

How we can legitimize and legalize the occupations of public and private spaces ?

- Strategic use of occupations as a **concrete act of disobedience** and proxy to reach the bottom-up fulfillment of **social rights**;
- Occupation of public and private spaces as a mechanism to generate **welfare from below**

The relationship between the existing proprietary regime (Civil Code,1942) and the further protection contained in the Penal Code (1930)

Art. 633 Penal Code: *Anyone who invades land or buildings that are someone else's property, public or private, in order to occupy them or to extract profit from it, is punished, if the victim files a complaint, with a maximum of two years of imprisonment, or with a fine between Euro 103 and Euro 1.032.*

Occupations are a public offense **independently** from the quality of the good (i.e. whether it is used or not) and with no legal recognition of the possibility for the judge to balance between the **supra-individual interest** that is pursued through the occupation, and the property right of the owner.

The Italian system of laws defends and legitimizes in the same way both the owner who is using his or her property, both the holder of the right whose property has been **abandoned for long time**.

In the '60s, some courts had excluded the possibility to label the occupations as criminal offenses whenever the acts were characterized by a **strong political motivation**, that is they admitted the possibility that the occupations of **factories** and **universities** did not represent an end in themselves, but rather a mean to achieve **social and political goals in favor of a broader community**, and not only of the group of occupiers.

La Spezia Pretura (March 22nd, 1996); e Avellino Tribunal, 2000; Trento Tribunal 2002

*“the **decay** and the abandonment of the building, the **absence** of a clear situation of possession, the **modality of the invasion**, which occurred peacefully and openly, the **positive participation** of the citizenship, and the contacts established with the public administration and some local politicians already before the occupation, could correctly **induce the occupiers to believe that they were not conducting an arbitrary action against a property and its owner.**”*

Rome Tribunal, February 2012

*“the interest underlying the demonstrative action has a **political nature**, and is not economic nor selfish: demonstrators, who are still occupying the building, are opposing the decision of the claimant to **modify the function of the building**, and arguing in favor of the conservation of the **traditional cultural function** of the Cinema Palazzo.”*

We have to work on the idea of property as a concept of private law.

- Transformation of capitalism;
- Art. 42 Italian Constitution: social function of property;
- Idea of the commons.