

Juggling the formal and the informal: The regulatory environment of the illegal access to public housing in Naples



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ARTICLE INFO

Keywords:
 Illegality
 Informality
 Public housing
 Squatting
 Institutions
 Occupation

ABSTRACT

This paper focuses on the informal occupation of public housing in Naples (Italy), analysing a specific mechanism, the fraudulent takeover, which is an alternative to 'ordinary squatting' (i.e. breaking into vacant dwellings) in terms of accessing a housing unit illegally. This mechanism proliferates symbiotically with the formal system regulating the inheritance of public housing units, which creates the space of possibility within which fraudulent takeover was born and spread. A complex regulatory environment emerges as the background of this informal practice, within which the actors of the illegal city can exploit legal loopholes and juggle formality and informality in order to satisfy their housing needs. By reading this case study through some analytical tools offered by both Southern urban theory and Northern legal studies, this paper contributes primarily to the international debate on the nexus between urban informality and the State: it shows the fundamental, multifaceted role of various public institutions in shaping the illegal city, both actively – through (selective or rough) labelling and (mediated or failed) implementation – and passively – through their mere existence.

1. Introduction: housing occupation and urban informality in southern Europe

Urban informality is widespread in southern Europe. Housing self-production and self-promotion – which translates, in the majority of cases, into informal housing – in fact represents one of the constitutive features of the southern European housing regime (Allen et al., 2004), whose crucial role has been accentuated in the last decade by the economic crisis and the austerity measures that followed (Annunziata and Lees, 2016; Arbaci, 2019). This applies to Italy as well. Here informal housing is usually associated by public debate and academic research mainly with the construction of housing units which violate planning and building laws (Zanfi, 2013; Chiodelli, 2019). However, another phenomenon plays an important role in the Italian framework of housing self-provision: the illegal occupation of housing units.

Housing occupation in Italy, as well as in many other European countries, has been studied mostly as the result of the collective, organised actions of social movements with political and counter-cultural aims (this action is usually referred to as 'squatting') (Cattaneo and Martínez, 2014). However, political and counter-cultural squatting accounts for only a small proportion of illegal access to housing that

occurs through occupation of buildings in Italy, in particular when public housing estates are considered.¹ In the majority of cases, the occupation of public housing units is tied to survival practices by households, implemented outside any political framework. This latter kind of occupation, which accounts for many thousands of cases, is almost completely neglected by research.

This article contributes to filling this empirical gap by analysing the occupation of public housing in the De Gasperi neighbourhood, in the periphery of Naples, Italy. Our research discloses the existence of a distinctive mechanism of illegal access to public housing, the fraudulent takeover, which proliferates symbiotically with the formal systems regulating the inheritance of public housing units. The shortcomings of formal regulation create the 'space of possibility' within which fraudulent takeover was born, spread and has survived. At a theoretical level, by dissecting this case-study through some analytical tools of Southern urban theory and Northern legal studies, such research offers an opportunity to investigate the complex nexus between housing illegality and different components of the public institutions (e.g. laws, regulations, policies, street-level bureaucratic practices).

In order to address these aims, the paper is structured as follows. The next section focuses on the complex relationship between urban

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¹ Occupations organized and managed by political movements in Italy usually target abandoned private buildings (Grazioli, 2017).

informality and public institutions, identifying the main channels through which these latter can shape informal housing. The subsequent sections show these channels in action with reference to the case of illegal access to public housing. After giving an overview of the phenomenon in Italy, the paper presents the case of the De Gasperi neighbourhood, contextualizing it within the framework of urban illegality and the housing crisis in Naples. The fifth section investigates a specific mechanism of illegal access to public housing in the De Gasperi neighbourhood, the fraudulent takeover, while the sixth section discusses its features in light of the international debate on the nexus between urban informality and public institutions. The last section is the conclusion.

2. Informality and the state

2.1. Reading urban informality through the lens of Southern urban theory

Everywhere in the urban domain the formal sphere and the informal one are structurally entangled. Both in countries in which public institutions are deemed to function effectively and properly (thus exercising rational-comprehensive control over urban reality) and in supposedly ‘dysfunctional states’ (where public bodies cannot control and govern properly – or at all – different sectors and spaces), in fact, “governments govern through informality, and not against it” (Le Galès and Vitale, 2013: 9): that is, informal arrangements are crucial for urban governance. Indeed, the exploitation of informal arrangements enables public bodies to achieve various aims that they could not reach through formal means (e.g. the creation of niches of power for politicians and bureaucrats; the selective legitimization of certain social groups – and their spaces and practices – and, at the same time, the marginalization of other groups; the economic and political exploitation of subaltern subjects; Chiodelli et al., 2020). At the same time, informal spaces and practices do not exist in an institutional vacuum, in the complete absence of the State. If they can be seen as (partial) areas of exception from ordinary public control, nonetheless such exceptional status is the intimate product of the sovereignty of the State (and a constitutive feature of its power), and not the sign of its absence (Agamben, 1998). In the informal world, public institutions do not cease to exist, but have a different relationship (more flexible, mediated, syncopated than in the case of the legal city) with space and its inhabitants (Datta, 2012).

Although the urban debate on informality is still characterized by a rather limited attention to the symbiotic relationship between the formal and informal spheres (Haid and Hilbrandt, 2019), several scholars have focused on the active production, reproduction and exploitation of urban illegality by state actors in the ‘global South’ (see for instance: Bhan, 2016; Boudreau, 2017; Datta, 2012; Davis and Boudreau, 2017; Roy, 2015, 2018; Yiftachel, 2009; Watson, 2009). Overall, they have emphasised how, in many Southern cities, public bodies, in tune with culturally and economically dominant élites, utilize an extensive apparatus of policies, practices and regulations – quite often accompanied by a rhetoric of legality, rationality and modernization – as a toolkit for domination, control and governmentality of specific groups and spaces. This results in a vast array of deliberate processes of informalization and regularization, selective inclusion and exclusion, biased enforcement and neglect.

By contrast, this emphasis on the structural relation between informality and the State is less present in the urban literature on the ‘global North’, for various reasons. Not only is scholarship on Northern urban informality overall far less rich (and newer) than that on the South, but the academic debate has explored mainly “informality born of desire, which originates more from frustrations about inconveniences produced by state bureaucracy” (Devlin, 2018: 580) and which is undertaken mostly by the middle and upper classes. Here, the State is seen as an obstacle, a rival to be circumvented, but not as an active and purposeful producer of informality, as well represented in theorizations

such as ‘everyday urbanism’ or ‘DIY urbanism’ (Devlin, 2018). Moreover, although there exist several explorations of ‘informality of need’ (that is, informality as a strategy by urban poor to meet their basic needs) in the North,² in the majority of cases the lenses through which such practices have been read are little focused on their causal connections with public institutions (Haid and Hilbrandt, 2019).

It is against this backdrop that it seems useful to read Northern informality of need through the conceptual toolkit offered by Southern informal urbanism, in particular in its aspects more devoted to dissecting the pivotal role of various aspects of the State in producing and shaping informality. The mobilization of a theoretical framework originated in Southern cities also makes it possible to “[bridge] our strategic and admittedly essentialist North-South divide” (Bhan, 2016: 15): under scrutiny in this paper is a conceptually peripheral city of the global North (Naples), where urban niches characterized by rooted practices typical of the global South exists. This Southern analytical toolkit can be profitably complemented by theorization born in Northern legal studies – which, as such, has not been conceived with reference to informality but, nonetheless, can provide significant conceptual tools with which to investigate such phenomenon as well.

Before entering into the analysis, a terminological clarification is required. In the field of urban studies there is an overwhelming preference for using the word ‘informality’ rather than ‘illegality’ to denote urban phenomena that have some degree of ‘unruliness’ and non-compliance with the law. This preference has many legitimate sources – for instance, the attempt to avoid forms of criminalization and stigmatization of the poor who resort to informality, or the need to recognize the heterogeneity of informal settlements and practices with respect to the law (Payne, 2001). However, the use of the word ‘informality’ often brings with it the more or less implicit idea of “law as tangential” (Datta, 2012: 7) to the concerns of the actors of the informal city: that is, the assumption that “informality is located beyond the reach of the state” (Haid and Hilbrandt, 2019: 555). But this assumption is unsatisfactory because public institutions are crucial in shaping the everyday life of informal settlements and practices. As a consequence, the use of the term ‘illegality’ should be preferred in order fully to recognize such a pivotal role of the public (Datta, 2012). At the same time, according to some scholars (see, for instance, Bhan, 2016) both the terms ‘informality’ and ‘illegality’ risk fostering a static and a-relational understanding of informal settlements. Amid this terminological minefield, we will use the terms ‘informality’ and ‘illegality’ interchangeably to refer to a specific process of production or use of housing which is characterised by the breach of certain laws and regulations without being necessarily associated with any specific social group, a low quality structural outcome, a negative social judgment and a lack of relation with public authorities.

2.2. The public production of informal space

Research on the urban South has revealed a vast array of empirical ways in which public institutions produce and shape everyday urban informality. Despite this variety, conceptually two main channels can be identified: strategic labelling and mediated implementation.

Strategic labelling. Many informal practices and spaces are the direct and intentional product of public institutions exercising their *labelling power*: that is, the power to draw the borders of (il)legality through definitions and identifications. The State, at both the national and local level, ceaselessly defines what is allowed in the urban sphere, for instance through spatial norms and regulations. This is crystal-clear in any spatial plan, which determines allowed land uses (and sometimes even maximum densities and minimum lot surface) for all the areas of a city (see Bhan, 2016 for a relevant case). But consider also the building

² Mainly hyper-marginalised groups such as homeless people, Roma or refugees, have been investigated (Lancione, 2016).

codes, which establish what building materials, techniques and physical features are permitted for all the city buildings (Payne and Majale, 2004), or public regulations on the use of public space, which stipulate what can be done, when and by whom (Chiodelli and Moroni, 2014a). By labelling allowed activities, public institutions automatically and simultaneously establish what does not fall within the boundaries of what is legal, which, therefore, comes to be considered illegal. As Roy (2005) writes: “the planning and legal apparatus of the state has the power to [...] determine what is informal and what is not, and to determine which forms of informality will thrive and which will disappear” (pp. 149–150).

This labelling action is a constitutive feature of every governmental authority. “The task of the law is to regulate – order – human behaviour by determining who ought to do what, where, and when” (Lindahl, 2013). What Southern urban theory emphasizes is the *strategic character* of such action: urban governance in many cities rests on such labelling power to define intentionally and directly what and who must fall within the borders of (il)legality, in order to be able to handle informality in the ways most convenient for its political, cultural and economic purposes (Roy, 2009; Yiftachel, 2009; Watson, 2009).

Mediated implementation. The influence of the State on the informal world is not limited to the (textual) production of definitions, laws, regulations and policies (i.e. ‘law in books’); it also extends – in a complex, non-linear way – into the realm of their implementation. This realm is composite, fragmented, often crisscrossed by an assemblage of (not always coherent) individual agencies, as demonstrated by the literature on street-level bureaucrats (Lipsky, 1980; see also Proudfoot and McCann, 2008). As a consequence, law in books undergoes a ‘translation process’ during its application, which is another fundamental sphere in which public institutions operate and produce their effects. Implementation is a domain particularly relevant to the case of informal settlements in the global South. The various actors of such implementation processes at the local level (e.g. local bureaucratic offices and public officials) are, in fact, the main materializations of the State and the Law for the inhabitants of the informal world. Much more than abstract rules and regulations, these local offices and officials define the boundaries between what is legal and illegal, allowed and not allowed, tolerated and not tolerated – quite often enjoying a high degree of discretion but, and the same time, being obliged to undertake everyday practices of negotiation with the inhabitants of the informal world (Datta, 2012; Bhan, 2016). In short, also the multifaceted realm of ‘law in action’ (Nelken, 1984) (as well as, more generally, of ‘institutions in action’) – which can be termed *mediated implementation* in order to stress its negotiated and conflictual character – deeply shapes the birth, survival and, eventually, the death of informality.

2.3. Acting in the light of rules

The performativity of the law and public institutions (Blomley, 2014) *vis-à-vis* illegality is not limited to the two aforementioned channels, in which public bodies are active players (that is, they deploy an intentional agency). In fact, a third channel – less explicitly visible but equally important – must be taken into consideration: the mere existence of public institutions and, in particular, of their regulatory acts (e.g. laws and policies) can trigger – unintentionally and passively, but directly and explicitly – illegal actions. That is, regulatory acts can causally influence infringements simply through their existence.

This direct, causal relation between the existence of public institutions and illegal acts has been explored in particular by Northern legal studies, without any reference to urban issues or informality. In particular, Amedeo Conte (2000) propounded the concept of nomotropism in order to identify the specific role of the law in generating and moulding illegal action through its mere existence. The term is formed by combining two Greek words, *nomos* (law) and *tropos* (direction), in similar manner to the formation of terms denoting a sensitivity to a given phenomenon or object, like *helio-tropism*. Nomotropism literally

means ‘acting in light of rules’. The concept of nomotropism overlaps only partially with other concepts developed in order to go beyond the simplistic legal-illegal dualism such as the concept of a-legal behaviour (Lindahl, 2013). Both nomotropic and a-legal behaviours denote actions that do not comply with the law while having some relation with it. However, a-legal behaviours are characterized by a constitutive value (that is, they aim to reshape cultural identities and broader social meanings, as part of hegemonic struggles; Hughes, 2019), a value absent in the case of nomotropic actions. The same applies to the endeavour by a-legal practices to achieve institutional recognition (Hughes, 2019).

The theoretical relevance of the concept of nomotropism rests on the specification that acting in light of rules does not necessarily entail acting in compliance with them (Conte, 2011). In fact, in several cases, when breaching the law, the transgressor takes account of the rule while failing to adhere to its proscriptions. This implies that “the rule causally affects an action even when that action does not correspond to what is prescribed by the rule” (Chiodelli and Moroni, 2014b: 162). Put otherwise, the concept of nomotropism stresses that an act which transgresses a given law is not necessarily a-nomic, that is, outside the law insofar it does not take it into any consideration (and, consequently, the law has no influence on that illegal act). On the contrary, also an illegal action can take some consideration of the law, despite not respecting it – as a consequence, the law has a certain causal influence on that action. Therefore, the concept of illegality refers to at least two types of actions *vis-à-vis* the law: transgressions which are committed in light of rules, and transgressions that do not take any rule whatsoever into consideration.

Some examples can aid understanding of what has just been said. Take the case of a thief: when a thief breaks the law, he masks his identity exactly in light of the legal penalties for his act. That is, the thief acts in a specific way (e.g. he masks himself) because of a law – with which, however, he does not abide (Conte, 2000). Consider also the example of those who construct buildings during the night, as happens in the case of several informal settlements around the world. By working at night such persons act nomotropically, in light of two kinds of rules. First, like the thief, they operate during the night in order to conceal their illegal action and not be discovered. Hence, they act nomotropically in view of land-use rules that they knowingly violate. Second, by completing their building in a short space of time (one night) they act in light of rules of possible demolition. In fact, in several contexts, the penalties for illegal building depend on whether the building has been completed or is still under construction (see Chiodelli, 2017 on the case of Jerusalem); in the former case, the procedure for demolition is more complicated, and this is exactly why some people try to complete a building overnight (or in a few days).

The concept of nomotropism has been transplanted from the field of legal studies to urban studies by Chiodelli and Moroni (2014b) and subsequently applied to several urban phenomena. In particular, the complex nexus between the State and housing informality has been analysed through the lens of nomotropism (Boamah and Walker, 2016; Rosa, 2016; Pisu and Chiri, 2019). In fact, nomotropism provides an analytical toolkit with which to go beyond the compliance/non-compliance dichotomy as the only possible relation with the law and to take account also of the unintentional effects of public regulation (Nogueira, 2019).

2.4. The lawscape of the informal city

Analysis of the different roles played by public institutions *vis-à-vis* informality highlights that the relationship between legal and illegal is complex and adaptive, and that the informal is not something outside or on the margins of oversight by public authorities; rather, it is inextricably bound up with it. Public institutions define the informal, determine its conditions of action, and influence its forms and paths of development. That is, they create the *space of possibility* within which an

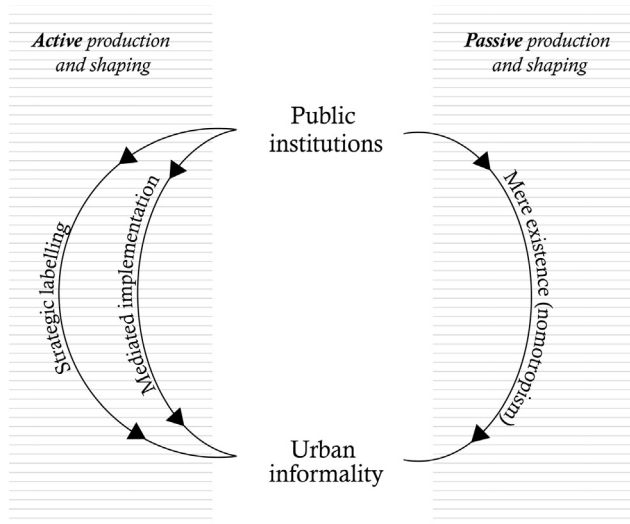


Fig. 1. The public production of urban informality.
Source: Authors' elaboration.

informal practice can arise, acquire form, spread and survive (and eventually die), in a process of constant negotiation with (and adjustment to) different public norms and practices. Therefore, the illegal city must be conceived as a field traversed by several regulatory forces with a public origin (see Fig. 1).

The informal city is thus a composite, fragmented and unstable 'lawscape'. Here the asymmetry of power between subjects who produce and implement the rules (the different branches of the State) and those who receive/ must abide by them (the urbanites) is even more evident than in the legal city. This is due to the 'grey' character of the informal city (Yiftachel, 2009), which is always in a state of precariousness and uncertainty, where rules and rights are unsteady and open to negotiation (Tucker and Devlin, 2019). Nevertheless, such a lawscape generates possibilities of change for the inhabitants of the informal city. Often, in fact, the latter "do not see themselves as passive recipients of the law; rather, as agents who can successfully negotiate illegality" (Datta, 2012: 178) in very different ways, ranging from collective mobilization to individual bargaining. A sort of discreet 'encroachment of the law' is one such means at the disposal of the inhabitants of the informal world: they can juggle the opportunities that are generated by legislative loopholes or outdated rules, ineffective and selective processes of policy-making, ambiguous and contradictory practices of street-level bureaucracies, in order to address some of the risks and shortcomings of living in the informal city and try to satisfy their needs. This is exactly what happens in the case of the fraudulent takeover of public housing units in Naples, which is analyzed in the following sections.

3. Housing illegality in Italy

In their seminal work, Allen et al. (2004) identified the constitutive features of southern European housing systems (see also Arbaci, 2007, 2019; Baldini and Poggio, 2014). Two of them in particular are fundamental for contextualization and understanding of the case investigated in this paper. The first is the residual role of public housing in a context characterized by high rates of home ownership (Esposito and Punziano, 2020). The second is the key role of informal self-promotion and self-production in the housing domain, which arose from the shortcomings of both market mechanisms and public actions (Chiodelli et al., 2020).

Only a few data are needed to illustrate how these two distinctive features of the southern European housing system materialize in Italy. With reference to the residual role of public housing, it suffices to stress

that it represents less than 5% of the overall Italian housing stock. Whilst around 2 million people benefit from the public housing stock (which amounts to 770,000 units) at the same time 650,000 eligible households are on municipal public housing waiting lists across the country due to an insufficient number of available dwelling units (Federcasa, 2015). This takes place within the framework of worsening housing conditions for Italian residents, as testified by the growing number of evictions in the past decade (Ministry of the Interior, 2016) and of households living in a 'condition of distress' (Nomisma, 2018).³

As regards informal housing, this is a structural characteristic of urban development and a commonplace way to access housing in Italy (Chiodelli et al., 2020). This is particularly apparent in the case of housing construction that breaches land use and building regulations (Berdini, 2010), and it is illustrated by the magnitude of the phenomenon: while precise estimates of the extent of illegal construction are not available, according to the National Institute for Statistics (ISTAT, 2017) in southern regions, during the past few decades, hundreds of thousands of new buildings have been erected in violation of planning and building rules. For instance, in 2016 almost 50% of all new residential units in southern Italy were erected without proper public authorisation (see also Legambiente, 2018 on this issue).

Against this backdrop of widespread illegality in a context characterized by urgent housing needs unsatisfied by the welfare system, it is not surprising that also access to public housing is characterized by broad transgression. Around 6% of public housing in Italy is illegally occupied (accounting for around 50,000 units), with a constant growth trend in the past decade; in Southern Italy the proportion is even greater, reaching 11.5% in 2013 (Federcasa, 2015). Illegal access to public housing does not identify only households that break illegally into vacant dwellings, but also individuals that replace legitimate tenants through an irregular procedure (such as buying and selling), as well as tenants in arrears who refuse to leave their apartments (Belotti, 2017).⁴

Despite the frequency of illegal occupation in Italian public housing, the phenomenon is rarely explored in academic research, so that its specific causes, mechanisms and actors are still to be fully understood. Indeed, with few exceptions (e.g. Belotti, 2017; Cancellieri, 2018 on Milan; Esposito and Chiodelli, 2020 on Naples), studies focusing on housing occupation tend to consider only its political side – that is, occupation promoted by organized, political and counter-cultural groups, which, however, almost never target public housing estates.

4. De Gasperi neighbourhood, Eastern Naples: public housing in the midst of poverty, marginalization and crime

Naples is one of the most populous Italian cities, with around 959,000 inhabitants as of 2019. Its urban development in the second

³ It must be specified that 'public housing' in Italy is defined as housing constructed directly by public authorities and assigned at very low rents to households that fulfil specific criteria. Access to public housing occurs through rankings compiled at municipal level, which prioritize the more disadvantaged households. Public housing does not include so-called 'social housing', a term which in Italy refers to housing built by private developers on the basis of specific agreements with public authorities, and sold or rented at below market rates.

⁴ Data on the illegal occupation of public housing units must be taken with caution. Federcasa (the association that unites all the local agencies that manage public housing assets in Italy) unsystematically provides some data on this issue. These data, however, do not accurately describe the phenomenon (for instance, they do not consider unauthorised access through illegal takeover). A similar reasoning also applies to data on unauthorized housing construction: the data provided by the National Institute of Statistics (e.g. ISTAT, 2017) are the result of general estimates and projections. Given the complexity and pervasiveness of the phenomenon, no accurate survey and mapping have ever been made by research centres or public bodies in Italy.

half of the twentieth century was marked by housing emergencies linked to the Second World War and the 1980 earthquake (Donolo, 2001; Felice, 2015). In the aftermath of the Second World War, in Naples around 40,000 rooms were completely condemned due to war damage (at the same time, 15,000 rooms were used for military purposes), while the 1980 earthquake caused 6810 buildings to be destroyed or made inaccessible, forcing around 147,000 people to abandon their homes (Dal Piaz, 1985). The state's response to these two events was the creation of several public housing neighbourhoods, comprising more than 50,000 dwelling units (Comune di Napoli, 2013). These public housing neighbourhoods consisted of low-quality housing, usually located in the city's periphery, with poor connections to the rest of Naples. Living in these areas soon became synonymous with social hardship and isolation; this, together with the absence of territorial control by public authorities, encouraged the development of widespread illegal practices (Dal Piaz, 1985; Pagano, 2012). Within this framework, some of these public housing neighbourhoods rapidly turned into a metaphor for deprivation, poverty, stigmatization and crime in the Italian public discourse. This is epitomized by the case of the infamous Scampia, where a huge block of buildings called *Vele* [Sails] emerged as the largest drug dealing centre in Europe, managed by the *Camorra* (a mafia-type criminal organization originating in the Campania region), thus symbolizing the failure of public housing in Naples.

Among the practices common in these neighbourhoods there is also illegal access to public flats. To grasp the extent of this phenomenon in Naples consider that, according to the Municipal Housing Policy Department in Naples (personal communication, 8 November 2017), in 2017 only 11,000 out of 24,700 public housing units were legally occupied in accordance with the 'standard procedures' (that is, through the municipal ranking system). Additionally, there were 8000 illegally squatted units (i.e. accessed through breaking into vacant dwellings), while 6000 units were occupied under the takeover [*subentro*] provision. 'Takeover' refers to a case in which a dwelling is transferred from the original recipient to one of his/her family members, through a peculiar legal mechanism that allows a sort of inheritance of the flat (see Section 5.2). As our research shows, it appears that this takeover mechanism has gradually developed into a legal mask for cases of buying and selling public housing units illegally, so that the real number of illegally-accessed housing units in the city could be much higher than declared by the Municipality. Against this backdrop of widespread illegal access to public housing, several thousand households have been waiting for years to access a public dwelling regularly, due to the lack of available units.

Foremost among the areas most characterized by public housing and related critical issues in Naples is District No. 6, a zone marginalized in both spatial and social terms (Pagano, 2012) (see Table 1), located in the eastern periphery of the city.

This article focuses on a portion of this district, the De Gasperi neighbourhood in the Ponticelli area, which consists entirely of public housing. The neighbourhood was one of the first public housing complexes built in post-war Naples: it was erected between 1952 and 1954, and comprises 28 apartment buildings totalling 656 housing units. According to a council survey, illegal occupants made up 50% of its



Fig. 2. Block 22, De Gasperi neighbourhood (January 2016). Photo by Emiliano Esposito.

total inhabitants (Comune di Napoli, 2016). The neighbourhood is characterized by very low urban quality: apartments are overcrowded; buildings are crumbling and subject to water infiltration and breakdowns; public spaces, like gardens and squares, have been abandoned; public services, like sports or recreational facilities, and private businesses, like bars, shops and restaurants, are absent (see Figs. 2 and 3). Moreover, the De Gasperi neighbourhood was historically ruled by members of the *Camorra*, which, among other activities, managed the occupation and the allocation of public housing (the mafia boss *Ciro Sarno* was called '*O Sindaco*' [The Mayor] in the 1980s for this reason). It was only in the first decade of the twenty-first century that, through a combination of increasing state actions and internal clan conflicts, the *Camorra* clan's hold over the area was diminished and eventually ceased (Brancaccio, 2009). What happened in terms of the mechanisms for accessing public housing in the area when the *Camorra* clan disappeared? The next section provides the answer to this question.

5. Juggling legality and illegality: The occupation of public housing in the De Gasperi neighbourhood

5.1. Research methods

This paper is based on thorough ethnographic fieldwork conducted in various stages between July 2015 and December 2017. Twenty-five in-depth semi-structured interviews were carried out with inhabitants of the neighbourhood (regular recipients of public housing units, as well as squatters and people who had accessed public housing through other illegal means), who were selected by means of snowball sampling. Interviews were also conducted with representatives of various public institutions. Most of the interviews lasted between 45 min and 2 h. Some of them were recorded and then transcribed, while many others were not recorded, as requested by the individuals being interviewed. All interviews have been anonymised for privacy and safety reasons. These interviews were mainly aimed at reconstructing the functioning of the informal takeover mechanism (see Section 5.3). In order to 'give life' to our aseptic description of informal takeover and to show its

Table 1

Socio-demographic indicators, District No. 6, Naples and Italy, 2011. Source: Naples Council¹ and Istat².

	Employment rate	Unemployment rate	Illiteracy rate	Percentage of high school graduates	Percentage of university graduates
District No. 6	20.7	11.9	2.1	19.5	4.1
Naples	26.8	10.3	1.4	25.0	12.1
Italy	56.8	8.4	1.0	28.0	10.6

¹ See <http://www.comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/21423>.

² See <http://dati-censimentopopolazione.istat.it/Index.aspx?lang=it>.



Fig. 3. The central street in the De Gasperi neighborhood (June 2017). Photo by Emiliano Esposito.

different nuances, we also included in this paper two of the 14 individual stories of illegal access to a public housing unit in the De Gasperi neighbourhood that we were able to reconstruct through our interviews with the inhabitants: the first (Salvatore's story) recounts a recent case of informal takeover based exclusively on illegal market mechanisms; the second (Rosa's story) describes a case of illegal access that occurred in the late 1980s and was mediated by the presence of organized crime.

5.2. The formal mechanism of takeover in public housing

This sub-section analyses the formal procedures that, in the Campania region, regulate the 'inheritance' of public housing units. These procedures are the legal framework within which illegal access to public housing – as described in the next sub-section of this article – takes place.

The allocation of public housing units in Italy occurs through public calls for applications at the municipal level. Only households that fulfil specific criteria (such as a maximum income) can participate. The applications for public housing are analysed by the municipal housing office, which draws up a ranking that determines access to the available flats. As said, due to the lack of a sufficient number of adequate housing units, however, not all households entitled to a public flat are able to access a unit immediately: several of them must wait for an apartment to become available. This waiting period may last several years.

Besides this regular process of accessing public housing, there is also a special mechanism to be used in exceptional cases: the takeover procedure. This expression refers to the case in which the legitimate recipient of a public housing unit transfers his/her title of recipient to a family member, for example after death. The regional law that regulates the allocation of public housing in Campania states that takeover can occur in only three cases: death, separation or when the legitimate recipient decides to leave. Furthermore, a specific relationship must exist between the original recipient and the person taking over [hereafter '*subentrante*'], who can be a first-degree relative, a spouse or a person who has been part of the household for at least two years.⁵

According to the law, a household is defined as a group of individuals that have been in stable cohabitation for at least two years, without the necessity of kinship ties. The concept of stable cohabitation

is a crucial factor: it refers to people living together on an enduring basis in the same residence, regardless of the reasons for this cohabitation (for instance, kinship, affection or care). Municipal authorities, in collaboration with the local police, must confirm the existence of the habitual residence requirement of a person who declares stable cohabitation with someone else. If an individual is recognized as a stable cohabitant by the authorities, s/he qualifies as a legal member of the household. Hence, s/he has the right to initiate a takeover procedure for a public flat if the legitimate recipient abandons the apartment.

In the city of Naples, the takeover procedure requires submitting two documents in which the aspiring *subentrante* must provide detailed information – for instance, regarding the reason why the legitimate recipient of the dwelling has renounced his/her right to it, as well as personal details. If the bureaucratic controls find no problem, the aspiring *subentrante* becomes the legitimate recipient of the public flat in question. To be stressed is that these controls are usually very superficial and the data provided in the documents are rarely carefully checked.

5.3. The fraudulent takeover procedure

The formal takeover procedure was designed to allow the inheritance of a public flat in cases of family crisis: for example, to guarantee housing stability for a mother and children when the father – the legitimate recipient of the public apartment – has divorced his wife. However, this mechanism has become an alternative, ordinary channel to obtain public housing in Naples, allowing access to a public dwelling unit based on its illegal trade. It seems that such illegitimate use of the takeover mechanism has been practiced for decades in the entire municipal area, and not only in the De Gasperi neighbourhood (public official of the Municipal Housing Policy Department, personal communication, 8 November 2017). Consider that approximately 6,000 (out of 24,700) public housing units in Naples have been accessed through the takeover procedure – and it is likely that legitimate takeovers comprise only a small part of the total.

Fraudulent takeover is a complex process which seesaws between the legal and the illegal spheres. Contrary to 'ordinary squatting' (that is, breaking into a vacant flat) – where the occupant is always in a state of illegality – the fraudulent takeover guarantees that, even though part of the process is illegal, the result is legal, since possession of the public flat is recognized as legitimate by the public authorities. The fraudulent takeover mechanism functions as follows (see Fig. 4): Paolo, who is looking for cheap housing, agrees with Marco, the legitimate occupant of a public flat, on the price for the purchase of Marco's public apartment. Once the agreement has been reached, Paolo changes his residence to Marco's apartment, so that he can become formally part of his household after two years. However, the change of residence does not mean true cohabitation. In fact, while Paolo moves immediately to Marco's apartment, Marco leaves his home without declaring it to the public authorities and, therefore, pretending that he is still living in his public flat. Two years later, Paolo becomes formally part of Marco's household and, after two further years, he can apply to inherit Marco's public flat.

The concepts of household, cohabitation and takeover are the *formal* elements of this mechanism. The *illegal* part of the practice relates to both the money exchange that activates the takeover procedure and to the dummy cohabitation between Paolo and Marco. Specific features of public practices and norms draw the space of possibility within which the fraudulent takeover takes place. For instance, documents necessary to activate the takeover procedure are submitted in the form of a self-declaration. Local authorities are responsible for checking the truthfulness of their contents. However, controls are very superficial, if not non-existent – as our interviews with inhabitants and civil servants revealed. For several years, local authorities have not examined the applications for changing residency, because of "a combination of laziness and political will" (public official of the Municipal Housing

⁵ A few months ago (at the end of October 2019), the regional government approved a new regulation for the allocation and management of public housing units. Among other things, this regulation extends to five years the duration of cohabitation necessary for a person without family ties with the legal recipient to start the takeover procedure. The new regulation also establishes a regional supervisory body to oversee and control takeover applications and procedures.

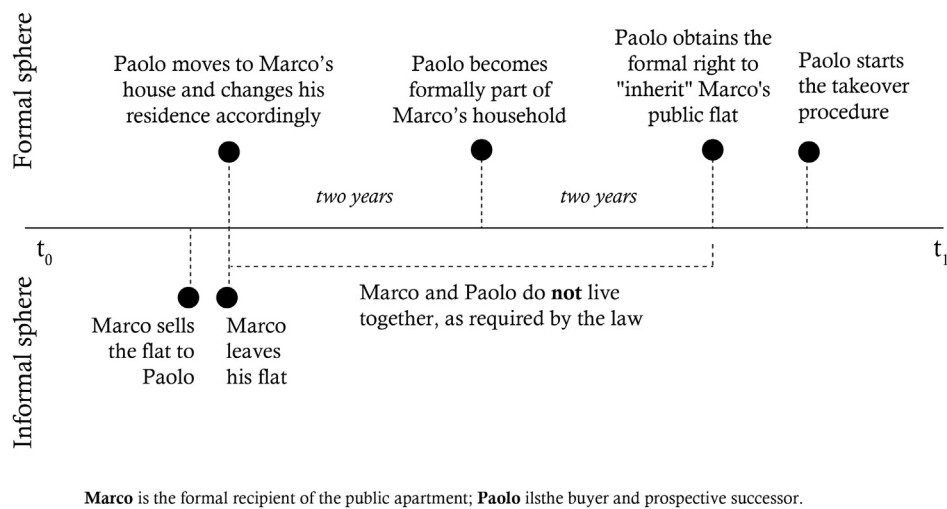


Fig. 4. The mechanism of fraudulent takeover.

Source: Authors' elaboration.

Policy Department, personal communication, 8 November 2017), thus generating *de facto* automatic authorization in the application process. Even when local authorities check the applications, the controls are often cosmetic. This is the case of controls by the local police, who are supposed to check whether people live in the dwelling units to which they have declared their transfer. To pass such controls, in fact, it is sufficient that the person applying for a change of residence is present during the police inspection – which takes place during a pre-set week – and that there is a bed in the flat, allegedly belonging to this person. To summarize, the public housing takeover procedure constitutes the formal space within which the illegal purchase of public housing takes place; this illegal mechanism is allowed by shortcomings in both the design of law and its implementation.

It is worth stressing that fraudulent takeover is beneficial for all the parties directly involved in the process. It benefits the legitimate recipient, who sells a flat that is not his/her property, obtaining a financial gain through an illegal sale. It also benefits the *subentrante*, who can access a public apartment avoiding the bureaucratic machinery with its long waiting times and uncertainties. The fraudulent takeover is costlier than the (free) formal procedure of access to public housing. However, it has the advantage of achieving the same result – the legitimate allocation of public housing – within a short and guaranteed time-span. On the contrary, compared to ordinary squatting, the fraudulent takeover is costlier (breaking into a vacant dwelling is often free, except in cases where it occurs through intermediation with criminal groups that demand sums of money; Belotti, 2017); nonetheless, it has the advantage of being less risky from a legal standpoint and, importantly, it guarantees a legal status, since the possession of the flat is recognized by public authorities.

5.4. Two paradigmatic stories of fraudulent takeover

Two paradigmatic stories show some nuances of fraudulent takeover practices in the De Gasperi neighbourhood.

Salvatore's story (Salvatore, personal communication, 14 December 2015). Salvatore, over 70 years old, lived most of his life close to Ponticelli, in the eastern part of Naples. In the late 1990s he moved to the De Gasperi neighbourhood, where he took possession of his nephew's apartment through fraudulent takeover. Before moving to the neighbourhood, he agreed to pay five million Italian *lire* (around 2,500 euros) to his nephew – so that he could transfer his residence to his nephew's public apartment. The nephew, in fact, was planning to leave the flat to move to his wife's house in a nearby municipality. Salvatore applied successfully to change his residence to his nephew's apartment.

However, he did not immediately move to live in his nephew's home, as the law required; in fact, the pact was that Salvatore would move at the end of the two years necessary to become a member of his nephew's household and subsequently submit the takeover application. The story is complicated by the fact that Salvatore's nephew reached a similar sale agreement with another person. In other words, the same public flat was sold to two different people. The case ended positively for Salvatore because the nephew decided to leave the apartment to him. Salvatore did not specify what happened to the other person to whom the apartment had been promised (however, he declared to us that the nephew had returned the money which that person had paid for his apartment). To be stressed is that Salvatore's interview evinced a sense of ordinariness with respect to the fraudulent takeover process. He perceived the illegal housing trade as commonplace. While he was aware that the process was illegal, he did not consider it to be illegitimate: for him, it was just another way to deal with poverty and housing need. The kinship relation with the nephew and the sum he paid to him for accessing the flat were regarded by Salvatore as factors sufficient to legitimate his possession.

Rosa's story (Rosa, personal communication, 10 May 2017). Rosa was a child when she moved with her family to Ponticelli in the years following World War II. She was one of the people that left the city centre of Naples because of the bombing. Rosa grew up in the De Gasperi neighbourhood; at the age of sixteen, she decided to marry her partner. Her husband worked in a factory in Germany, while she devoted herself to informal business and casual jobs (e.g. caregiving). The public flat to which she and her husband moved was a wedding gift from her sister. Rosa did not explain what she meant by 'gift'; however, it is likely that her sister obtained the flat simply by paying the legal recipient, but without engaging in the takeover procedure. A few years later, in the late 1980s the Camorra clan forced Rosa to leave her apartment, but it provided her with a new public flat in the neighbourhood. Besides allocating the flat, the clan also gave her the opportunity to become the legal recipient of the apartment through the fraudulent takeover mechanism, which she started and concluded successfully. Since then, she has lived in that apartment for 32 years.

Rosa, like Salvatore, could not explain precisely how the takeover system works. She said generically that her family handled the formal aspects of the process. Although she did not mention any specific role of organized crime in the procedure, it is likely that the Camorra clan, which controlled the area until the late 1990s, played a key role in the takeover process, for instance providing local inhabitants with forms of support and assistance for takeover procedures.

Today, Rosa spends her daily life between two dwellings in the same

building. The first, on the first floor, is the apartment where she sleeps: this is the apartment that she received from the criminal organization, which she legally occupies thanks to the successful conclusion of the (fraudulent) takeover procedure. The second, on the ground floor, is the ‘apartment’ (it is only a single room with a sink, a stove and a table) where she spends the rest of the day. Rosa broke into this latter space illegally in the 1970s – it was previously a storehouse for gardening tools – and transformed it into an informal shop, where she used to sell foodstuffs. When she retired, she converted it into a living room.

6. Discussion: The regulatory environment of the illegal city

6.1. The role of legal institutions

Examining fraudulent takeover is an excellent entry point to gain deep understanding of the intricate relationships between the illegal city and the State, rules and transgressions, formal institutions and informal production of space. As clarified in Section 2, the investigation of such relationship is crucial for comprehension of the everyday life of the illegal city, its development trajectories and the spaces of possibility (for survival, resistance and negotiation) available to its inhabitants.

The case of the De Gasperi neighbourhood very well exemplifies how informality does not imply the irrelevance of the law. As illustrated by research on Southern urbanization, the relationship between illegality and public rules is much more complex than a simplistic *alterity*, since public institutions have an active role in shaping informal urban space through both the design and the implementation of laws, regulations and policies – that is, through strategic labelling and mediated implementation. However, in the case of Naples, differently from many instances investigated in cities of the global South, the production of informal space through the labelling power of public authorities does not assume a blatant strategic character – that is, it is not finalised to the deliberate marginalization of specific social groups. It is mainly the production of *faulty* laws, which furnish opportunities for purposes other than those envisaged, that drives the reproduction of informality. In this regard, the case of legislation concerning the inheritance of public housing is flagrant: while the reason for having such a law is clear and understandable, the law nevertheless goes hand-in-hand with an ambiguous conceptualization of the household, making takeover an easy way to gain illegal access to public housing. It is thus *rough* labelling, more than *strategic* labelling, to be in action in the illegal access to public housing in Naples.

The specificity of the case investigated in this study emerges also when implementation of rules is scrutinized. The mediated character of implementation (see Section 2.2), in fact, is not central in the case of the De Gasperi neighbourhood; the crucial element is its failure, its shortcomings. Indeed, the survival of fraudulent takeover is due mainly to the inaction of public authorities, which causes a notorious lack of control and sanction over cohabitation and takeover procedures. This inaction does not result only from the weakness of the municipal machinery (e.g. a lack of human and financial resources), but seems to be due also the personal convenience of politicians and bureaucrats. Informal housing in Italy has been historically promoted (or, at least, welcomed) by both politicians and civil servants, who can gain various kinds of personal benefit from it (Chiodelli, 2019; Coppola, 2013), and it is dubious that the case of fraudulent takeover in Naples is an exception. These gains are sometimes of an economic nature, linked to corruption: it is possible that some public officials in charge of a part of the takeover procedures have turned a blind eye to illegal acts in exchange for a bribe. In other cases, such gains are political: the support of housing informality is a way to build large clienteles at local level, and fraudulent takeover, too, may be a means to create a ‘vote bank’ among occupants. At the same time, neglecting such illegal practice (thus allowing its survival) is a politically convenient way to avoid paying the price of implementing controversial measures such as repression or legalization (Chiodelli et al., 2020). In any case, regardless

of its causes, *failed implementation* plays a pivotal role in fostering illegal takeover.

Such pivotal roles of public institutions in *actively* shaping informality are complemented by the push – *passive*, but nonetheless direct and clear – for transgression exerted by their *mere existence*. In fact, the entire fraudulent takeover procedure is performed whilst taking into careful account the norms that it violates and the related practices by local authorities (e.g. in terms of controls), so that the chances of a successful conclusion of the procedure are maximized. Put in other words, fraudulent takeover is not an a-nomic process, but a nomotropic practice. More precisely, informal takeover is an assemblage of different kinds of nomotropic actions. On the one side, there are actions that, despite being non-compliant with rules on formal takeover, are performed in light of such rules. This is the case of the dummy cohabitation between the *subentrante* and the original recipient. On the other side, there are behaviours that take the law into account even if they are not prescribed by it (this is “neither fulfilment nor non-fulfilment of the rule [...] And yet [this is] acting in light of the rule”; Conte, 2011: 48). This is the case of changing the composition of the legitimate recipient’s household in order to include the *subentrante*: this does not entail compliance or non-compliance with the law on inheritance of public housing, but nonetheless it is generated by it.

6.2. The grey shades of informal housing

The complex interrelation among the three aforementioned processes (i.e. rough labelling, failed implementation and mere existence) generates the spaces of possibility within which the actors of the informal world put their own strategies into practice. In this regard, the law is not simply opposed by such actors, but *exploited* by them as much as possible. Selective compliance and mimicry are means available for the exploitation of legal loopholes (Datta, 2012), as well as transgression, circumvention and nomotropic behaviour. The inhabitants of the illegal city choose each of these tools (and their variable combination) strategically, so that legality and illegality are a contingent and often temporary result of such choices, which are influenced by various elements (e.g. contextual conditions, preferences, social capital, goal to be achieved).

Such exploitation of legal loopholes by urbanites could be read as a variety of insurgent urbanism or of democratization of urban space (Holston, 2009), where the urban poor take advantage of the misrule of the law to satisfy their residential needs. However, it must be stressed that this fragmented politics of claiming rights of urban citizenship (Miraftab, 2009; Watson, 2011) is engendered solely by need, outside any political driver, and is fueled by the self-interest rationality underpinning the agency of all the actors of the public housing system in Naples. This generates negative outcomes in term of urban justice. Informal takeover, in fact, diminishes the effectiveness of public housing in responding to the poor’s housing needs.⁶ Moreover, it forces illegal occupants to build negotiation strategies with local authorities on the base of reciprocity (e.g. they exchange electoral loyalty or bribes for tolerance of their informal practices) rather than relying on stable and clear rules and rights. This indubitably contributes to perpetuating their marginalization and dependence. Simultaneously, being based on family and neighbourhood ties, informal takeover produces barriers to housing access for those groups and individuals that are outside the social networks that fuel these informal practices (e.g. migrants and newcomers). Finally, the informal takeover highlights a key feature of

⁶ The shortcomings of public housing in Naples (as well as in the rest of Italy) cannot be related only (or even mainly) to informal takeover or other forms of illegal access to public dwelling units; rather, they are linked to the structural problems of the Italian system of public housing (Tosi, 2017). However, in some specific contexts the magnitude of practices of illegal access can exacerbate such structural problems.

informal housing within a homeownership-based regime like the Italian one. Through informal takeover, a public asset is *de facto* privatized, and the rules of economic exchange come to guide the allocation of public housing instead of fair and transparent rules of social welfare. Within this framework, the informal occupation of public housing units provides a surrogate of property to people who could not access it otherwise, thus granting them an appearance of stability and wellbeing in a society which is organized around homeownership as an engine for family reproduction, integration and economic prosperity (Arbaci, 2019). Thus, in the Italian housing regime, even squatted and informally accessed public housing quickly turns into an asset that *belongs* to individuals (Maranghi, 2016).

6.3. The role of informal institutions

It is against the backdrop of the aforementioned public production of informality that the illegal city must be conceived as a complex regulatory environment shaped both actively and passively by different formal institutions. The landscape of the illegal city, however, does not depend only on public bodies; it is also influenced by several informal institutions that play a complementary or substitutive role with respect to public authorities. As McFarlane (2012) stresses, “people’s relations – in their economic, political, and social dimensions – are negotiated not just through formal institutions, but through households, networks, cultural norms, and practices, through conflicts, trust and cooperation, modes of power and authority, and exclusion, and through relations of gender, age and religion” (p. 103). Criminal groups and fraudulent social practices must be added to this list, as shown by the case of the De Gasperi neighbourhood.

In the De Gasperi neighbourhood, until the late 1990s illegal practices (related not only to accessing public housing, but also to other fields, such as drug dealing and the black economy) occurred within the institutional field – illegal, but strictly regulated and structured – of organized crime. The Camorra clan exercised firm governance over the neighbourhood and its inhabitants instead of the public authorities. With reference to the specific field of housing, the Camorra clan acted as an ‘illegal real estate agency’, handling two main activities. First, it rented out public apartments that it controlled directly within the area. Second, it intermediated between buyers and sellers, asking for a fee on the sale and purchase of every public housing unit in exchange for its brokerage services. In this latter case, the criminal organization acted as the guarantor of illegal purchases of public flats – a specialized broker responsible for settling disputes and ensuring the reliability and certainty of the illegal exchange (della Porta and Vannucci, 1999). The case of Rosa, who was forced by the Camorra clan to abandon her flat whilst also being assigned a second one by it, is a paradigmatic example of the direct management of a public asset by the criminal group.

When the regulatory role of organized crime disappeared, some informal norms for the governance of the area – including the management of illegal access to public housing – remained in place. Within this framework, fraudulent takeover continued to be performed as a shared social practice with precise internal rules. Salvatore’s case, where the purchase of a flat by two different persons occurred, demonstrates the risks of such informal practices taking place outside any robust institutional framework *lato sensu*: the absence of a third party (e.g. the State or a criminal organization) able to guarantee compliance with contracts makes (illegal) exchanges riskier and less reliable. Within this framework, the established social relationships among inhabitants of the area – strengthened by family ties – are the key factor that enables fraudulent takeover to survive without external guarantors to supervise (and eventually enforce) informal contracts, since they guarantee a sufficient degree of social sanction in the case of violations.

7. Concluding remarks: The space of possibility of the illegal city

Urban informality is a structural characteristic of the Italian (and

southern European) housing regime which is usually equated with the construction of dwelling units in breach of planning and building regulations. However, there is a second main form of illegal access to housing in Italy that, despite being important, is almost completely neglected by academic research: the occupation of public housing. This paper has sought to fill this empirical gap by analysing fraudulent takeover, that is a specific instance of illegal access to public housing in which apartments are bought and sold illegally. This trade is then legalized by exploiting the shortcomings of public rules and practices governing the access to public housing in Naples.

Besides adding to the still meagre catalogue of cases of urban informality in Western countries, our investigation is significant for two main theoretical reasons. Firstly, fraudulent takeover provides a clear example of the complex and variable relationship between legality and illegality: a relationship constantly oscillating between the formal and the informal spheres characterizes the entire process of fraudulent takeover, with fluctuations related to the different phases of the life-cycle of that practice and to its different sub-components. This suggests that any robust understanding of informality needs to approach it from a processual, diachronic viewpoint, carefully disassembling the informal practice in its multifaceted nexus with various public institutions and considering its internal complexity in relation to the temporal dimension. Secondly, the case study highlights how urban informality can have deep institutional roots. As suggested by the enlightening Southern theory on urban informality, public institutions profoundly influence the production and survival of illegality through both (strategic) labelling and (mediated) implementation. These two channels operate also in the case of the occupation of public housing in Naples, even if they assume the specific characterization of *rough labelling* (i.e. the production of faulty laws) and *failed implementation* (e.g. lack of controls and sanctions). Simultaneously, as explained by the concept of nomotopism born in Northern legal studies (Chiodelli and Moroni, 2014b), also the mere existence of regulative acts has a causal effect on transgressions. It is within this complex framework that public institutions cannot be regarded as tangential to the concern of the actors of the illegal city. On the contrary, they determine the spaces of possibility where informal practices originate, take shape, spread, consolidate and eventually die. The inhabitants of the illegal world try to satisfy their needs within this space of possibility, by exploiting legal loopholes and public weakness. In so doing, they claim rights of urban citizenship in a controversial manner: while addressed to satisfy the housing needs of the urban poor, in fact, this claim is self-interested, exclusionary and reinforce the dominance of homeownership.

CRedit authorship contribution statement

Emiliano Esposito: Conceptualization, Writing - review & editing.
Francesco Chiodelli: Conceptualization, Writing - review & editing.

Acknowledgement

This article is the result of the combined research activity undertaken by the two authors. The fieldwork has been conducted by Emiliano Esposito, during his Ph.D. research supervised by Francesco Chiodelli. A preliminary version of this paper has been presented at the “Symposium on Case Studies in Self-Governance” (London, 24–26 October 2019), organized by the Centre For the Study of Governance and Society, King’s College London, thanks to the financial support of the John Templeton Foundation.

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