

## **Reshaping urban property relations through the law: juridification, legal activism and social struggles around housing**

Property shapes cities. Every city is embedded in overlapping property regimes which operate at different scales, and are expressed through municipal, regional, state and international law. But property is also an eternally controversial subject: ‘there is not only an argument about what the institution of property ought to be, there is also a dispute about what it is’ (Macpherson 1978).

To date, research on property is divided between two paradigms. The first paradigm is sometimes referred to as ‘the ownership model’ as it focuses on the owner’s capability to exclude others from access to his/her property. This model, which permeates mainstream legal textbooks, normatively links property to moral values of freedom and self-realization. The second paradigm—‘the social institution model’—sees property as a spatialized social institution which is embedded in the socio-economic system and entangled in the relations of power produced by this system. Thus, property relations encompass all members of the society including non-owners (such as tenants or homeless people), whose lives are also shaped by property.

In most research on property to date ‘the ownership model’ and ‘the social institution model’ function as opposing intellectual camps. The ‘social institution model’ claims more empirical accuracy, while ‘the ownership model’ enjoys greater normative influence in real-life legal conflicts. As yet, however, little work has been done to comprehensively examine the central question of how these two functions of property—as a socially embedded institution *and* as a legal concept—overlap and influence each other in the urban political context. As a result, property scholarship limits its own impact, remaining stuck in a stalemate between critical and legalistic attitudes.

My project overcomes this stalemate in the literature by asking how, in the urban democratic context, citizens use law and legalistic attitudes to actively reshape the social institution of property. This includes in-depth research on three case studies involving social conflicts around urban housing that play out in the sphere of law.

Case study 1, which builds on the PI’s previous research, investigates property restitution (reprivatization) in Warsaw. In particular, it focuses on the latest political-legal initiatives which have aimed at reverting reprivatization through further creative engagement with the law: the rulings of the so-called Reprivatization Committee (*komisja reprivatyzacyjna*) and strategic litigations launched by the grassroots movements.

Case study 2 follows Berlin’s grassroots initiative *Deutsche Wohnen & Co. Enteignen* (DWE) launched in 2018. DWE seeks to leverage Article 15 of the German Constitution in order to expropriate 250,000 apartments that belong to large stock-listed corporations, turning them into social ownership. Article 15 allows for land to be ‘socialized’ for the purpose of the common good.

Case study 3 follows the recent wave of litigations initiated by the so-called Franc-people (*frankowicze*), that is people who have taken Swiss-franc denominated or indexed mortgages in order to buy their apartments. The recent ruling of the EU Court of Justice’s stipulates that mortgage contracts which included unfair clauses (ones that allowed banks to decide on the exchange rate) could be annulled. This may lead to the repayment of all interest rate to the customers.

The **main questions** asked by the project are:

- (1) What do contemporary legal struggles around housing tell us about the meaning of property, both as a social institution and as a normative legal concept?
- (2) How do citizens use legal concepts and judicial frameworks in their struggles to actively transform property regimes in their cities?
- (3) What new urban property models are proposed in the course of these struggles? What is their potential and what are their limitations?