

* An Introduction *

The purpose of this paper is to investigate whether or not a prohibition on squatting in the Netherlands is of public interest, and to examine if the proposed approach to implement this prohibition as well as the initiated approach to force back abundant empty property in the Netherlands is maintainable to Municipalities and the Police and Justice Department. It is designed to inform politicians about all aspects of squatting in the Netherlands before voting for or against the initiated *bill on Squatting and Abundant Empty Property in Parliament*.

In August 2008, CDA parliament member Jan Ten Hoopen, CU Chamber member Arie Slob and VVD Chamber member Brigitte van den Burg initiated a bill to prohibit squatting and simultaneously force back the amount of abundant empty property in the Netherlands. Squatting is living in – or using otherwise – a dwelling without the consent of the owner (Pruijt, 2004). In the last three decades, several motions to prohibit squatting have been submitted to the parliament but owing to several causes neither of them became legislation. It appears to be a very controversial subject with many opponents and advocates. In the end, this dissertation will give an elaborate answer to the following central interconnected questions: *Is a prohibition on squatting in the Netherlands of public interest? And: Is the initiated approach to decrease the amount of abundant empty property efficient and maintainable to Municipalities and the Police and Justice Department?*

Chapter 1 embraces the most important political and social historical developments concerning squatting in the Netherlands. It also provides a clarifying image of the current extent to which squatting occurs in the Netherlands. In the second chapter the extent of the problem of housing shortage, existing simultaneously with abundant empty property will be clarified. In chapter 3, the positive and negative influences of squatting on the Dutch society will be measured up, enforced by practical examples. Chapter 4 embraces the moral question and the legitimacy of the implementation of a prohibition on squatting. Chapter 5 contains the final conclusions on the necessity and maintenance of the prohibition on squatting and the initiated approach to decrease the amount of abundant empty property. This dissertation also gives my personal view on the best possible strategy to reduce short- and long term abundant empty property in the Netherlands.

To answer the final questions, the following sub questions first need to be answered first:

1. Does a policy on squatting and abundant empty property exist?
2. Was this policy adjusted in the last few decades?
3. Which national and international laws and treaties exist that concern squatting?

4. In which ways is squatting of value and of harm to Dutch society?
5. Who will, in the end, benefit from a prohibition on squatting?
6. Do the Municipalities and Police Department have the means to implement a prohibition on squatting?
7. What do the main political parties, the G4 and the VNG think about this topic?
8. Which are the possible ways for the Dutch government and municipalities to efficiently force back the abundance of empty property?

* Chapter 1 * Digging deep

This chapter embraces the most important political and social historical developments concerning squatting in the Netherlands and provides a clarifying image of the extent to which squatting occurs in the Netherlands. There are different ways to define the phenomenon of squatting. In 2000, the Dutch author Geert Mak referred to the phenomenon of squatting as “A reaction to an economic crisis of young people, who so far have only experienced prosperity (Pruijt, 2004). In general, one can refer to squatting as the temporary use of some one else's property without mutual agreement. Economist Alan Krueger estimated the amount of people living this way on 400 to 600 billion people nationwide (Alan Krueger, 2008). This form of squatting evolves around land and real estate whereas Dutch squatting mainly consists of real estate. The most suitable definition for squatting as it occurs in the Netherlands is: The act of occupying an abandoned or unoccupied space or building, usually residential, which the squatter does not own, rent or otherwise has permission to use (Wikipedia, 2008)

Chapter 1.1: Chacun est maître, le maître chez soi

The well known saying; ‘my home is my castle’, ‘baas in eigen huis’, ‘mein Haus, meine Burg’ and ‘chacun est maître, le maître chez soi’ are examples resulting from the high national and international appreciation for the right to be inviolable in your home. The constitutional right to inviolability of the home is a moral right that gives the occupant the right to be himself uninhibitedly in his home (Koops, Schouten, Prinsen 2004). By restricting the entering of the house, the word used for entering (*binnentreden*) literally means ‘stepping inside’. The right is regarded as the oldest element of the juridical guarantee for the protection of private life (Koops, Schouten, Prinsen 2004). A combination of this fundamental law and two decrees of the Supreme Court (Hoge Raad der Nederlanden) in 1914 and 1971 on protection of possession and domestic peace created the possibility of squatting a house. This decree of the Supreme Court in 1971 stated that squatting is not a violation of domestic peace in the sense of art. 138 of the Criminal Code if the building is actually unused and empty (Wikipedia, 2008, section 1). Art. 138 of the Criminal Code states that violation of domestic privacy is illegal but when squatters have taken up residence in the building or house, domestic peace is created by putting at least a table, a chair and a bed inside. After the implementation of this law, squatters of empty property could be seen as future householders rather than intruders.

Chapter 1.2: The first forms of squatting in the Netherlands

The first forms of squatting of housing accommodation were to be seen in the 1930s. Especially in the Netherlands and in Germany, the consequences of the stagnating world trade were clearly noticeable. Many people were unable to pay their rent and were evicted from their homes because of their debts. As a consequence, committees were set up to occupy unused houses for those who lost their home (Duivenvoorden, 2000).

After the crisis and the Second World War, the 1960s were years of severe unemployment. Holland was busy rebuilding its country and there was an abominable shortage of homes of good quality. Being single it was simply impossible to gain a house for yourself. One was obliged to get married in order to make a chance (Duivenvoorden, 2000). At the same time, many buildings were vacant. Apparently, real estate owners benefited leaving their property unused for a prolonged period of time and await the plans of the municipalities. The expectation was that the value of the estate would increase as a consequence of city planning. Leaving property empty would eventually pay off. Even the municipalities were using this kind of speculation to enrich themselves (Duivenvoorden, 2000). The resulting conflicts contributed to a feeling of injustice among the Dutch people.

In 1964, the student magazine 'Propria Cures' published that despite the severe housing shortage the city of Amsterdam was deliberately making houses uninhabitable in the area of Kattenburg. The fact that the houses were simply made uninhabitable but not demolished was incomprehensible for the student association. The association called upon the people to occupy these houses with the purpose of living there. According to the librarian/artist/writer/expert on squatting and former squatter Tjebbe van Teijen, this phenomenon was called "op een huis kruipen" or "creeping upon a house" (Teijen, 2008). It was only from the year of 1968 that a squatter's movement referred to themselves as 'squatters'. In that period of time, it were mostly young couples who silently took up their residence in these houses (Duivenvoorden, 2000). From the year of 1969, squatting groups erupted all over the country.

In this period of time, one discovers the political strength of squatting. It was clear that politicians were quite influenced by the huge number of dedicated people fighting against the establishment for a good cause. After several squatting initiatives in the city of Utrecht and Haarlem, squatters eventually got permission to be a permanent resident of the buildings concerned. Victory is achieved and with this, a new kind of activist was born (Duivenvoorden, 2000). The amount of cities where people fight against injustice of speculation and slow city planning of public governments is increasing. In his book *Een voet tussen de deur* Eric Duivenvoorden puts forward that, in 1975/76, there were about 700 squats in Amsterdam with an amount of 5.000 squatting inhabitants. In Utrecht, the amount of squats would be around 300–600 with an amount of 2.500 squatting inhabitants and in Haarlem, about 300 squats with about 1500 squatters (Duivenvoorden, 2000). In this period of time, especially the amount of squats in Amsterdam increased

explosively and reached an amount of 35.000 squatters in the early 80s. In three decades, the phenomenon of squatting develops from a property related conflict to a conflict of public order (Duivenvoorden, 2000). Conflicts with angry owners or enforcement officers assisted by a few police officers evolved into complete street battles with an enormous amount of special trained police assistance. Sometimes even parts of the military forces were used to suppress the squatters and people who were supportive (Teijen, 2008).

Chapter 1.3: The 1980s; Geen woning geen kroning – No Housing no coronation

The city of Amsterdam is the city where the most historical events concerning squatting occurred and still occur. These events were quite spectacular and very deterring for the squatting movement these days. It is clear that Amsterdam plays a major part in the history of squatting. On 30 April 1980, the day of coronation of queen Beatrix, every measure was taken to make it a respectful day without any riots or disturbances in any form. The authorities were frantic beforehand because of all the substantial tension between the squatters' movement and the government. A few months earlier, squatters in the Vondelstraat were violently evicted with the use of army tanks, though no shots were fired, the atmosphere was very grim. Inside the movement, the squatters prepared themselves for a day filled with action and protest. The slogan 'Geen Woning, Geen Kroning' (no housing, no coronation) buzzed throughout the country. The message was to protest against the lack of work, housing and future possibilities. The Amsterdam squatters called upon their fellow national squatters to come to the capital to help them. This day, frustrated young people and paranoid and tense government officials would collide. It became a severe battle with hundreds of injured people and millions of guilders damage.



Chapter 1.4: Shifting purposes

In the book, *Een Voet tussen de deur* written by Eric Duivenvoorden the relationship between squatting and striking is made. What striking was for workers, squatting was for the youth. Squatting appeared to be an excellent means of protest in the fight for individual self development (Duivenvoorden, 2000). In the 1980s squatting became a lifestyle which was mostly associated with the protest against the state and the establishment. Within the squatting movement, different orders formed. Where one group squatted homes for own usage, more or less out of principle, the other was no longer solely concerned with the serious shortage of living space. They were more likely to use the power of squatting and the associated publicity for other means. An action against the Amsterdam candidacy for the Olympic games, nuclear weapons, nuclear energy or the visit of the Pope are but some examples of a whole line of political goals on which squatters fixated themselves (Duivenvoorden, 2000). A number of fractions radicalized. Their goals and actions had a

much more volatile content. The more pacific movement Green Front and also the anarchistic movements such as Rara and Onkruit are results of the politicized part of the squatting movement (Duivenvoorden, 2000). A large part of the squatting movement dropped out by the previously mentioned shift of focus of the housing problem to broader political issues and a decline of the popularity of squatters due to the hardening of their actions. Additionally, in the eighties, the city government put a hold on the real estate owners profiting from their property mostly in a dishonest way. The city bought complete blocks of houses from these real estate owners and sold these to investors and building corporations. The squatters were offered a year contract with the lowest possible rent and disappeared from the squatters' scene. In other cases, services that squatters provide within their network were institutionalized. The carpenter companies, alternative vegetarian restaurants and pop platforms were admitted into the public network. Both processes were described by Dr. H. Pruijt under the name cooptation and institutionalization (Pruijt, 2003).

Chapter 1.5: The past initiatives and political decisions on squatting in the Netherlands

On 7 March 1973, the first motion to prohibit squatting was offered to Parliament under the responsibility of the minister of Justice in the Biesheuvel cabinet. In 1976, the motion was heard in Parliament under responsibility of the Den Uyl cabinet (premier Dries van Agt) and was accepted in its original form. An explanatory memorandum appeared in 1977. On 28 February 1978, the 'Raad van Kerken' in the Netherlands wrote a profound elucidation against the admission of the initiative (Tweede Kamer der Staten Generaal (1947). In this report, 'Kraken in Nederland' the phenomenon of squatting is discerned with the problem of housing shortage and abundant unused buildings. The report convinced these politicians of the fact that if a prohibition on squatting would be realized, speculative abundant empty property and housing shortage would increase. On top of this, the amount of protest squat actions would increase (Raad van Kerken, 1978). Due to this elucidation, a large amount of the CDA political group voted against the proposal. On 12 January 1978, the initiative was rejected.

In the year of 1993, the actual squatting law, as it has been the past 15 years was adopted. This law, art 429 of the Criminal Code, stated that squatting would be illegal, only if it occurred within a one-year period of vacancy of the property concerned (Raad van State, 2009, February 9).

On 8 October 2003, CDA member of Parliament, Jan Ten Hoopen, submitted a motion in which only the squatting of business property would be forbidden. This motion was adopted on 21 October 2003. In this period of time, the LPF (Lijst Pim Fortuyn), one of the political parties that was part of the coalition of that time (CDA, VVD and LPF) suffered from internal frictions and disappeared from the scene. Gerrit Zalm (VVD) gave up his trust in the LPF party and with this action he introduced the fall of the cabinet in 2003. The plans were adjourned.

On 15 April 2005, the time limit for temporary hiring of a house or building was changed from three to five years. This is an expansion of the Vacant Property Act, established in 1981. This law gives owners the possibility to rent their property without granting the tenant official tenants protection determined in the Civil Code (Kamerstuk Tweede Kamer der Staten Generaal, Amendement wijziging Leegstandswet, 2004-2005).

In the early days of 2006, Parliament again adopted a motion to prohibit squatting. This time it was initiated by the chamber members Hermans (LPF) en Veenendaal (VVD) (Kamerstukken II 2005/2006, nr. 86). In June 2006, Minister Dekker (Ministry of Housing, Spatial Planning and the Environment) wrote a letter to Parliament in which she discouraged the phenomenon of squatting. It all started to look very grave for the squatting movement until the cabinet fell again on 30 June 2006 due to poor functioning of minister Verdonk (VVD). On top of this, because of the Schiphol prison fire in September 2006, the two ministers P.H. Donner and S. Dekker resigned from their position and the plans were postponed again (Parool, 2006).

The most recent attempt of politicians putting a ban on squatting was made in August 2008. On this date, CDA chamber member Ten Hoopen, CU chamber member Slob and VVD chamber member van den Burg initiated a bill to prohibit squatting in all forms. On 26 August 2008 they offered this bill to the Council of State for advice. This advice was released in February 2009.

Chapter 1.6: Contemporary squatting

Squatting is still an active issue. However, municipalities sporadically keep a record of the amount of reported squats. According to the website www.krakengaatdoor.nl, the amount of squatters in Amsterdam in 2008 was between 1500 and 2000. The report on squatting and abundant empty property, written by P.H. Renooij by order of the Ministry of Housing, Spatial Planning and the Environment states that the amount of squats is estimated on around 200 to 300. In Haarlem, the squatters'scene itself estimates the amount of squats on 20. The average duration of a squat in Haarlem is nine months (Renooij, 2008). The Municipality of Leiden states that 7 of their own buildings were squatted in 2008, but they are not aware of the amount of squatted buildings of private owners, housing corporations, foundations or private limited companies. Deventer counts around 20 squats, especially houses and former factories. The Deventer squatters do not cause any inconvenience to the neighborhoods nor to the Municipality (Renooij, 2008). A municipal spokesperson stated that squatting hardly occurs in Rotterdam. They lack an overview on the amount of squats (Renooij, 2008). From my own experience I count a definite amount of 31 actual squatted buildings / streets (71 separate addresses, 109 squatters) in Rotterdam. I estimate the actual amount of squats and squatters on at least 4 times as large. In a way, this shows that government and Municipalities often know squats when they cause trouble or annoyance but do not acknowledge the existence of many more squatted buildings and houses that do not raise any negative attention. On the 11th and 12th of April 2008, squatters around the world demonstrated to raise attention to the ideals and lifestyle of squatters and the presumed

repression against it. In the Netherlands, manifestations took place in Zaandam, Utrecht, Rotterdam and Amsterdam. In most Dutch cities, so called squatting consultancy hours, are organized by volunteering experienced squatters. On these consultancy hours, people can obtain information on how squatting works and get practical help or legal advice. Nowadays, the squatters' scene is a nation wide scattered, and at the same time, connected group of individuals, each with different motives and purposes.

All around the country, debates and lectures are held in order to inform all parties involved about the prohibition on squatting and the possible consequences of it. There has been set up a petition against the prohibition to show the amount of people who do not agree with the initiative. The amount of signatures made by companies and persons being supportive of squatting as a way to fight housing shortage and abundant empty property was 9545 on 8 June 2009. The Petition is expected to be handed over to the Dutch Government on 1 July 2009.

*** Chapter 2 * Housing shortage and abundant empty property**

When a city or village copes with a severe need of housing, and at the same time having buildings unoccupied, causes dissatisfaction among inhabitants of a city or country. History shows that housing shortage combined with abundant empty property is just the basic condition for squatting (Pruijt, 2003). This chapter clarifies the extent of the problem of housing shortage, existing simultaneously with abundant empty property in the Netherlands. The current Dutch policy to force back abundant empty property will also be considered. What are the possible ways for the Dutch government and Municipalities to force back abundant empty property in an efficient way?

Chapter 2.1: Housing shortage

In December 2006, the department of Economic Affairs and branch organization Aedes (recently in the news due to the commotion in Parliament on the abominable high salary and resignation bonus of the top executives) performed an investigation on housing shortage in the Netherlands. They concluded that a severe housing shortage in the Netherlands does not exist. They stated that only twenty percent of the people who are on the waiting list for social housing is extremely in need of a house. Half of the people may have registered themselves for such housing in order to make a good chance a few years later. Due to this, the waiting lists are longer than they should be. Looking at the subject of this paper, it is more relevant to focus on the situation in Dutch cities and close suburbs. Marnix Norder, municipal councilor of Amsterdam wrote in his letter to the initiators of the Bill on Squatting and Abundant Empty: “through the years more and more people tend to move to the cities. The problem is that the growth of the housing stock in these cities runs far behind on the growth of inhabitants. A huge shortcoming in all segments of the housing stock occurs (Norder, 2008). As a consequence, there are long waiting lists in order to obtain affordable, social housing and the prices for purchasing a private house has raised considerably in the past decades. In 2006, the independent Council of Economic Advisors (REA) has produced an advice which contained the alarming conclusions that the Dutch housing market has reached a deadlock. For starting tenants it is very hard to gain access to this market. The lengths of the waiting lists are extraordinary. The 2006 average waiting period for a decent rental house in Utrecht is seven years, in Amsterdam it is ten and in Rotterdam six years (REA, 2006). Overall, it could be said that housing shortage is not an extreme problem in rural areas, smaller cities and villages but the affordable housing shortage in larger Dutch Cities is definitely a notable problem.

Chapter 2.2: Abundant empty property in the Netherlands

Governmental and local politics frequently call for attention to the phenomenon of abundant empty property, especially office buildings. Dutch landscape is marked by the numerous 'for rent' and 'for sale' signs that are placed on the office buildings. By the end of the year 2007 there was still no clear overview on the amount of abundant empty property in different categories of real estate, and the main causes of this phenomenon.

After a thorough investigation of the Atelier Chief Government Architect, it is concluded that “a geographical, typological covered overview of abundant empty property in the Netherlands is absent. The present information is incomplete, difficult to access to, and not interchangeable” (Atelier Rijksbouwmeester, 2008). Mid 2008, dr. P.H. Renooy and his team of professionals of Regioplan Policy Investigation Bureau performed an elaborate investigation by order of the Ministry of VROM, in order to achieve a better overview and moreover, to come up with the best possible ways to reduce abundant empty property, especially office buildings. In 2007 there was an amount of 4.522.369 m² abundant empty office space. This means 10% of an estimated amount of 45 million square meter rentable surface (Renooy, 2008). In the last three years the amount of empty office space has risen substantially. This means that there is a structural and abundant amount of empty office buildings in the Netherlands.

Table 1: Structural empty property in The Netherlands

Tabel 2.1 Structurele leegstand in Nederland naar locatie in totale m²

	Leegstand 2007	Drie jaar leegstaand in 2007	% drie jaar leeg
Amsterdam	1.015.250	775.323	76,37
Rotterdam	285.000	190.072	66,69
Den Haag	248.705	151.733	61,01
Utrecht	240.960	139.377	57,84
Rest Nederland	2.731.209	1.868.148	68,40
Totaal	4.521.124	3.124.653	69,11

Table 2: Location of empty property in the Netherlands

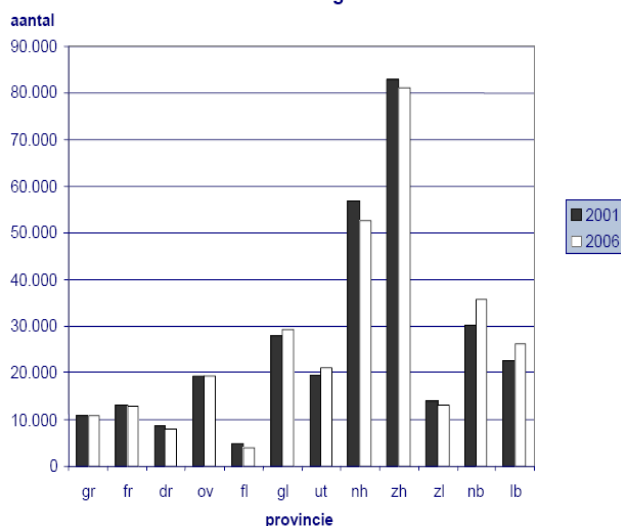
Tabel 2.3 Locatie drie jaar leegstaande panden

Locatie	Absoluut	%
Onbekend	6	3
Centrum	32	17
Woongebied	44	23
Bedrijventerrein	34	18
Kantoorwijk	68	36
Buitengebied	6	3
Totaal	190	100

These tables, retrieved from the Regioplan report on abundant empty property in the Netherlands, state that most of these structural empty office buildings are in industrial zones. However, a substantial amount of these buildings are at city center locations and residential areas, which is extra disturbing. There are multiple ways to explain the causes of the substantial amount of abundant empty property in the Netherlands. The main cause is a combination of a too large amount of supply and an aging of stock. Due to this aging, the buildings do not comply with the demands of the user. These older office buildings, mainly on less attractive locations, are the ones that remain empty. More than 3,1 million square meter has already been unused for more than three years (Renooy, 2008). On 31 March 2009 the European Parliament voted in favor of a directive, which obliges buildings to reach a certain energy saving factor. From the year of 2019, all buildings should comply with the aspects of this directive. As a consequence, developers keep on building new property because this is simply cheaper than renovating and adjusting old ones. The market does not correct itself due to the fact that developers still gain profit from their recently developed supply. It is clear that a certain interference of the Dutch government in this market is necessary. In certain districts like Amsterdam, they started putting a hold on developing new office buildings (Renooy, 2008). The following diagram shows a clear overview of the big difference in demand and supply of office buildings in the Netherlands.

Figuur 2.2 Ontwikkeling aanbod en opname kantoren

Bron: Bak, 2007

Table 3: Developing of supply and demand of office buildings in the Netherlands**Niet bewoonde woningen 2001 en****Table 4: Development of supply and demand of office buildings in the Netherlands**

Though, the Regioplan report states that the abundant amount of empty shops, houses and business property is limited. In 2006, the CBS (Central Statistic Bureau) counted a number of 313.000 empty houses. In the 31 larger Dutch Municipalities, an average of 5.1% of the housing stock is unused. These are hard numbers but not alarming. There are various causes for houses being unused like: Large redevelopments of neighborhoods, second homes and uninhabitable houses. Still, the Province of Zuid Holland attracts extra attention. In Rotterdam, from 1 January 2006 an amount of 21087 (7,2%) houses have been empty and unused. The Hague counts an amount of almost 20.000 (8,3%). The following diagram shows the extent of empty houses in the 12 Dutch Provinces (Renooij, 2008).

Chapter 2.3: Current policy on abundant empty property

The Regioplan report on abundant empty property states that there is no congenial governmental policy on abundant empty property in the Netherlands. In order to efficiently force back abundant empty property, the

Municipalities must possess both the lawful competence and the possibility to enforce instrumentation, policy and implementation in the region. Based on the analysis of the actual situation concerning the extent of abundant empty property, the Municipality can determine which measures must be instituted. For each city, a different approach is necessary. At this moment there are multiple measures Municipalities can take in order to reduce abundant empty property. The Vacant Property Act (Leegstandwet) is used frequently by using temporary tenants. With this law the tenants can be asked to pay a reduced rent without granting them official tenants' protection. This makes it possible to force them to leave on short term (Renooij, 2008). This process appears to be similar to activities of anti-squatting organizations. The difference lies in the option for official tenants' protection. If an anti-squatter pays more money than he actually uses for gas, water and electricity he or she can opt for official tenants' protection. Anti-squat companies often avoid the term tenant- or leasing agreements trying to escape from offering tenants protection. About twenty five of these companies are active in the Netherlands, they accommodate somewhere between twenty and fifty thousand people. Tenants often need to fulfill certain criteria, such as no criminal record, single and no pets, in order to be considered. The occupation of living space tends to be abominable low, depending on the philosophy of the company. Some of these companies have as primary goal to prevent squatting, whereas others do want to mediate between housing seekers and potential living space (Renooij, 2008). Due to the previously mentioned aspects, anti-squat does not appear to be a realistic solution to decrease the amount of abundant empty property, not even on a temporary base. Under the current legislation it is possible for Municipalities to demand from property owners that they inform the College of B&W (mayors and councilors) in case of vacancy of their property, using art 8 of the Housing Allocation Act. In extreme cases it is possible for Municipalities to lay claim to property, using art 40 of this same Act. In almost half of the Dutch cities this tactic is included in the Municipal Directive, but it is rarely used (Renooij, 2008). Municipalities often make use of Governmental force in form of non compliance penalties per time unit of per offense, using art 7 and 30 of the Housing Allocation Act. This has proved to be an adequate way to force back illegitimate housing and abundant empty property (Renooij, 2008).

Chapter 2.4: Future strategies to force back abundant empty property

The Municipal councilors of the G4 (Amsterdam, Rotterdam, Utrecht and Den Haag), the VNG (association of Dutch Municipalities), the authors of the report on abundant empty property in the Netherlands (by order of Ministry of VROM and EZ) and Municipal developing company (OAG Amsterdam) bring forward the following approaches in order to reduce abundant empty property in the Netherlands. It is clear that they tend to elaborate on the existing strategies mentioned above in stead of developing a radical new policy.

Extend use of governmental force

The use of non-compliance penalties can be used more focused. By enforcing a high non-compliance penalty for the owner of unused/empty property it becomes financially less attractive to leave the property unused for a longer period of time. This has proved to be an effective tool to correct the behavior of the owners and

to reinstate the usage of residential homes. At this moment these kind of penalties can run up to 18.500 Euro. The municipalities of Amsterdam and Rotterdam expect to expand the use of governmental force in form of non-compliance penalties and fines (Renooij, Herrema, 2008) .

Other financial sanctions.

In addition to the non-compliance penalty and a governmental fine, the G4 state that a rural charge for leaving empty property unused could be implemented. The message of 'no tax return in case of vacancy but a 'vacancy charge' would send out an important message to owners (Herrema, 2008).

Abolishment of tax refund for abundant empty property

In order to limit abundant empty property caused by speculation, the tax deduction for empty property needs to be abolished (Herrema, 2008).

Transformation: A new life for vacant office-company and shopping spaces

More improvements can be made in re-usage and re-destination of prolonged abundant empty office buildings, companies or shopping complexes. This process is called 'transformation' and seems like the ideal solution but brings about a few surmountable obstacles of juridical, technical and financial kind. The financial and juridical problems seem to be resolvable through directive policy but certain technical obstacles will be more of a problem (Renooij, 2008). The recently adjusted Law Town and Country Planning offers more possibilities than the old one to bring transformation into practice (Renooij, 2008).

Vacancy Levy / Vacancy Tax

Multiple Municipalities in the Netherlands are positive to establish a tax / levy on abundant empty property. Belgium and the U.K. use such system, but this could not be determined as a successfully policy. The regulations on this tax considerably increase the administrative burden on civilians and businesses. Furthermore they are difficult to maintain and execute and susceptible to fraud. Experience shows that many property owners find a way to avoid paying these taxes (Renooij, 2008).

Claiming unused empty property using article 40 of the Housing Allocation Act

When the Municipality lays claim to a building the task of landlord is taken over from the owner who failed to meet the rules of the Housing Allocation Act. This is quite comfortable for the owner because the Municipality has to ensure that the landlord receives rent, the house is properly occupied and returns the building in a proper state after 10 years have passed (Renooij, 2008). It would be contradicting and undesirable to reward the property owner by giving the property back after 10 years taking good care of it. The Regioplan report on abundant empty property states that multiple Municipalities have stopped using this possibility due to the reasons mentioned above. In the end, it does not seem an effective tool in order to force real estate owners to find a short term or temporary destination for their property.

Government interference in market

A certain interference of the Dutch government in market is necessary. The most important tool to achieve less abundant empty buildings is putting a hold on developing new office buildings. In certain districts like Amsterdam, they already started canceling new projects (Renooij, 2008). With this strategy the market is regulated to some extent and the supply controlled (OGA Amsterdam, 2007).

Chapter 2.5: Concluding paragraph

This chapter clarifies the extent of the problem of housing shortage, existing simultaneously with abundant empty property in the Netherlands. Due to the fact that there is not a comprehensive amount of empty residential houses, the G31 (the Larger Dutch Municipalities) do not practice a formalized policy on this phenomenon (Renooij, 2008). Various Municipalities indicate that they practice different tactics depending on the extent and type of empty property they have. Overall it turns out that the unbalance between a lack of affordable housing and abundant empty property is more of a problem in the bigger cities in the Netherlands like Amsterdam, Rotterdam, the Hague and Utrecht, but also in many other cities this same phenomenon occurs. The biggest problem is the amount of empty, unused office buildings situated mainly in and on the outskirts of these cities and industrial areas nearby. In the last three years, the amount of empty office space has risen considerably. This means that there is a structural and substantial amount of empty office buildings in the Netherlands. It would be a perfect solution to accommodate all the people in need of a house in these unused office buildings. In some cases this tactic is indeed being put into practice by transforming these buildings into (temporary) homes but unfortunately it is financially more attractive for real estate owners to leave their property empty and unused. This is where the market operates incorrect and the government should interfere to some extent. In the television program “Jansen & Janssen”, Municipal Councillor on Town and Country Planning Maarten van Poelgeest (Amsterdam) stated: “One can fine real estate owners for leaving their property unused and empty but more effective is the threat of squat. If these buildings are squatted an investor and owner would be much more affected and pressurized for finding a new destination for the property than a vacancy levy which the owner can easily afford” (van Poelgeest, 2008). It is a fact that squatting works preventive. The threat of squat is often sufficient for housing corporations, private owners and other real estate owners to find a temporary destination for their property. There are a lot of measures owners can take in order to prevent their property from being squatted, mostly by using the Vacancy Property Act (Renooij, 2008).

In the long term, the most effective way to reduce abundant empty property, especially office buildings would be interference of the government and Municipalities in the housing market. There should definitely be put a hold on developing new office buildings. With this strategy the market is regulated to some extent and the supply controlled (OGA Amsterdam, 2007). In the meantime, an elaborate and more focused usage of the

Vacant Property Act, application of transformation of office buildings into housing, non compliance penalties and fines for real estate owners and investors are attainable and maintainable means to force back the amount of abundant empty property in the Dutch Municipalities. In the last chapter of this dissertation, the best suggested approaches mentioned above, will be compared to the initiated approaches of Ten Hoopen, Slob and van den Burg, in order to examine the efficiency and maintainability of the Bill.

* Chapter 3 * Squatting in perspective

By the end of the year 2008, Bas van 't Wout, municipal councilor of the VVD Amsterdam, published an article in which recent excesses that evolve around squatting and squatters in the Netherlands are outlined. This 'Black Book' was meant to convince all politicians (senators and members of parliament) of the fact that squatting harms society in different ways and it should be prohibited. As a reaction to this, a group of people who are positive towards squatting started to gather information to make a White Book. This book was released in January 2009 and attends to the matter of the social, cultural and political value of squatting. In this chapter I will first explain the phenomenon of squatting, without using judicial vocabulary. However, everything written has judicial grounds which are explained in chapter 4. CDA Member of Parliament referred to the Netherlands as the 'crazy misfit' of Europe because of a controversial law that protects squatters. Paragraph 3.2 and 3.3 explain the positive and negative influences of squatting on the Dutch society clarified by actual examples mainly retrieved from the Black Book and the White Book but also from newspaper articles and personal experiences. The concluding paragraph contains my findings on these aspects.

Chapter 3.1. Squatting in practice

Squatting is living in – or using otherwise – a dwelling without the consent of the owner (Pruijt, 2004). Unlike the Netherlands, in most other European countries the process of squatting is illegal in all forms. Although squatting occurs all around the world it is quite unusual for squatters to enjoy some kind of legal protection. In the United Kingdom, squatting is regarded by law as a civil, not a criminal, matter. In Germany and Italy there is no legal protection for squatters. In those countries, opportunities to stave off eviction mainly exist when the building is owned by the state, and are restricted to trying to influence political decision making (Pruijt, 2004). Although the Dutch squatters enjoy legal protection squatting does often involve forcing an entry, which is illegal. Though, once inside and domestic peace is created one has the 'right' to live there. It is vital that the building has been vacant and unused for at least one year. When a building is on the official demolishing-list this time limit is flexible (explained in chapter 4.4). Best suitable empty buildings are those whose owners would be embarrassed to be seen evicting squatters, because they have a (moral) obligation to house the needy, such as the state and the Church. The ideal target for squatting is regular housing stock, left empty for inexplicable or inexcusable reasons. The better the condition of the buildings, the more embarrassing it is that the owners left it empty (Pruijt, 2004). Domestic peace is created by putting household goods inside and be able to close and lock the door. These household goods must at least contain a table, a chair and a bed but preferably more, like plants and cooking material (Schunkink Kool, 2002). This way the squatter shows the intention of living there, creating a home. Once a house or building has been squatted, it is recommended to inform the police about the action. They will confirm the

justification or the illegitimacy's of the squat. This way the police will be aware of the situation in advance.

All consumers are obliged to pay for gas and electricity, squatters are no exception. If people use these facilities without paying, they can be charged of theft. There are multiple types of real estate owners; private owners, housing corporations, other kind of organizations, businesses, foundations and the Municipalities. With the current legislation, owners can take legitimate steps to arrange eviction of the squatters. The owner starts a (summary) procedure against the squatters and proves before a judge that he has short term plans to use or renovate his property. In such situations the judge will in almost every case decide in favor of the owner. Some judges tend to be more lenient towards squatters than others. In many cases it does not even come to a court case. Often the owner knows that the squatters are protected by law and lets them use the property until he or she finds a new function for the building. Often the squatters leave as soon as they receive notification that a summary procedure has been initiated to make them leave the property. In many cases the owner and the squatters come to a mutual agreement without the interference of higher powers. If a healthy dialog between the two parties exists the problem could become a solution. The financial cost for the owner is limited, his property is temporarily used and another person (or persons) has a temporary home. Of course, this is the ideal way of putting squatting into practice. Real estate owners are not happy when they find out their property is suddenly being used by strange people. They often see squatters as intruders, who decrease the value of their property and make it harder to sell or rent. In the following two paragraphs I will work out the negative and positive aspects of squatting in Dutch society.

Chapter 3.2. The necessity of a prohibition on squatting.

The initiators of the bill *Squatting and Abundant Empty Property* bring forward five substantial negative consequences and aspects that involve squatting. This paragraph elaborates on these negative aspects of squatting clarified by practical examples mainly retrieved from the recently released Black Book. In order to underline the necessity of a total prohibition on squatting, Bas van't Wout, municipal councilor of the VVD Amsterdam, put together a file, called the Black Book on Squatting, in which recent excesses that evolve around squatting and squatters in the Netherlands are outlined. In many cases parties involved have requested their names to be deleted for fear of repercussions.

Squatting damages the foundations of our society and judicial system

In their non government bill, the initiators state that squatting damages the foundations of our society and judicial system. One of the most important subjects of law, Property law, is severely damaged. "Squatting is an unacceptable form of self appliance" (Ten Hoopen, Slob, v/d Burg, 2008). Initiatief wetsvoorstel, memorie van toelichting, pagina 1). In one of the cases described in the Black Book, a situation is outlined in which a second floor house in Amsterdam was squatted in 2006. The owner did not have complete building permits yet and was working on obtaining them in order to start a big renovation. A group of squatters started using

the house as their home even though the property was empty less than 12 months. According to current legislation this would be an illegal squat and the squatters should be evicted and be held responsible for damage if necessary. The owner informed the police after which they told him the squat was initiated by squatters collective 'Vrankrijk'. The police advised him not to undertake action and await the official round of eviction which was planned three months later. When the owner and two friends entered their property under mutual agreement, the squatters lodged a complaint to the police based on art. 138 (violation of domestic property). In the end, the squatters left the property just before the eviction round was planned. The owner claims to suffer from both financial and emotional damage. The problem with such situations is even when the squat is illegitimate, police and justice sometimes do not react immediately but await the situation in order to solve multiple similar cases at once. Most of these cases occur in Amsterdam because this is the only city where official rounds of eviction, assisted by the mobile unit of the police, occur about 3 times a year.

The hardening of the squatters' movement

"Through media channels it became clear that the squatters' movement has hardened in the last few years. Squatters become increasingly violent towards neighbors and the police, they also become increasingly criminal" (Ten Hoopen, Slob, van den Burg, (Augustus 2008). Initiatief wetsvoorstel Kraken en Leegstand, memorie van toelichting, pagina 9). There are multiple examples in which squatters cause inconvenience to neighbors to various extents. During eviction rounds in 2007 and in 2008 in the Kerkstraat and the Bilderdijkstraat (Amsterdam), police came across two squats where an installation was created that could be a booby trap, designed to slow down or even harm police officers. A spokesperson of the squatters claims that there was no such installation that could harm human beings. Instead, it was designed to activate a fire extinguisher that would cover the first persons to enter the premises with the solid extinguishing agent (white powder). It was their way to protest against the eviction without the risk of an, in their opinion, disproportional heavy punishment (statement made by the spokesperson of the squatters during the official release of the White Book on squatting in the Hague which I attended in January 2009). In the same building in 2007, the police shields were penetrated by fallen or thrown sharpened rods. Leen Schaap, chief in command of the Amsterdam police believes that a small group of squatters could be toughening. He calls upon all squatters to actively stand up against this behavior (Parool, 26 March 2009). As is to be read in the next paragraph, chief commissioner Leen Schaap would officially revise his vision on the hardening of the squatters' movement around a year later.

Foreign profiteers

According to the initiators of the Bill, an increase in foreign squatters is notable. In their opinion it seems that idealistic squatters are past tense and are often substituted by the European squatter, especially the Eastern European. There are some incidents known where foreign squatters cause annoyance to the neighborhood and damage the property they squatted. Within this group of foreign squatters, we can

distinguish the so called 'tourist or crash' squatters. Since the early 1970s, there are tourists who spend a summer in Amsterdam in buildings which they occupy for this purpose. Due to their temporary presence, they take little responsibility for either the building or the neighborhood (Pruijt, 2004). In fact, squatted buildings in general may cause more and more annoyance, damage, deterioration, threatening situations and insecurity in the neighborhood (Ten Hoopen, Slob, van den Burg (Augustus 2008), Wetsvoorstel Kraken en Leegstand, memorie van toelichting, pag. 10)

Squatting due to a deterioration of housing is obsolete

In their non government Bill, the initiators bring forward the matter that the idealistic motives to squat have disappeared. They state that in former times, squatters used to squat to oppose housing shortages but nowadays they just use the existing law to live on an A-location without paying any rent (Ten Hoopen, Slob, van den Burg (Augustus 2008), Initiatief wetsvoorstel Kraken en Leegstand, memorie van toelichting, pagina 8). In a radio interview, Brigitte van den Burg (VVD) claimed that few squats are to be found in bad districts of a city like Amsterdam Zuid-Oost but only on A-locations in the city center (Van den Burg, 2009). According to the opponents of squatting, the twelve month time limit for owners in order to find a new or temporary purpose for their property is not realistic. To appeal and acquire the necessary permits often take longer than 12 months, especially with monumental buildings (Ten Hoopen, Slob, van den Burg (Augustus 2008), Initiatief wetsvoorstel Kraken en Leegstand, memorie van toelichting, pagina 7). Squatters often profit from this bureaucracy. A prohibition on squatting would make the act a criminal offense. Aggrieved parties, Public Prosecutor and Public servants will have juridical ground to take strong action against them. "The injustice to real estate owners, needing to pay substantial amounts of money for legal costs in order to arrange eviction should be past tense" (Ten Hoopen, Slob, van den Burg (Augustus 2008), Initiatief wetsvoorstel Kraken en Leegstand, memorie van toelichting, pagina 7).

Chapter 3.3 The social, cultural and political value of squatting.

In a reaction to this Black Book on squatting, a group of people took the initiative to gather information to produce a White Book on squatting. It is a 132 pages long book in which positive articles and stories about around eighty squats in twenty different Municipalities in the Netherlands are included; it was published December 2008. Many professors and authors made a contribution by writing articles about squatters as protectors of monuments, as cultural entrepreneurs and squatting as a safety net to people in need of housing (foreigners, people who are in trouble, youth with problems at home). According to Lowe (1986), often, a distinction is made between squatting as a way of meeting a housing requirement and squatting as a way of satisfying a need for alternative cultural and/or political expression (Pruijt, 2004). However, researchers who tried to establish why people were squatting found that unmet housing needs are an important motive for all squatters (Pruijt, 2004).

Squatters as cultural initiators

For more than 40 years squats have rendered opportunity and stimulation for cultural and autonomous initiatives. Starting artists get a chance to develop without the difficulty of paying unaffordable amounts of rent for their atelier. Many cultural initiatives got a chance to establish and develop thanks to squatting. Some of these initiatives even grew to be pop-podia with international significance like the Paradiso in Amsterdam, the Melkweg in Amsterdam, the Tivoli in Utrecht and the Nighttown in Rotterdam (Noble 2009). In the city of Dordrecht, a formal laboratory of the national inspection service was squatted in 2005. Under the name "Anarres" (named after the Dispossessed, 1974) the building was used as a home, atelier and workplace for various kinds of people and artists. (Witboek Kraken, 2008, pag 49). In Rotterdam, an old factory was squatted in 2005. It was completely neglected and the squatters started a foundation and eventually invested an amount of 30.000 Euro without any outside help. They put up a weekly program for movies, music and art evenings and exhibitions. It also became a location for a side event of the *Dutch Electronic Art Festival*. After about 2 years of existence, the fire department disqualified the building on safety grounds and the occupants were given three days to leave the building. They did get a temporary rental location to continue with their initiative. Unfortunately they were not allowed to live there, only initiate projects under limited stipulations; the factory is still empty and unused.

Squatters bring to light the injustices of the housing market

Furthermore, squatters play an active and engaged role in neighborhoods that cope with abundant empty property. Dilapidated buildings are being renovated and vacant space is being used again in a playful way. They invest a lot of time, money and effort in these squats, even if only for a short period of time. In 2007 a large part of the Bergstraat in Rotterdam with 12 empty and poorly maintained houses were closed with steel and were waiting for the owner to come up with new plans. Almost all houses had been empty and unused for more than one year so a group of 13 squatters, even a family with a baby, made them their temporary home. All the steel was removed and the doors were painted in bright colors. Most neighbors were happy to see the street become alive again (residents of the Bergstraat, 2008). In 2008, a big house on the corner of quite a sophisticated street called 'Schietbaanlaan' in Rotterdam was squatted by a small group of people. The house had a history of being a brothel where young foreign prostitutes worked. The owner had criminal ties and owned real estate all around the city. Neighbors got together to end this unpleasant situation and the Municipalities temporarily disowned the owner from his property. It became pleasantly quiet in the street and neighbors were happy, until this group of squatters started to use this building as their new home. The neighborhood was angry and scared but after a some weeks they got to know each other and started to get friendly. When the owner came back and threatened the squatters, the neighborhood and the squatters combined forces. The neighborhood preferred the squatters to live there. At this moment (May 2009) one is still waiting for news from their lawyers (Joan, resident of the building, 2009). This is a significant example of squatters bringing to light the problem of abundant empty property and collaboration with renting neighbors. A good example of squatting bring to light the injustices of the housing market is be a

building on the 'Graaf Florisstraat' in Amsterdam. It has a history of being vacant for decades. Sometimes it was temporarily used but it had terrible arrears in maintenance. When a group of students have squat this street and renovated all houses within a period of 2 months the owner suddenly became alert and eventually serious renovating and selling plans for this street started to take shape. The squat achieved its goal! (Pieter Boersma 2008). In many cases squatting a building puts a pressure on owners to do something significant with their property and not leave it unused for years, in the mean time making money with the increase of value of the ground.

Squatting also works preventive. The threat of a building being empty for a long period of time goes together with the threat of being squatted. This way owners often take precautions in the form of temporary usage or speeding up the process of renovation in order to prevent this. Eventually it all works in favor of the amenity of the neighborhood and the fight against abundant empty property. Governments often lack efficient means to force back speculative real estate owners. With their direct actions, squatters fill a void in this process.

A few other initiatives worth mentioning are the many bicycle workshops, and recycling-shops that are located in many squats in the Netherlands. The squatters' movement was overall a big support for different social movements like the peace movement, the environmental movement and the feminist movement (in the 1970 around half of the 'blijf van mijn lijf' shelters for women were squatted). These examples are just a tip of the iceberg. The 132 pages White Book is filled with only a selection of all existing examples of squat and squatters being of value to society in different ways. These examples show that squatters in the Netherlands do not aspire to a place among the deprived and needy but rather make a positive contribution to society. One can draw this conclusion just by researching the types of buildings that mainly are squatted. The preferred type of building is one that allows squatting to be seen as an addition to the affordable housing stock, rather as a fight for a share of it (Pruijt, 2004). Suitable buildings include commercial estates that were never intended to be used for housing, tenements that were officially taken off the market, for instance because of planned demolition, housing which is (far) below rentable standard, or alternatively, empty luxury accommodation (Pruijt, 2004). This way, squatting becomes a two-edged sword: squatters help themselves outside of the existing affordable housing stock and at the same time indirectly help other low-income home seekers by removing themselves from the waiting queues for authority-allocated housing..

Chapter 3.4: Enlightening paragraph

In this chapter I have enlightened both negative and positive aspects that squatting brought and still brings about. The Black Book on squatting written by van't Wout, an article in the Parool newspaper and the official Wikipedia website state that the squatters' movement shows signs of hardening. Longmans' dictionary defines this phenomenon as to become more strict and determined and less sympathetic. After reading many articles and books about the history of Dutch squatting this statement seems to be an overestimation. Looking at the 1970s and 1980s, squatters had more reason to act tough. During that time, battles over squatted houses and demonstrations were much more radical and less sympathetic towards authorities and

real estate owners than they are these days. The number of squats and squatters has significantly decreased in the past thirty years. Nevertheless, squatting still occurs all around the country, especially in the bigger cities where abundant empty property and housing shortage clearly occur simultaneously. Through the years, more and more people tend to move to the cities. In his letter to the initiators of the bill, Marnix Norder, Amsterdam Municipal Councilor stated that the growth of the housing stock in these cities runs far behind the growth of population. A huge shortcoming in all segments of the housing stock occurs (Norder, 2008). As a consequence there are long waiting lists in order to obtain affordable (social) housing. On top of this, the prices for purchasing a private house have risen considerably past decades. In the meantime, a considerable amount of houses and business space is being left empty and unused. Where governments' policy fails, squatters fill up a gap without jumping queues but by stepping out of these queues and starting to live in buildings that would otherwise not have been used for people to live in. It can not be denied that there have been some severely violent and threatening situations in the last three years. Though, in some of these cases, like in most cases described in the Black Book, it is rather doubtful that they happened as the authors of the book described them. It is not possible to verify the stories of the injured parties because they wish to stay anonymous (contrary to the White Book, where every place, date and parties involved are mentioned clearly). Furthermore, the youth departments of the political parties Groenlinks (DWARS) and SP (ROOD) have given an official statement on the website of www.zwartboekkraken.wordpress.com that some incidents described in Bas van't Wout his Black Book are completely out of context. This sets the tone for the book as a whole and makes it an unreliable source. In situation where squatters do use violence, threat and intimidation, current legislation suffices to arrest and prosecute them.

* Chapter four * The political debate on squatting

CDA chamber member Ten Hoopen, CU chamber member Slob and VVD chamber member van den Burg initiated a bill to prohibit squatting in all forms. On 26 August 2008 they offered this bill to the Council of State for advice. This advice was released in February 2009. Below the original initiative and the explanatory memorandum are outlined. In the paragraph 4.2 the general visions of the ten main political parties in the Netherlands on the topic of squatting are clarified. The visions of the Council of State, the VNG (association of Dutch municipalities), the 4G's (Amsterdam, Rotterdam, Utrecht and The Hague) and a selection of the inhabitants of Amsterdam are also pointed out. In paragraph 4.3, a selection is made of articles and laws that were necessary to be aware of in order to investigate the necessity and maintenance of the Initiated bill. I will conclude this chapter computing the moral question of the bill and the actual matter of the necessity and maintenance of the initiated bill.

Chapter 4.1: The Initiative of Ten Hoopen, Slob and van den Burg

Parliament member Jan Ten Hoopen (CDA), chamber member Arie Slob (CU) and chamber member Brigitte van den Burg (VVD) have used their right of initiative to develop a non-government bill to prohibit squatting in all forms, and at the same, time seek an integral approach to the existing problem of enduring abundant empty property in the Netherlands. The bill consists of two elements. On the one hand it is a complete prohibition on squatting which should coincide with a immediate response of police officials in case of violation. On the other hand it should force back persevering abundant empty property in forms of office buildings, concerns and shops. This new law offers the possibility to establish a so called *vacancy regulation* for the Municipalities where severe abundant empty property of this kind occurs. Besides an obligatory notification for the buildings concerned, the Municipality can oblige the owner to use temporary users, addressed by the Municipality. This arrangement would only be applied in extreme cases.

Part 1: The total prohibition on squatting

The initiators wish to realize a total prohibition on squatting. The current legislation just does not suffice. Squatters need to be arrested and prosecuted. In many cases squatters can not be hold responsible for damage or other violation because they have disappeared before the owner can undertake any legitimate steps. In the first instance article 429 sexies of the penal (criminal) code in which squatting is admitted in case of an at least a one year period of vacancy of a building will be removed. A new law is added. This law will be called article 138a of the Criminal Code and will contain the actual prohibition. With this change in law, squatters can be arrested immediately and can be hold in temporary custody for 6 – 12 hours for investigation. It is also more easy to discover the identity of the ones in violation. This way they can be hold

responsible for damage if needed. In case of violation, squatters will be punished severely and can be imprisoned for 2 years and 8 months (running up to 32 months in case of repetition and working with more than one person). Police needs to give priority to cases of violation of this law and operate quick and consistent. The police, Justice Department and the Municipalities, also referred as the 'local triangle' need to determine to which extent they will implement the new policy. The initiators bring forward five points that should answer the question of why a prohibition on squatting is necessary, all elaborated in chapter three.

The initiators expect the police to operate active and firm., especially during the first period of implementation. In the first instance the law change will ask more police capacity. Consequent police conduct will on a reasonable period of time reduce the amount of squatting actions. On a long term abundant empty property will decrease due to the supplementary policy on abundant empty property (second part of the bill). To the public prosecutor there will be a change from a civil matter to a criminal law matter. On top of this, the burden on the judicial system will decrease because it won't be necessary anymore for the police to investigate the duration of the one year vacancy of a squatted building.

Part 2: Approach on forcing back abundant empty property

The second part of the bill is about forcing back abundant empty property in forms of office buildings, shops and business compartments. It is mainly about the improvement of the possibilities of temporary usage based on the Vacant Property Act. Despite of all critics on anti-squatting organizations (elaborated in chapter 2.3), the initiators are still an advocate of anti-squatting organizations because they still appreciate the 'anti-squat' aspect (prevention of a building being squatted). The initiators consider them as a good temporary solution for long-term vacant buildings and could easily continue acting as an intermediate between property owners and future 'tenants' based on the Vacant Property Act. Though the bill does request these organizations to become a trustworthy partner to the Municipalities. According to the initiators, it is important for this branch to set up their own certification system in order to build up a reliable and professional relationship with the Municipalities.

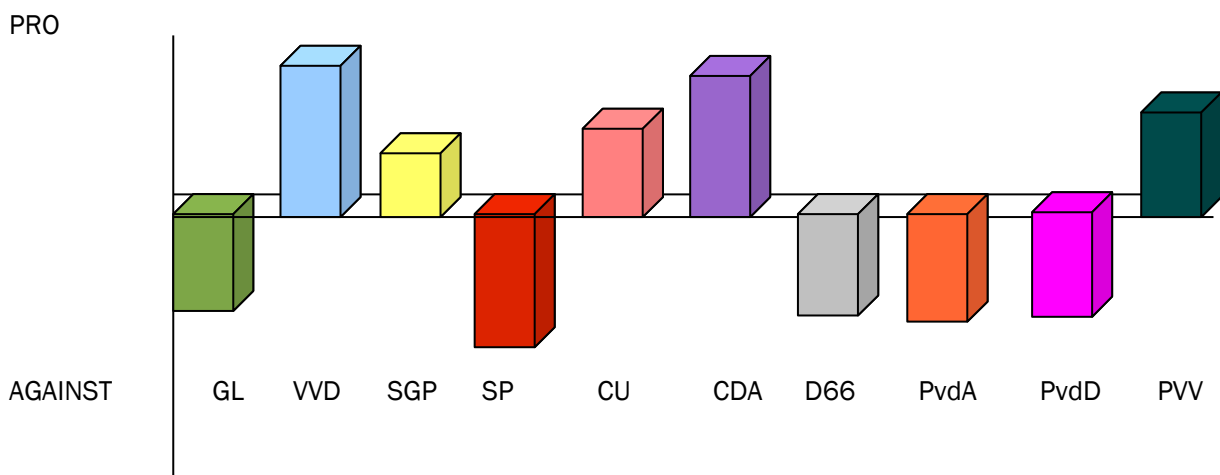
An added aspect of the non-government bill to force back abundant empty property is the establishment of the so called *vacancy levy / tax* on buildings and houses. Municipalities have the possibility to pursue this vacancy regulation. It will not be obligatory in order to avoid excessive bureaucracy and administrative burdens. This vacancy regulation includes:

- Area aimed (perhaps zip code) obligation to real estate owners to notify the municipalities if their buildings have been unused (vacant) for six months. In case of disobedience the fine will be max. 7.500 Euro.
- Within a period of 3 months of vacancy there will be a consultation between Municipalities and owner.
- In case of non cooperation of the owner, the Municipalities will present him/her of a temporary user (obligatory) or in extreme cases temporary expropriation.

Paragraph 4.2.: The visions of all parties involved

The majority of the Second Chamber is expected to vote in favor of the bill which would make squatting a criminal offense and simultaneously reduce abundant empty property in the Netherlands. The following diagram gives an overview on the attitude of Dutch political parties active in Second and First Chamber towards the prohibition on squatting.

Table 5: Estimated overview of the visions of all political parties on the prohibition on squatting



The progressive, left wing parties are quite skeptical on the initiated Bill, whereas the more conservative, right wing parties tend to support it.

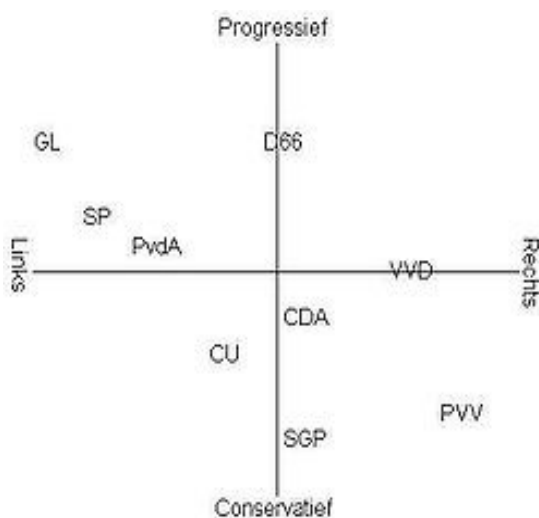


Table 6: Division of progressive and conservative parties

The Council of State

The Council of State has given her official feedback on the initiated bill on Squatting and Abundant Empty Property on February 9th 2009. The Council of State is the highest board of directors who gives advice to our government and parliament on legislation (Raad van State, 31 March 2009). The Council of State must be consulted by the Dutch cabinet on proposed legislation before a law is submitted to the parliament and also serves as a channel of appeal for citizens against decisions of the executive branch. The advice stated that the essence and the necessity of a prohibition on squatting is indicated inadequately and it lacks the Municipalities the means to carry out the proposed plan. The proposed plan on forcing back abundant empty property does not have any added value on the existing policy. The history of the Vacant Property Act (1986) shows that a similar approach simply does not work adequately. The Council claims that a more elaborated analysis on the cause and extent on squatting and abundant empty property is necessary in order to define the extent of the problem and the best possible ways to solve them. The Council also states that the initiative Bill does not clearly show the shortcoming of the current approach to take hold of squatters (Raad van State, 31 March 2009). Overall, the Council of State is rather skeptic on the content and the execution of the initiated Bill.

The G4 - Amsterdam, Rotterdam, Utrecht and The Hague

On 29 May 2006, the Amsterdam PvdA municipal councilor Marnix Norder wrote an official letter on behalf of the G4 to Sybilla Dekker (former minister of Housing, Spatial Planning and the Environment). In the letter the G4 officially outspoken their view on the previous motion (2006) to prohibit squatting (initiated by Hermans and Veenendaal 2006). In this letter, the 4G's stated that a prohibition on squatting would possibly bring about an increase in abundant empty property in the Netherlands and is therefore unwanted. The possibility of property being squatted pressures owners to undertake (temporary) action for their property. The G4 are an advocate of elaborating the use of the Vacant Property Law in order to reduce abundant empty property. This approach, plus the risk of property being squatted would be the best possible solution at this moment (Norder, 2006). On 25 June 2008, the G4 have again officially outspoken themselves against the new Bill 'Kraken en Leegstand' initiated on August 2008. Instead if comment on the initiated Bill this letter mainly consists of information to inform the Chamber Members Ten Hoopen, Slob and van den Burg about ways to reduce abundant empty property with existing legislation and some additional regulation. The letter is concluded by acknowledging and disapproving of a group of squatters being guilty of using violence and threat. They state that this group of squatters should be punished and prosecuted (Herrema, 2008).

The VNG - Association of Dutch Municipalities

On the official website of the VNG municipalities have outspoken their view on the Bill on Squatting and Abundant Empty Property in the Netherlands. They too think that the current legislation is sufficient in order to reduce abundant empty property. An emphasis is put on the possibility to transform business property into (temporary) houses. The VNG is against the initiated Bill on Squatting and Abundant Empty Property of Ten Hoopen, Slob and van den Burg .

Amsterdam inhabitants

Official statistics on the opinions of the inhabitants of the cities are very rare. Though, the newspaper 'Parool' gave an assignment to investigation bureau 'O+S' to poll the opinions of 500 Amsterdam inhabitants on the initiated Bill on Squatting and Abundant Empty Property. Forty percent of the people are absolutely against the initiative. Twenty percent prefers to be more against than pro. Twenty percent is absolutely in favor of the Bill, and seventeen percent more pro than against. Overall the research agency states that 62% of the investigated persons stand positive towards squatting and 37% have a negative notion. People who are over forty years of age tend to have a stronger opinion on this subject. Almost half of all the people interviewed admitted to know the phenomenon of squatting in own experience. Two/third admits these experiences were mainly positive (het Parool, 2008, August 26). The mayor of Amsterdam, Job Cohen, stands relatively positive towards the squatting even though the windows of his home were smashed by a squatter (Cohen, 2008).

Chapter 4.3: Current national and international Laws and treaties

Property Rights

There are certain international and national laws that one needs to have encountered in order to be able to look at the main aspect of this paper in perspective: *the public interest of a prohibition on squatting and the efficiency and maintainability of the designed policy on abundant empty property*. This paragraph contains a selection of the articles and laws which are necessary to be aware of, in order to investigate the necessity and maintenance of the initiated bill. One of the main reasons for the initiators to restrain squatting is that it would be a serious violation of art. 5:1 BW (Dutch Civil Code): the Property Right. The Property Right is the most comprehensive right a person can have on objects or goods (Wikipedia, 2008, section *eigendom/juridisch*)

Vacant Property Act and Housing Allocation Act

In the Netherlands, the so called Vacant Property Act was established in 1981 and contained a rule for owners to register their property after two months vacancy. Nowadays, the biggest part of this Act is repealed due to the fact that it simply did not work in practice. Nowadays, a small part still exists and is being used frequently (wikipedia, 2008, Leegstandwet). The part of the Vacant Property Act which is still being used frequently concerns the possibility to grant a permit to real estate owners in order to temporary rent their property for six months to five years. It was initially meant for buildings that are to be demolished. With this law one can rent a building or house without the grant of official tenants' protection (Renooij, 2009). At the same time, the Housing Allocation Act, established in 1992, also evolves around this aspect but in a different way. This law stimulates a righteous and balanced division on housing accommodation. Article 8 of the Housing Allocation Act gives the city council the possibility to force owners to give notice to the college of B&W when their property has been unused for a period of at least two months. Article 12 of this same Act states that Municipalities can provide priority to a certain group of people (like pregnant women). Certain houses or buildings are specially appointed for this rule. On account of article 40, the College of mayors and municipal councilors can claim unused buildings in order to transfer this space into housing. Though, first the owner has to be consulted. Articles 8, 12 and 40 have one common goal; to give priority to elementary matters (concerning housing shortage) to achieve a righteous and balanced division on housing accommodation (Renooij, 2009).

Dutch Articles and Laws directly related to housing shortage and squatting

The two Dutch articles of the Criminal Law Code that are directly linked to squatting are article 429 sex. of the Criminal Code and article 138 of this same Code. Jurisdiction from the Law Lords of 1971 states that squatting is not a violation of domestic peace in the sense of art. 138 of the Criminal Code if the building is actually unused and empty (wikipedia, 2008, *section eigendom/juridisch*). Art. 138 of the Criminal Code state that violation of domestic privacy is illegal. One has domestic peace after squatting a building with the intention of taking up residence. This means that nobody can enter the premises (not even a police officer) without approval of the householder. Article 429 sex of the Criminal Code was established in 1993 and it states that it is illegal to squat an unused/empty building when it has been unused for less then one year. In other words, it states that it is legal to squat a building when it has been unused/empty for more than one year. This 12 moth time limit is chosen to give the owner enough time to find a new purpose for his property. Art 350 of the Criminal Code states that it is illegal to deliberately demolish or damage someone else's property. If this is the case, police can evict the squatters based on this article. According to article 173 of the Municipalities Act, mayors can immediately give order to evict a building in order to prevent and reduce the chance of a dangerous situation (Schuckink Kool, 2007).

The constitutional right to inviolability of the home

The constitutional right to inviolability of the home is a moral right that gives the occupant the right to be himself uninhibitedly in his home (Koops, Schouten, Prinsen 2004). This right is protected in article 12 of the Dutch Constitution by restricting the entering of the house; the word used for entering (binnentreden) literally means 'stepping inside'. The right is regarded as the oldest element of the juridical guarantee for the protection of private life (Koops, Schouten, Prinsen 2004).

Art. 8 of the EVRM (European Human Rights Treaty) is designed to protect the basic human rights and their fundamental freedom (Schuckink-Kool 2007). The right on housing evolves around the obligation of governments to exert providing adequate and affordable housing to the inhabitants of a country. This right is codified by the following international documents and Treaties. Article 11 IVESCR (International Treaty Concerning Economical, Social and Cultural Rights) as well as article 31 of the European Social Charter (validated by almost all member states of the Council of Europe) obliges governments to exert providing an adequate life standard to every inhabitant of a country (Internationaal Verdrag inzake Economische, Sociale en Culturele Rechten (Europees Sociaal Handvest, 2004). It is important to be aware of the fact that the classical fundamental rights evolve around the task of governments to refrain itself from interfering in the personal freedom of civilians, whereas social fundamental rights evolve around the obligation of governments to exert stimulating and providing an adequate life standard. Especially developed governments like the Dutch have an obligation not to let these social fundamental rights deteriorate. Article 9 juncto 21 of the Maastricht Guidelines forbids governments to establish criminal law which refrain a substantial amount of people from their fundamental needs of life. In art. 22 subsection 2 of the Dutch constitution it is stated that it is the governments' obligation to stimulate sufficient housing. These are laws clearly not developed to deal with squatters but are directly related to the right on housing and thus abundant empty property and squatting.

Interesting Case to clarify mentioned laws and articles:

Art. 12 of the Constitution forbids a person to enter a premises without the consent of the person enjoying domestic peace. Art. 8 of the EVRM is designed to protect the basic human rights and their fundamental freedom (Schuckink-Kool, 2007). The combination of these two laws provides a strong judicial ground to prevent the state and police department from evicting people, and thus squatters from their homes. Early 2009, a group of squatters used this combination of laws to prevent an eviction. They squatted a building in Amsterdam which was empty for nearly three months. In the last few decades the public prosecutor would immediately evict the squatters based on the violation of the previously explained art. 429 of the Criminal Code (violation of the property of the owner) in combination with article 2 of the 1993 Police Law (PW) and art. 124 of the Law on Judicial Organization (RO). Recent judgments of the Amsterdam District Court and the District Court of Arnhem and the Court of Appeal in Leeuwarden made it clear that the combination of art 429, art 2 Police Law and art. 124 of the Law on Judicial Organization is not a sufficient ground to violate the

basic human right on housing by evicting the squatters from their illegitimately gained house. Even if a house or a building, has not been used by the owner for a period of less than 12 months. A legal basis for this does not exist. In fact this could mean that until a total prohibition on squatting is actually established, the twelve month time limit is open to question. At least criminal law could no longer be a sufficient basis for an eviction of squatters. Civil action by the owner would in that case be required under all circumstances (R. Zwiers, personal communication, April 2009).

Chapter 4.4: The moral question of the initiated bill

After thoroughly investigating the exact proposed law changes which the Initiated Bill on Squatting and Abundant Empty Property contains, I foresee certain aspects that could become obstacles in maintaining this law in practice. As stated in the first paragraph the initiated Bill contains two actual changes in law that will make squatting an offense. In the first instance article 429 of the penal (criminal) code in which squatting is admitted in case of an at least one year period of vacancy of a building will be deleted. A new law is added. This law will be called article 138a of the Criminal Code and will contain the actual prohibition. Underneath I have copied the original Dutch text from the change in law; a more thorough explanation of this new law will follow.

'In artikel I, onderdeel B, wordt in artikel 138a, eerste lid, de zinsnede "of, wederrechtelijk aldaar vertoevende, zich niet op de vordering van of vanwege de rechthebbende aanstonds verwijderd" vervangen door: of wederrechtelijk aldaar vertoeft' [kamerstuk 31560]

In the first instance, it was only a criminal offense in case of refusing the claim of the person entitled to remove him/her from the property. After the change it will already be a criminal offense in case of a person illegitimately being in a house or building. With this law change, the person entitled of the property is not even given the ability to decide whether or not to pursue eviction of the squatters. One point of criticism is the fact that it would mean that even a random visitor could fall under this law and would be in violation. This is at daggers drawn with the principle of Legal Security (rechtszekerheidsbeginsel). Thereby it is open to question if illicit subtenants fall under this law as well, and run a risk on the heavy punishment that stands for a violation of this law. This result can't possibly be what the initiators originally had in mind

Another aspect of the Bill evolves around the overburdening of Police and Justice Department. In the explanatory memorandum, Ten Hoopen, Slob and van den Burg state on page 14 that the Police will be 'slightly busier' during the first months implementing the new law. This could not be a realistic vision. During the release of the White Book on squatting which I attended in The Hague, chief commissioner Leen Schaap of the Amsterdam Police admitted that they would not be able to respond on every call concerning squatting.

This means that the Police expects an overburdening of their force after the implementation of this law. The initiators state that with the current legislation, in case of a squat the police needs to do an investigation whether or not a building has been unused and empty for more than 12 months. This is a false statement because in practice it is up to the owner to prove the contrary. Though, in every city there is a slightly different policy on the way new squats and squatters are treated. There is even a difference within districts of a city. In any case our government could expect to meet a great deal of expenses if every squat will be criminally evicted in advance.

In the preceding paragraph I mentioned many different international and Dutch Laws, articles, treaties and documents concerning (the protection/stimulation of) adequate and affordable housing to civilians. As mentioned previously in this chapter, art. 12 of the Constitution embraces the right to inviolability of the home. It is a moral right that gives the occupant the right to be himself uninhibitedly in his home (Koops, Schouten, Prinsen, 2004). Art. 8 of the EVRM is designed to protect the basic human rights and their fundamental freedom (Schuckink-Kool, 2007). The case, described in previous paragraph proves that the combination of these two laws provides a strong judicial ground to prevent the state and police department from evicting people, and thus squatters from their homes. Recent verdicts of the Amsterdam District Court and the District Court of Arnhem and the Court of Appeal in Leeuwarden made it clear that the combination of art 429, art 2 Police Law and art. 124 of the Law on Judicial Organization is not a sufficient ground to violate the basic human right on housing for evicting the squatters from their illegitimately gained house. This means that the combination of art. 12 of the Constitution, article 8 of the EVRM, Article 11 IVESCR (International Treaty Concerning Economical, Social and Cultural Rights) and article 31 of the European Social Charter surpasses art. 5:1 BW (Dutch Civil Code): Property Right. One of the main reasons for the initiators to restrain squatting is that it would be a serious violation of this Property Right which is the most comprehensive right a person can have on objects or goods. The Initiators which to establish a law that prohibits squatting in all forms. The previous mentioned art. 9, section 21 of the Maastricht Guidelines forbids governments to establish criminal law which refrains a substantial amount of people from their fundamental needs of life, such as basic shelter and housing. If the law which prohibits squatting in all forms will be established, thousands of people who live in squats will be suddenly in violation and forced to leave the property. This means that in a short period of time government refrains a substantial amount of people from their fundamental needs of live. It is the task of the first chamber to judge if Laws which purposeful restrain the effective pleasure of housing is to be declared unconstitutional.

Chapter 5 * Concluding Chapter

This chapter provides an answer to the central questions whether or not a prohibition on squatting is of public interest, and if the initiated approach to force back abundant empty property is efficient and maintainable to municipalities, the police and Justice Department. There are different ways to analyze this matter. First the value of the arguments that the initiators put forward in the bill to prohibit squatting will seriously be analyzed. Chapter 5.2 will clarify the moral aspect of this case by counterbalancing the value of property right to the value of right to housing, and by investigating the juridical background of all the laws and rights relating to squatting. Chapter 5.3 will conclude whether or not the proposed prohibition can be implemented within the two boundary conditions, set by the 2006 ministers of VROM and Justice Department Minister Dekker en Donner. Opponents and advocates on the initiated non-government bill agree on at least one thing: it is in a common interest to force back the amount of abundant empty property. Though, it is open to question if the designed policy on abundant empty property is efficient enough and maintainable to municipalities and the police and Justice Department. Paragraph 5.4 examines this matter by consulting experts and by comparing the suggested policy to historical approaches that appeared to be efficient or even a total disaster. The last paragraph contains my final conclusions on the necessity and maintenance of the prohibition on squatting and the initiated approach to force back abundant empty property. It also contains my view on the best possible strategy to reduce short- and long term abundant empty property in the Netherlands.

Chapter 5.1: Analyzing the arguments for a prohibition on squatting

The initiators state that squatting damages the foundations of our society and judicial system. It is an *illegitimate* form of self appliance and a serious violation of the Property Right. They state that protection of property is a core task of the Dutch government. However, when property is squatted, it is not about the violation of the property. It is about the violation of the *use* of the property. This aspect surpasses the common interest of the current legislation, which is explicitly aimed to give the opportunity to the civilians to do what government is unable to do; fighting speculation of real estate and bring to light the injustices of the housing market.

The hardening of the squatters' movement

It is a fact that squatting mainly occurs in the larger cities due to the amount of abundant empty property and housing shortage which is just the basic condition for squatting. Amsterdam is the city where most historical events concerning squatting occurred in the past. It is the only city where a definite policy in form of squat eviction rounds is applied. In the last three years, sometime violent incidents occurred and were broadcasted through different media channels. According to the initiators, these sometimes shocking images and stories of rebellious squatters show an increase in violence and thus hardening of the squatters'

movement. An increasingly organized, hardening squatters' movement is one of the reasons for the initiators to prohibit squatting. The fact that some incidents occurred is indisputable, though media channels sometimes tend to sensationalize the events. With a sense of substitution shame discovered that some members of parliament tend to base their opinion on this information, without thoroughly investigating the whole matter. In 2007 there was an incident during an eviction in Amsterdam concerning a life threatening booby trap made to deliberately injure police officers. Squatters proved that this was not the case, but the damage was already done. The Dutch ombudsman Ton van Brussels gave a warning to the NOS news for not hearing both sides of the story. He stated: "It is quite remarkable that the majority of the second chamber rely on media reports containing facts that haven't been actually checked. Apparently, the Police do not either. This underlines the responsibility for journalistic to hear and report both sides of the stories" (Ton van Brussel, 2007). To the question of the hardening of the squatters' movement chief police commissioner Leen Schaap, who has 20 years of experience in evictions of squats, stated that in general, he does not experience any hardening. Personal violence between police officers and squatters hardly occur. There is some kind of a silent agreement not to use personal violence. Besides, the current disturbances around the evictions of buildings in Amsterdam are quite innocent compared to the situation in the 1970's. He also stated that his police force enjoys such a day of eviction which shows that a feeling of serious threat is absent (Chief Commissioner of Amsterdam Leen Schaap, March 2009). The literally quoted statements (in Dutch) made by Leen Schaap and Ton van Brussels are to be found in appendix 1.

Chapter 5.2: Is a total prohibition on squatting morally responsible?

This paragraph embraces the moral aspect of a prohibition on squatting. By counterbalancing the value of property right to the value of right to housing, and by investigating the juridical background of all the laws and rights relating to squatting, I came up with a clear vision on the moral obligation of our Dutch government whether or not a prohibition should be established. Art. 12 of the Constitution embraces the right to inviolability of the home. It is a moral right that gives the occupant the right to be uninhibited in his home (Koops, Schouten, Prinsen, 2004). Article 8 of the EVRM is designed to protect the basic human rights and their fundamental freedom (Schuckink-Kool, 2007). The case, described in chapter 4.3 proves that the combination of these two laws provides a strong judicial ground to prevent the state and police department from evicting people, and thus squatters from their homes. Recent judgments of the Amsterdam District Court and the District Court of Arnhem and the Court of Appeal in Leeuwarden made it clear that the combination of art 429, art 2 Police Law and art. 124 of the Law on Judicial Organization is not a sufficient ground to violate the basic human right on housing. This means that the combination of art. 12 of the Constitution, article 8 of the EVRM, Article 11 IVESCR (International Treaty Concerning Economical, Social and Cultural Rights) and article 31 of the European Social Charter surpasses art. 5:1 BW (Dutch Civil Code) the Property Right. Violation of this Property is one of the main reasons for the initiators to restrain squatting. The Initiators wish to institute a law that forbids squatting in all forms. The previous mentioned art. 9 section 21 of the Maastricht Guidelines forbids governments to establish criminal law which refrains a

substantial amount of people from their fundamental basic needs of life. If a law disallowing squatting would be established, thousands of people living in squats would find themselves suddenly in violation and forced to leave their home. In a short period of time government would refrain a substantial amount of people from their fundamental needs. It would be both unconstitutional and morally wrong to implement Laws which purposefully restrain the effective pleasure of housing.

Chapter 5.3: The Boundary conditions

In 2006, the former ministers of VROM and Justice Department Minister Dekker and Donner set two boundary conditions for the implementation of the initiated bill on squatting and abundant empty property : It can and may not bring about an unwanted extra burden on the Police and Justice Department, and, it should definitely not bring about an increase in the amount of abundant empty property (Donner, Dekker, 2006)

The first mentioned boundary condition for the integral approach to prohibit squatting is that it can and may not bring about an unwanted extra burden on the Police and Justice Department. In the explanatory memorandum of the non-government bill, the initiators state on page 14 that the Police will be busier only during the first months of implementing the new law. Then, the burden will decrease as the number of squats decline. After implementing the bill, the Police are asked to give priority to cases of violation of this law and to operate quickly and consistently (Ten Hoopen, Slob, van den Burg, 2008). The question is about the feasibility of this matter. During the release of the White Book on squatting which I followed in The Hague, Chief Commissioner Leen Schaap of the Amsterdam Police confirmed that the initiators had consulted him on the expected burden. He stated that he was concerned about the maintenance of this bill and admitted that the Amsterdam police department would not be able, but also did not want to respond on every call concerning squatting. They would rather focus on more important violations. In an interview in March 2009, retrieved from You tube, chief commissioner Leen Schaap officially repeated these statements (appendix 1)

Chapter 5.4: Critically analyzing the designed policy on abundant empty property

Chapter 2 pointed out the incredible amount of empty office, particularly in cities like Rotterdam and The Hague. From 1 January 2006 a total of 21087 (7, 2%) houses have been empty and unused. The Hague counts about 20.000 (8,3%). The fact that a shortage on affordable housing can exist simultaneously with a certain amount of abundant empty houses and office buildings means that a new or adjusted policy is necessary. The second part of the initiated bill on squatting and abundant empty property contains the suggested approach to force back abundant empty property in the Netherlands (thoroughly elaborated in chapter 4). The suggested approach of the initiators is not obligatory and rises or falls, depending on the intention of the municipalities (Ten Hoopen, Slob, van den Burg (Augustus 2008), Initiatief wetsvoorstel Kraken en Leegstand, memorie van toelichting, paragraaf 7 onder "Verhouding nieuw instrumentarium tot

bestaand instrumentarium: de toegevoegde waarde van het nieuwe instrumentarium"). Besides the police and Justice Department, the G4 and VNG are directly involved in implementing and maintaining this bill, therefore it is crucial for these parties to agree on the suggested approaches. The fact of the matter is, that most aspects of the designed policy do not comply with the visions of the G4 and the VNG. As elaborated in chapter 2, the G4 and VNG are advocates of the instrumentation of governmental force and using non compliance penalties. If real estate owners violate obligatory Regulation on Housing (huisvestingsverordening), which obliges notification of available housing, they would face high penalties.

All parties involved agree on the successful use of a small part of the original Vacant Property Act (Leegstandwet). It is already applied frequently by using temporary tenants without granting them official tenants' protection, as determined in the Civil Code. On 15 April 2005 this Act was expanded from three to five years. In the end, it could be good approach to expand the possibilities of this Act in order to reduce abundant empty property. Nowadays, the biggest part of the original Vacant Property Act is repealed due to the fact that it simply did not work in practice. It contained a rule for owners to register their property after two months of vacancy. This approach shows remarkable similarities to the newly introduced 'notification obligation'. Why would a government want to reintroduce a law that had proved to fail in the past?

The current legislation provides the opportunity for municipalities to lay claim against real estate property in case of enduring lack of use (art. 40 Housing Allocation Act). When the municipality lays claim to a building the task of landlord is taken over from the owner. It is important not to shift the responsibility of landlord to the municipalities. It is inefficient and easy for the real estate owners. The report on abundant empty property states that several municipalities have stopped using this approach due to the reasons mentioned above. If the suggested approach of the initiators is implemented, this is exactly what will happen. According to the initiators, the municipalities will need to set up a register on abundant empty property, produce an overview of different types of people who are searching for accommodation, take the initiative to make appointments with owners and, sometimes, need to find suitable users for a claimed building. This active responsibility of the municipality could even bring about a passive attitude from the owner. The designed approach gives the possibility using non compliance penalties only after 15 months of passivity of the owner. Overall this part of the bill just would not work efficiently if it would be implemented in the future.

Multiple Municipalities in the Netherlands are positive on the idea of establishing a tax/levy on abundant empty property. Belgium and the U.K. already use such system, but this could not be determined as a successful policy. The regulations on this tax considerably raise the administrative burden on civilians and businesses. The maintenance, execution and fraud susceptibility of these regulations are open to doubt. Experience showed that many property owners find a way to avoid paying these taxes (Renooy, 2008). This could be a good approach but it is vital that this levy will be designed to avoid these burdens and fraud.

In the meantime, it seems a good solution to accommodate people in need of a house in these empty office buildings. In some cases this tactic is indeed put into practice by transforming these buildings into (temporary) homes but, unfortunately, it is financially more attractive for real estate owners to just leave their property empty and unused. Real estate owners should be stimulated to put transformation into practice.

In the television program Jansen & Janssen, Municipal Councilor on Town and Country Planning Maarten van Poelgeest (Amsterdam) stated: “one can fine real estate owners for letting property be unused and empty but more effective is the threat of squat. If these buildings are squatted, an investor and owner would be much more affected and pressurized to find a new destination for the property than a vacancy levy which he or she can easily afford” (van Poelgeest, 2008). It is a fact that squatting works preventive. The threat of squat is often sufficient for housing corporations, private owners and other real estate owners to find a temporary destination/fulfillment for the property. Various measures are available to owners to prevent their property from being squatted, mostly by using the previously explained Vacancy Property Act. If the property is actually squatted, there are several clear legal steps (and some more sinister illegal steps) that the owner can undertake in order to arrange eviction. The owner can start a (summary) procedure against the squatters and should prove before a judge that they have short term plans to use or renovate their property. In such situations, the judge will, in almost every case decide in favor of the owner. In the end only the party who is guilty of leaving property unused for a prolonged period of time will need to face the consequences, without interference of municipalities and limited interference of the Police and judicial Department.

Chapter 5.5: Final conclusions

To conclude, it is stated that a total prohibition on squatting seems premature. Chapter 3.5 and the previous paragraph 5.2 show that implementing a Law which purposeful restrains the effective pleasure of housing should be declared unconstitutional. Besides, the implementation and maintainability of the initiative would bring about different kinds of obstacles. It is unlikely that the two boundary conditions for implementing an integral prohibition on squatting are attainable. It is obvious that the Police Force and Judicial Department would need to cope with burdens they would rather not deal with. Furthermore, the severe suggested punishment for future squatters is completely disproportional compared to the 7.5000 Euro fine that real estate owners need to shake out of their pocket in case of being reluctant to notify the College of B&W of vacant property, an approach that in the past proved to be ineffective. In my opinion the phenomenon of squatting is a two-edged sword: squatters help themselves outside of the existing affordable housing market and at the same time indirectly help other low-income home seekers by removing themselves from the waiting queues for authority-allocated housing. Besides, squatters have proved to be of value to many cultural initiatives by which this country is enriched. The problem of hardening and violence among the squat movement turned out to be overrated. The small group of people that do cause serious trouble can be arrested and prosecuted using the current legislation. If the problems concerning housing shortage and abundant empty property are reduced, squatting will drain away. The amount of squatters and squats has

already decreased severely the past three decades. Regardless of a prohibition, squatting will always occur like it does in every country in Europe and the rest of the world. However, the movement tends to become sharper and more alienated.

In the end, the suggested approach to force back abundant empty property, initiated by Ten Hoopen, Slob and van den Burg would also bring about too many obstacles. The bureaucratic and financial burdens on the municipalities will be too large. On the long-term, the most effective way to reduce abundant empty property, would be the interference of the government and municipalities into the housing market. There should be put a hold on developing new office buildings, and the building of affordable housing stock should be stimulated. In the meantime, a combination of the use of the Vacant Property Act combined with the threat of squat is the easiest, cheapest en most efficient way to decrease abundant empty property.

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