold all influence the process; judicial action composes the framework of disputes and dynamics of the urban spaces concerned (Santos, 2022).

There are lawsuits directly tied to large urban planning projects – those addressing urban operations or intervention projects – but "small actions" or everyday eviction cases also configure urban space and society. These lawsuits reshape the city daily, functioning as instruments of urban intervention that relocate large contingents of people seeking housing. Such actions produce displacements, new occupations and reshape the urban landscape (ibid.).

Urban informality is reproduced through these legal processes, where the (il)legitimacy of forms of dwelling and space appropriation by unnamed inhabitants is debated; these inhabitants leave marks on the city that authorities seek to erase (Telles, 2018; Yiftachel, 2009). These are people cast into the streets who move from one eviction to another, always awaiting the next displacement – constituting a city crossed by exceptional and temporary spaces, people who traverse circuits and transactions that cross and connect popular territories through differentiation (Roy, 2005; Foucault, 2014; Grupta, 2016).

The occupations analyzed formed differently and have distinct features, but the threat of eviction modifies how they organize and establish new dwellings. The support network formed around Vila Andrade was activated to assist Brás residents in a moment of eviction threat. Judicial action affects the micro-conjuncture of these places, which continue to coexist and consolidate under the persistent threat of eviction.

These occupations lie at the threshold between permanence and extinction – in the space between law and its application – on the indeterminate borders of formal/informal and lawful/unlawful. Judicial practices and jurisdictional actions blur these borders and exploit that indistinction, confining occupants in gray zones of indeterminacy where acceptable and intolerable alternate constantly, trapping residents in states of uncertainty (Yiftachel, 2009; Telles, 2015).

Law and legal processes constitute a field of dispute, and the way they operate socially is only one of its dimensions. This dimension, which appears outside case files, may seem like a “backstage” because it is not documented in the litigation, yet the concrete effects on urban space, the strategies mobilized, and the strategic uses of law and judicial decisions that affect residents' lived materiality are not

a “backstage” – they are how law operates socially. These disputes and effects that overflow case files are the land conflict and the urban struggle itself; they are judicial action unfolding and being affected by urban dynamics (Santos, 2022).

Therefore, analyzing law or litigation in situated contexts and spotlighting occupation dynamics and strategies in case development “shifts attention from analyzing how the legal system operates internally to considering how judicial practices operate socially” (ibid., p. 204). Law is thus analyzed from the margins it produces, locales where governance and legislation modes are constantly renegotiated in interaction with other regulations inscribed in the ways of life reproducing occupations (Fonseca, 2012; Das & Poole, 2004; Telles, 2010a, 2015).

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Notes

- (1) Considering that the occupations examined in this article are under threat of eviction through legal proceedings, the term “occupation” is employed to designate these urban spaces. This terminological choice emphasizes the right to housing and acknowledges the strategies of resistance developed by residents against processes of dispossession. At the same time, it challenges the moralizing and stigmatizing labels frequently invoked in judicial contexts - such as “invaders,” “irregular settlements,” or “illegal dwellings” – whether by the parties filing the lawsuit or by the presiding judge.
- (2) Only the general region of the occupations is identified to preserve the residents’ anonymity.
- (3) The occupations were accompanied as part of the author’s master’s dissertation in the Postgraduate Program in Territorial Planning and Management at the Federal University of ABC. The reflections developed in this article emerge from that process of research. Conducted between 2020 and 2022, the study has not been limited to this period, as the author continues to follow the occupations and their struggles. Action research was adopted as the methodological framework, which enabled close monitoring of both the everyday dynamics of the occupations and the unfolding of the legal proceedings. This engagement was not restricted to observation: the researcher also acted as legal counsel for the residents. The analyses presented here are therefore shaped by the permanent tension between action and research (Tripp, 2005), a tension that, rather than being an obstacle, constitutes a privileged standpoint made possible by the chosen methodology.
- (4) In June 2020, the Supreme Court (STF) suspended collective evictions of socioeconomically vulnerable people from urban or rural occupations consolidated before March 2020 for a period of six months. Exceptions were made for occupations in risk areas, evictions deemed necessary to combat organized crime, and the eviction of intruders from Indigenous lands. This precautionary measure was extended three times: the first extension, in December 2021, followed the enactment of Federal Law No. 14.216/2021, which suspended eviction orders until March 2022 for occupations consolidated until March 2021; the second extension, in March 2022, prolonged the suspension until June 2022; and a final extension maintained it until October 31, 2022. After that, a transition regime was established for the resumption of forced evictions. The Supreme Court’s decision was not the initial reason for the suspension of evictions affecting the occupations analyzed in this article, as the precautionary measure had not yet been issued at that time, but it contributed to maintaining the suspension during the pandemic.
- (5) In this case, the legal proceedings are situated within the jurisdiction of the city of São Paulo, falling under the competence of the São Paulo judiciary, which is responsible for examining and adjudicating the matters at issue.
- (6) The occupation located in Brás is composed of Brazilians, Bolivians, Venezuelans, Colombians, Peruvians, and Paraguayans. The occupation located in the South Zone of São Paulo is composed of Brazilians and Haitians.
- (7) Court officers, social movements, NGOs, municipal human rights and migration sectors such as the Reference and Assistance Center for Immigrants (Crai) and the Coordination of Policies for Immigrants and Promotion of Decent Work (CPmigTD), judicial experts, researchers, technical advisors, the State Public Defender’s Office, among others.
- (8) The utility company and the subway line are not identified in order to avoid disclosing the occupation. The area in which the occupation was consolidated belongs to the State of São Paulo. The administration of this line was granted to a private concessionaire, which is responsible both for its operation and for the management of the public properties associated with its construction. Thus, although ownership of the property remains with the State of São Paulo, the administration of the area where the occupation is located falls under the responsibility of the concessionaire. Under the concession contract, the company is bound to the Public Authority to maintain the expropriated properties free of goods and people—a contractual obligation invoked as justification for the lawsuit.

- (9) To preserve their anonymity, only the first letter of each individual's name is used. The same initial is applied to all research interlocutors.
- (10) People are identified as leaders if they participate in the organization of the occupation and are recognized by residents as references. These are individuals who consistently participate in assemblies organized by residents, assume tasks to resolve arising problems and conflicts, attend meetings with public authorities, and serve as points of reference for the occupation's support network, including social movements, civil society organizations, lawyers, and municipal services.
- (11) In legal terms, a preliminary injunction is an urgent judicial order issued to address immediate circumstances. A preliminary injunction ordering the eviction of residents anticipates the final judgment in first-instance proceedings, enabling the eviction to occur prior to the resolution of the case on the merits.
- (12) Human rights organization in partnership with the Public Defender's Office of the State of São Paulo. The organization provides free legal advice in cases of land conflicts involving populations in situations of social and economic vulnerability, monitoring nearly 300 occupations in São Paulo.
- (13) Term used by residents to refer to the property owner's intermediary.
- (14) The network was composed of traditional housing struggle movements, the population of residents threatened with eviction in the region, the Gaspar Garcia Human Rights Center, the São Paulo State Public Defender's Office, the Observatory of Evictions, and other organizations. Its objectives were to increase visibility of interventions in the area and to develop strategies of resistance for the affected population, integrating actors involved in legal proceedings threatening eviction and incorporating broader perspectives (Santos, 2022, p. 110).
- (15) The concessionary company responsible for the provision of electricity services in the municipality of São Paulo.
- (16) Federal Government Income Distribution Program.
- (17) Temporary housing policy in São Paulo. Provision of BRL 400.00 per month for twelve months, with possible renewal for the same period.
- (18) Articulation created during the Covid-19 pandemic, officially launched in June 2020. It brings together various social movements, civil society organizations, research groups and laboratories, and members of the justice system. The campaign played a fundamental role in suspending evictions during the pandemic as determined by the Supreme Court.

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