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Grounding Accumulation by Dispossession in Everyday Life: The Unjust Geographies of Urban Regeneration under the Private Finance Initiative

Stuart Hodkinson, School of Geography, University of Leeds, Leeds, UK
Chris Essen, School of Health, University of Central Lancashire, Preston, UK

Abstract

This paper aims to ground Harvey's (2003) top-down theory of "accumulation by dispossession" in the everyday lives of people and places with specific focus on the role of law. It does this by drawing upon the lived experiences of residents on a public housing estate in England (UK) undergoing regeneration and gentrification through the Private Finance Initiative (PFI).

Design/methodology/approach – Members of the residents association on the Myatts Field North estate, London, were engaged as action research partners, working with the researchers to collect empirical data through surveys of their neighbours, organising community events and being formally interviewed themselves. Their experiential knowledge was supplemented with an extensive review of all associated policy, planning, legal and contractual documentation, some of which was disclosed in response to requests made under the Freedom of Information Act 2000.

Findings – Three specific forms of place-based dispossession were identified: the loss of consumer rights; the forcible acquisition of homes; and the erasure of place identity through the estate's rebranding. Layard's (2010) concept of the "law of place" was shown to be broadly applicable in capturing how legal frameworks assist in enacting accumulation by dispossession in people's lives. Equally important is the ideological power of law as a discursive practice that ultimately undermines resistance to apparent injustices.

Originality/value – This article develops Harvey's concept of accumulation by dispossession in conversation with legal geography scholarship. It shows – via the Myatts Field North estate case study – how PFI, as a mechanism of accumulation by dispossession in the abstract, enacts dispossession in the concrete, assisted by the place-making and ideological power of law.

Article classification: Research paper.

Keywords: Urban regeneration, gentrification, dispossession, finance, law of place, Private Finance Initiative, public housing

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1. Introduction

In Western legal frameworks, dispossession is narrowly defined as the deprivation or eviction from rightful possession of property or land (see Fox O'Mahony and Sweeney, 2011). Yet land, law, and dispossession have a far more complex historical geographical relationship traversing colonial and contemporary time and space (see Fay and James, 2009). Critical scholarship has helped to denaturalise property rights and law, unsettling previous assumptions of how land came to be legally owned in the first place and by whom (Blomley, 2004; Wily, 2012). Such alternative meanings and histories of dispossession are embodied in the socio-spatial transformations of "primitive accumulation" (Marx, 1976) that gave birth to capitalist social relations. These processes were prevalent in the colonial "pillaging" of the territories and peoples of the Global South throughout more than 500 years (see Galeano, 1973), and the removal of ordinary people's customary rights to subsist from the commons during the countryside enclosures in Britain and other European societies throughout the same period (see Neeson, 1996). Crucially, these territorial appropriations around the world are synonymous with what Blomley (2003, p.130) calls "legal violence" in which the imposition of maps and property laws – often through state-sponsored force – played essential roles in naturalising and protecting the new owners' legal rights to land and resources they had expropriated (Harris, 2004; Wightman, 2013).

Dispossession is currently attracting renewed academic attention, most notably through David Harvey's theoretical re-working of primitive accumulation as "accumulation by dispossession" (Harvey, 2003, p.145). Harvey (2010, p.45) argues that since 1973, global capitalism has been engulfed in an ongoing crisis of "overaccumulation" in which surpluses of capital are unable to find enough outlets to make profit. Old and new mechanisms of dispossession – led by the privatisation of state industries and assets – have thus been pushed to the forefront of state-corporate growth strategies so as to release public or common assets and resources into the market "where overaccumulating capital [can] invest in them, upgrade them, and speculate in them" (Harvey, 2003, p.158). Viewed against the background of nearly four decades of neoliberal policies in diverse national settings, Harvey's thesis is highly persuasive and lent extra credibility by the new round of state sell-offs and restructuring under austerity programmes in North America and Europe following the 2008 financial crisis (see Kitson et al, 2012). Yet Harvey has also attracted valid criticism particularly within a diverse Marxist scholarship for, *inter alia*, his contingent reading of continuous historical processes of dispossession (Glassman, 2009), weaknesses in his wider theory of overaccumulating capital (Ashman and Callinicos, 2006), and his under-theorisation of the "deeply political role of states in orchestrating dispossession" (Levien, 2013, p.382).

While such debates fall beyond the remit here, this article responds to a more general critique of contemporary dispossession theories as top-down abstractions that lack historical-geographical specificity of how dispossession plays out and is experienced by people on the ground (Hart, 2006). Alongside a growing number of studies attempting to precisely interrogate Harvey's theory in different contexts, we have elsewhere sought to territorialise and urbanise contemporary processes of accumulation by dispossession as "new urban enclosures" through an analysis of UK neoliberal policies towards housing and regeneration (Hodkinson, 2012). But there are two substantive weaknesses in this emergent research. First, there remains little sense of how the theorised predations of accumulation materialise on the ground as forms and experiences of dispossession in the everyday places and lives of ordinary people – how have they *experienced* dispossession? Second, despite

the importance of legal geographical power to historical acts of dispossession, there is a lack of research into how current processes of accumulation by dispossession are actually mobilised in places and on people through law and legal practices.

To this end, legal geographical scholarship provides important conceptual tools for understanding the place-based dynamics of dispossession. For example, Blomley's (2004, 2008) interpretation of anti-gentrification struggles in Vancouver's Downtown Eastside as a battle to defend the neighbourhood's commons from enclosure involves rejecting dominant liberal public/private conceptions of individual property rights and instead seeing dispossession in "counterposed property claims that are collective in scope" (Blomley 2008, p.316). Layard's (2010) concept of "a law of place", based on a retail development in Bristol, is an equally useful frame for understanding how national and local scale legal mechanisms such as planning and compulsory purchase law operate to transform "multiple heterogeneous city centre spaces into a single homogeneous and commodified privately owned retail site" for the purpose of commercial gain (ibid., p.412). However, neither Blomley nor Layard's work has been explicitly connected to the debates on accumulation by dispossession.

This article addresses the continuing challenge of dispossession from above to below by drawing on findings from an Economic and Social Research Council (ESRC)-funded study of public housing regeneration in England, UK, delivered through the Private Finance Initiative (PFI). While PFI is typically analysed from a critical accountancy perspective (Shaoul et al., 2010), we are interested in residents' "lived experiences" of PFI as both place-based *dwellers* and *public service users* for whom the governance of their homes and services is being transformed. Our empirical focus is on the 25 year PFI regeneration of Myatts Field North (MFN) housing estate in the London Borough of Lambeth that began in 2012. A group of MFN residents were engaged as action research partners and they collected empirical data through conducting surveys of their neighbours and organising community drop-ins and public meetings. This was supplemented with an exhaustive analysis of local authority reports, published parts of the final PFI contract, and project documentation disclosed following a Freedom of Information Act 2000 request.

A first section briefly discusses how PFI, housing privatisation and gentrification-based urban regeneration function in the Harvey schema as forms of accumulation by dispossession from above. A second section territorialises these policies by introducing the MFN estate, explaining the rationale for regeneration and documenting the highly complex and fluctuating PFI procurement between 2004 and 2012. A third section then examines how the financial prerogatives of PFI have generated three particular forms of place-based dispossession – of residents' *consumer rights*, of precarious homeowners' *property rights* and of the wider community's existing *neighbourhood identity*. A fourth section offers some brief reflections on the role of law and legal geography in assembling dispossession on MFN. We conclude that while Layard's (2010) "law of place" accurately conveys the indispensable role of formal legal frameworks in enacting resource redistribution to finance capital under PFI, our study also reveals the importance of potentially unlawful acts in PFI place-making, underlining the continuing historical role of law as a discursive practice of ideological power in people's lives (Blomley, 2003).

2. Dispossession *from above*: urban regeneration under the Private Finance Initiative in the UK

In David Harvey's (2003) thesis, accumulation by dispossession is portrayed as taking place through the top-down imposition of neoliberal policies. As well as the "predatory" role of finance capital, such mechanisms include the "rolling back of regulatory frameworks designed to protect labour and the environment" and the "reversion of common property rights" such as the right to a state pension, to welfare, to national health care (Harvey, 2003, p.148). But it is the "corporatization and privatization of hitherto public assets" (ibid) that for Harvey represents the "cutting edge" (ibid) of neoliberal accumulation by dispossession in *advanced capitalist societies*. In this section, we briefly discuss how PFI-based public housing regeneration schemes in England can be understood as a form of accumulation by dispossession from above.

Space does not permit an exhaustive account of UK housing privatisation since 1979 but the main storylines are now well known. Under Thatcherism, millions of publicly-rented "council homes" were sold off at large discounts to sitting tenants through the 1980 Right to Buy policy. Direct sales to tenants were supplemented after the late 1980s with the privatisation of individual housing estates and entire local authority housing stocks to housing associations or Registered Social Landlords (RSLs) (Murie, 1993). Alongside disposal was a deliberate policy of *residualisation* (Cole and Furbey, 1994) through which subsidies for *new* public house building were gradually reduced and switched to the increasingly commercialised RSL sector, and repair and maintenance budgets also substantially cut, leaving an estimated £19 billion disrepair backlog for all social housing by 1997.

In this initial wave of "roll-back neoliberalism" (Peck and Tickell, 2002, p.384), capital accumulation was boosted through unlocking state housing, finance and land to private and commercial interests *without* direct dispossession – neither the Right to Buy nor the transfer of council-owned housing to housing associations usually entailed losing one's home. Rather, housing privatisation created new outlets for surplus finance capital to profit from land rents previously denied from public ownership. It took place alongside a wider neoliberal urban agenda of encouraging mainly speculative investment in narrow real estate developments on prime city centre sites through the imposition in some cities of US-style Urban Development Corporations, which had sweeping powers to gentrify empty or derelict spaces for business and private residential use and attract inward (foreign) investment (Boyle, 1989). Against a background of economic recession, monetary crisis and large fiscal deficit, by the early 1990s, this wider privatisation by disposal of public assets and services had evolved into "privatisation by stealth" (Whitfield, 2001, p.92) through the creation of public-private partnerships, most notably the Private Finance Initiative (PFI).

Launched in 1992, PFI was officially framed as a necessary innovation to address longstanding under-investment in state infrastructure without officially increasing public sector borrowing and debt (Broadbent and Laughlin, 1999). PFI did this by creating a new procurement model in which the state's previous direct role in the design, construction, build, and operation of new public infrastructure (e.g. hospitals, schools, roads and prisons) was outsourced to private sector consortia comprised of developers, facilities management firms and international banks in long-term contracts lasting between 15 and 60 years. PFI consortia provide the upfront capital financing for the initial construction phase, usually through a combination of commercial borrowing and equity investment, whilst receiving a monthly payment (called the "Unitary Charge") from the public sector client partly financed by central government subsidy ("PFI credits") covering the PFI scheme's capital costs.

Through this financial-legal apparatus, asset risk could be transferred to the private sector, which enabled PFI projects to be placed “off-balance-sheet” with only the annual *service* payments appearing in the public accounts, not the total investment (debt) in the years it actually took place.

Despite the proven higher cost of privately-financing public infrastructure as opposed to direct state borrowing (House of Commons Public Accounts Committee, 2011), PFI was justified as offering better “value for money” overall because of the private sector’s apparent “superior” management of risk (HM Treasury, 2000). There are currently 725 PFI schemes operating across the UK public sector amounting to at least £305.3bn in committed public spending between 1990 and 2050 (HM Treasury, 2013). Academic research suggests that, overall, PFI has been extremely poor value for money (see Ismail, 2011, for an exhaustive review). But as Kerr (1998, p.2282) argued in a highly prescient critique, judging PFI on its own merits misses its real purpose as a neoliberal technology designed to “subordinate state activities to the logic of the market, but in a way that would also stimulate the accumulation of capital”. Drawing on the forensic research of Whitfield (2001, 2010), PFI has worked in the following ways as a form of accumulation by dispossession from above:

- (i) By replacing direct government borrowing with far more expensive commercial financing ultimately paid for by the state, opening up more profitable lending and investing opportunities for finance capital that include a lucrative secondary market for trading PFI equity stakes;
- (ii) By commercialising public services that politically could not be sold-off as complete services by redefining a public service as something that could “remain publicly financed but privately delivered in privately managed buildings” (Whitfield, 2001, p.196);
- (iii) By enabling capital to commercially exploit a guaranteed public sector market, financed and underwritten by the state, and thus avoid the risk of speculatively investing to create a private sector market for its own product;
- (iv) By generating “affordability gaps” in public sector business plans through costly delays in the procurement process, gaps that have been subsequently plugged by depleting other public sector budgets or by gifting land to offer profitable revenue-generating opportunities for PFI consortia (see Shaoul, 2005);
- (v) By facilitating systematic corporate tax avoidance with many PFI schemes owned by offshore companies that pay no tax on their profits to the UK government (Costello, 2012).

PFI’s involvement in public housing can be traced back to the late 1990s, by which time Thatcherite housing privatisation had been transformed into a wider urban regeneration strategy under New Labour marked by its “ambition of bringing the middle classes back to the city” (Davidson, 2008, p.2387). This was a policy motivated – at least in official discourse (Lees, 2008) – by a belief in the social and economic benefits of tenure mixing and “positive gentrification” (Cameron, 2003, p.2367). Yet it was ultimately predicated on state intervention to enable finance capital to profit from exploiting large “rent gaps” (Smith, 1979) in urban areas i.e. the surplus value unlocked by rising land values and rent yields after redevelopment. During this second “roll-out” phase of neoliberalism (Peck and Tickell, 2002, p.384), therefore, more *direct* forms of dispossession have been present such as the

displacement of people from their homes and communities to enable demolition of apparently “obsolete” public and private working class housing and create vacant land for speculative private residential development aimed at middle class consumption (Allen, 2008).

A key housing policy plank of these processes was Labour’s Decent Homes programme that set out policies and investment paths to ensure that by 2010 all social tenants (whether local authority or RSL) in England lived in a “decent home” that met minimum housing standards. Rather than a break with the previous housing privatisation framework, Decent Homes investment was made conditional on reforms aimed at increasing the role of the private sector and market forces in the provision of social rented housing. In general, local authorities were offered either additional state subsidies to transfer their housing stock to commercial housing associations or increased borrowing powers if they set up their own “arms-length management organisations” (ALMOs) to run the day-to-day management of services and investment on a more commercialised basis (Whitfield, 2003). PFI was made available to a small number of English local authorities between 1998 and 2010 as a third, “niche” investment option for meeting the decency target but as part of a more comprehensive regeneration of specific housing estates or stocks (Hodkinson, 2011a). The £4.4 billion publicly-funded programme – now closed – has 37 social housing PFI schemes ranging from intensive refurbishment to estate-wide regeneration encompassing demolition, new housing, and improved environments and facilities.

So, in abstract terms, we can see how accumulation through dispossession has been rolled out through housing privatisation and PFI, opening up the provision of public housing infrastructure, services and neighbourhoods for commercial exploitation. But how do these dynamics of dispossession emerge and become territorialised on the ground in people’s lives? We now explore these questions through a case study of a specific housing PFI regeneration scheme in central London.

3. Territorialising Dispossession: the Myatts Field North PFI scheme in London

MFN is a public housing estate sited one mile north east of Brixton Town in the London Borough of Lambeth.¹ It was built by the local authority during the mid-1970s as part of the area’s redevelopment following slum clearance. Comprised of approximately 500 council homes in a relatively low rise and innovative architectural design, MFN from the outset was a racially mixed residential working class community – today, over 50% of residents identify as black (Lambeth, 2012). By the early 1990s, the MFN estate had become engulfed in the physical and social neglect familiar to many council estates after the neoliberal roll-back of investment under Thatcherism. MFN was additionally embroiled in wider issues of gang crime associated with Brixton (Mavrommatis, 2010). Interviews with established residents confirm the severity of the social and physical problems they faced on a daily basis, but also revealed a desire to distance their accounts from the stigmatising discourse of “notorious places” (Kearns et al., 2013) regularly used by local authorities when seeking regeneration funding. Alongside the “gangs” and “criminals” has been a strong and active community, reflected in resident-led community projects, a Tenant Management Organisation previously in charge of estate management and maintenance, the 100 tenants who bought

¹ Much of the background data for this case study comes from a large number of local authority reports and project documents that are too numerous to cite here. A full reference list will be made available on www.housingpfi.org.uk

their council homes and stayed on the estate, and a 2003 survey that found almost two-thirds of residents would want to remain on a redeveloped MFN (Lambeth, 2006a).

With previous investment schemes during the 1990s and early 2000s hampered by rising costs and financial and planning constraints, in 2004 the government accepted Lambeth's proposal for a comprehensive redevelopment of the estate under PFI, including demolition and replacement of approximately 300 homes left unimproved by previous schemes. Despite PFI's emerging problems and political opposition to it, the Labour-controlled council was attracted by the government subsidy not least because it promised to finance the regeneration without the need for a large financial cross-subsidy from high-density private development and the loss of open space previously rejected by residents and planning officials. By mid-2006, the PFI scheme had been approved – if not enthusiastically – in a ballot of local residents amid a vocal anti-privatisation lobby. 172 homes would be retained and refurbished to above the “Decent Homes” standard with the remaining 305 homes (including 58 owner-occupied) to be demolished and re-provided on a “like for like” basis to facilitate “as many existing leaseholders rehoused who wish to remain as part of the aim to retain a cohesive community” (Lambeth, 2005, p.65). The scheme also included a redesigned park, a new community centre, and following the 2007 intervention of the Mayor of London, a new Combined Heat and Power Plant (CHP) to provide hot water, central heating and electricity to homes. Works would take place in an intensive 5 year build programme.

To finance the scheme, the government agreed to provide £114.6 million in “PFI credits” to cover the capital investment costs over a planned 30 year contract while the local authority would use its existing income from tenants and leaseholders rents to pay the PFI consortium's day-to-day management and maintenance costs (Lambeth, 2006b). Nevertheless, the estimated £14 million cost of acquiring 58 former council homes bought under the Right to Buy – which included compensation at market value, plus 10% home-loss compensation, and other disturbance costs payable under Compulsory Purchase legislation – could not be financed from PFI credits. Lambeth thus needed to generate this additional finance by creating and releasing “value” from within the estate's land envelope. Hence one of Lambeth's main reasons for spatial restructuring of the existing built environment via demolition and redevelopment was to precisely exploit “rent gaps” (Smith, 1979, p.545) by unlocking and selling public land parcels for private housing development and seeking a share (“overage” or “claw back”) of any profits made from subsequent private property sales (Lambeth, 2005, p.76). At this stage, 187 new private 1 and 2 bedroom flats for sale would be built, generating the finance needed to buy out the homeowners.

After a succession of delays, including the arresting impact of the 2008 global financial crisis, in December 2009 the Regenter Myatts Field North Limited consortium – a joint venture between John Laing PLC and Pinnacle Regeneration Group – was confirmed as the local authority's preferred bidder for the MFN scheme.² Regenter's winning bid involved a guaranteed minimum £8 million payment to Lambeth to reflect disposal value of the development land on 125 year leases, as well as a share of both expected and windfall profits realised from the sale of new private homes (Lambeth, 2011, p.46). In return, Regenter had been allowed to double the amount of private residential development originally permitted by Lambeth's own 2007 Outline Planning Application in to 398 homes

² Regenter's main sub-contractors are: Pinnacle PSG, who manage estate and housing services; Rydon, who oversee refurbishment and maintenance; Higgins, responsible for building new housing and facilities; and E.ON, providing for the estate's main energy needs.

(including 41 for shared ownership), in exchange for also delivering 105 new social rented homes, part-financed with public subsidy, through the Notting Hill Housing Association (Greater London Authority, 2010). The 58 homeowners would now be offered a choice between selling back their homes to Lambeth for market value plus 10% homeloss compensation in line with Compulsory Purchase legislation, or moving into a “like for like” (bedroom size and tenure) new home on the estate that involved simply swapping their existing lease or deeds for new ones, at no cost to them. Any like for like property not taken up by an existing homeowner would be sold by Regenter’s development company on the open market (*n.b.* the financial arrangement for sharing any profits from such sales with Lambeth remains undisclosed).

The May 2010 election of the UK Coalition Government led to a further delay after the Treasury launched a “value for money” review of PFI schemes that translated into a £16 million reduction in subsidy for the MFN scheme. This state-imposed affordability gap had to be plugged through cost-saving measures, including: a reduced contract length from 30 to 25 years; a four instead of five year demolition and construction period (requiring up to 69 households to be housed in temporary accommodation); a reduction in housing office hours; and removal of an estate improvement fund. In other words, the public sector client and MFN residents would get less services for the same money. Significantly for the focus here, Lambeth would no longer receive *any* of the promised £8 million for the sale of development sites (which appear to have been gifted to Regenter) in return for a £2.7 million reduction in the overall cost of the contract (Lambeth, 2011, pp.46-7). Moreover, Lambeth had again permitted an increase in the number of private homes to be developed, from 398 to 503, which included a greater number of “affordable” shared ownership homes (41 to 105) but at the expense of the 105 social rented homes, which were now removed after government subsidy cuts (*ibid*).

The MFN PFI regeneration scheme finally began in May 2012, five years later than originally planned, and with a much higher density of private residential development than initially anticipated. We now explore in more depth how these financial complexities of PFI procurement have materialised in specific forms of place-based dispossession MFN residents lives.

4. Dispossession *on the ground*: divestment of rights, property and community identity

Chiming with previous critical research on housing PFI (Hodkinson, 2011a, b), in the first two and half years of the contract, residents have experienced problems across every aspect of the scheme. This has led to several petitions, angry public meetings, a huge rise in official complaints by residents, contractors being refused access to some residents’ homes, a demonstration to the town hall that gained national media coverage and the election of the residents’ association chair and vocal PFI critic as a popular local councillor. Community dissatisfaction stems mainly from the perceived poor quality of construction and refurbishment work, and the failure of key housing services (see Dyer et al, 2014, for residents’ refurbishment experiences). Arguably the worst of these has involved severely disabled residents and their families being moved into new properties with incomplete, non-functioning or unacceptable disability aids and adaptations, leading to a local media storm (Morgan, 2013).

Residents have also raised a large number of health and safety concerns. A survey conducted by us in conjunction with the residents association of residents whose homes

had been refurbished by Rydon recorded testimonies of faulty electrical sockets and wiring, water leaks and major floods (Dyer et al, 2013), problems that were subsequently experienced in the new apartments built by Higgins (Source: email correspondence with residents). Regenter's Out of Hours Emergency Service has also been hampered by the wrong property database being uploaded into the computer system leading to call centre operators refusing to send engineers out to residents' homes (source: correspondence from Rydon to residents association). In April 2014, a former Rydon employee made very specific allegations about health and safety breaches along with more general allegations about the inadequacies of contract compliance and monitoring by both Regenter and Lambeth. These allegations and a wider set of health and safety concerns and examples were compiled into a jointly-authored report between the present authors and the residents association and are currently being investigated by Lambeth council and the Health and Safety Executive (Hodkinson et al, 2014).

In the views of residents' association members, the fundamental problem underpinning these service and construction failures is that the PFI contract has diluted their ability to democratically hold their landlord to account. This is because the entire regeneration and day-to-day housing management has been contracted out and residents' concerns and complaints tend to be passed around different contractors without resolution. When residents directly seek redress from their local authority landlord, they are routinely directed back to the PFI consortium on the grounds that it is Regenter, and not Lambeth, that is now contractually responsible for the estate. While this generalised experience of service delivery failures under PFI arguably amounts to a form of public service and democratic dispossession, we now turn in more depth to three specific experiences of dispossession MFN residents have endured.

(a) Dispossession of consumer rights: the imposition of an energy monopoly

A central plank of the PFI scheme is the re-provision of a central Combined Heat and Power (CHP) plant for MFN by the energy company, E.ON. As Regenter's sub-contractor, E.ON is charged with renewing the iconic "Camberwell Submarine" district heating system at the south-east side of the estate, which originally provided it with heat and hot water until disrepair led to its disconnection and replacement with individual home boilers during the 1990s. In return, E.ON has been granted a 45 year lease on the system, giving it a long-term monopoly in supplying heat and hot water to all MFN residents once they are connected to the CHP. Residents supposedly benefit from a contractual guarantee that energy charges will be levied on the basis of actual use and will always be "equivalent to or less than those costs that would be incurred for energy consumed if using a traditional, gas fired condensing boiler solution" (Lambeth and Regenter Myatts Field North, 2012, p.340). However, although the CHP is potentially more energy efficient than boilers, some MFN residents have been less than welcoming, for two main reasons.

First, connecting all refurbished council homes on the estate to the CHP involves the enforced replacement of gas cookers with standardised electrical induction hobs supplied by E.ON; new-build replacement homes regardless of tenure come pre-fitted with these, although MFN homeowners remaining in their existing homes are free to keep their gas connections for cooking purposes. While many residents we spoke to bemoaned the loss of their gas cookers, the new induction hobs have been particularly unwelcome because they do not work with traditional Caribbean style "Dutch pot" or similar ethnic cookware. Lambeth has further facilitated this act of cultural dispossession by agreeing with Regenter

that council tenants' PFI contractual right to waive particular works to their homes (so as to retain their own fixtures, fittings or improvements) does not cover the connection of their homes to the district heating system (Lambeth and Regenter Myatts Field North, 2012, p.582). A second grievance concerns the new hot water systems in the refurbished and new build homes connected to the CHP. Our surveys of residents revealed serious difficulties in achieving a consistent standard of heat and hot water with some having to boil kettles and use electric heaters. This dissatisfaction led some residents to request their own choice of heating and hot water supplier, only to be told this was no longer possible under the PFI contract. In other words, they had been dispossessed of their rights to consumer choice in a supposedly liberalised energy market.

This dispossession is exemplified in human terms by the case of a disabled council tenant who, after being assessed by Lambeth as benefiting from retaining her gas cooker, was allegedly threatened with eviction by Regenter's housing management contractor, Pinnacle, if she did not allow E.ON to install an electric hob. Eventually Pinnacle backed down when challenged to show where the Lambeth tenancy agreement stated that tenants must have their energy supplied by E.ON, how tenants had been consulted about these changes to their housing management, and what "reasonable adjustments" were being applied under the Disability Discrimination Act 1995 (now Equality Act 2010). However, Pinnacle continued to threaten legal proceedings if the tenant obstructed E.ON's remaining conversion works, citing its rights of entry under Lambeth's tenancy agreement.

(b) Dispossession of home: the forcible acquisition of precarious owners

A second key aspect of the MFN PFI regeneration scheme is the demolition and re-provision of 305 homes of which 58 are privately-owned due to the Right to Buy. We should recall that Lambeth's decision to include and later expand private residential development as part of the MFN regeneration scheme was not simply about social mixing but also to generate the financial means to acquire these 58 homes in the first place. Lambeth had originally promised to enable all of these owners to stay on the estate through the option of buying "an affordable 'shared ownership/equity' property in the new build" (Lambeth, 2006c, p.5), with additional support for those in financial difficulties such as a special mortgage from the Council or reversion to a council tenancy (Lambeth, 2007). In 2012, Pinnacle took over the management of rehousing existing homeowners on behalf of Lambeth, promising to assist anyone facing problems through liaising with their mortgage lenders, exploring shared ownership options and paying the costs incurred in changing or transferring their mortgage (Pinnacle, 2012).

Yet, the actual lived experiences of many home owners contrast sharply with the official promises above. Our research identified 15 homeowners who either had or were still experiencing major problems in taking up Pinnacle's like for like property offer because their existing mortgage provider or other potential lenders refused to offer a new mortgage. This refusal was due to the homeowner's financial circumstances or credit history representing too much of a risk for lenders' post-2008 due diligence criteria. However, when homeowners approached Pinnacle's CPO manager for the help they had previously been promised, all they received was the phone number of a mortgage broker. In fact, several homeowners we interviewed accused Pinnacle of actively pressuring them to *voluntarily* sell their home back to Lambeth: "He told us that if we waited for a CPO we would get less because a valuation precedent of £150,000 had already been set in a tribunal" (Interview with leaseholder).

Each homeowner in this situation we interviewed talked about the extreme stress, the sleepless nights, and of being “left in limbo”. Out of increasing desperation not to be displaced, one homeowner borrowed a large sum of money from a family friend at a high interest rate to pay off the mortgage and move into her like-for-like property. Two homeowners who had mortgage offers “in principle” subject to certain conditions were pressured by Pinnacle into vacating their home – which was then boarded up and rendered uninhabitable – and moving into a like for like property under a temporary “licence to occupy” whilst still paying the mortgage and service charge on their old home. Subsequently, both mortgage offers were withdrawn; in one case because the homeowner had not been provided with a key to her mailbox in the new property; and in the other case because the homeowner was unable to clear his outstanding credit card debt in time, half of which was owed to him by Lambeth as the result of an error in his service charge account that was taking months to sort out. Both homeowners are now facing eviction from the new homes they temporarily “occupy” and the compulsory purchase of their boarded-up homes. At the time of writing, six homeowners were still unable to move into their like for like property.

The notion of accumulation by dispossession on the ground makes most sense when we review the data on the “voluntary” acquisition of homes on the estate. Between May 2012 and September 2014, 11 homes had been bought back by Pinnacle on behalf of Lambeth, including two homeowners with mortgage problems who did not want to sell but felt they had no choice due to lack of alternatives or support from Pinnacle or Lambeth. These 11 homeowners received between £112,000 and £255,000 (excluding compensation). These prices represent a huge *undervaluation* in relation to local property market values. In 2012, 1-bed flats within 500 metres of MFN sold for an average of £237,230, compared to the £114,500 average paid by Pinnacle; and 3-bed properties sold nearby for an average of £478,375, compared to the £217,619 average paid by Pinnacle. Even 3-bed former council houses on the adjacent Myatts Field South council estate sold for an average of £315,000 in 2013.³ Meanwhile, new 1, 2 and 3-bed flats for sale in the Oval Quarter development were being advertised on property websites in July 2014 at £360,000, £489,950 and £560,000 respectively. Based on these prices, we estimate that the net additional land value released through redevelopment via dispossession of the 11 homeowners will be approximately £3.61 million – or more than £328,000 per homeowner. This value will be captured by the various private companies engaged in assembling and developing the land as well as the local authority through its profit-sharing agreement, and denied to the homeowners who have been dispossessed even of the market value for their homes.

These dynamics of dispossession are embodied in the story of a family we interviewed who had previously lived on MFN for 20 years but were unable to port their mortgage or get an alternative lender. Pinnacle stated that their only option left was to sell. Unfortunately, after accepting £200,000 less than the local market average, they were declared ineligible for a new shared ownership property on the estate due to insufficient household income. With no possibility of buying a new house in London and with no sustainable prospect of renting privately in the area (amounting to £2400 a month compared to a previous monthly mortgage repayment of under £500), the family continued to occupy their former home whilst negotiating with Lambeth and Regenter for support. After political pressure by the residents association, MP and local councillors, Lambeth and

³ 2012 Sales data for postcodes in SW9 scraped from Zoopla.com, and 2013 data was downloaded from <http://www.landregistry.gov.uk/market-trend-data/public-data/price-paid-data/download>;

Regenter offered to fund 50% of a four year private sector tenancy but, according to an informant inside the Council, this was later withdrawn so as not to create a legal precedent that could benefit other households in similar situations of displacement from local regeneration. The family was evicted in August 2014 having been told to declare themselves homeless to access temporary housing, and are currently split up and living in friends' houses with no apparent route back to their neighbourhood.

(c) Dispossession of place: the virtual erasure of Myatts Field North

A third experience of dispossession on MFN encompasses the very geographical identity of the estate itself. Shortly after the PFI contract began in May 2012, residents were informed that the new private housing development on MFN would be called "Oval Quarter" (OQ). Using the now ubiquitous technology of Computer Generated Imagery in reimagining and remaking places targeted for urban regeneration, the OQ sales website succeeds in a complete symbolic erasure of the existing community and place by deliberate omission of any reference to it. An online promotional film instead emphasises easy access to the globally recognisable middle-class cultural highlights of central London, foregrounding fictional characters that are predominantly white and associating the development with the more affluent Oval area to its north. The website claims that the new development "pays homage to the past with its traditional street patterns, the reinstatement of a lost London square, and the reinvigoration of a local park" (www.ovalquarter.com). Importantly, this discursive dislocation and symbolic population cleansing is being *physically* reinforced through landscaping and adjustments to the MFN street layout, dissolving the old estate into the surrounding area:

Wide public boulevards, outstanding modern architecture and seven hectares of verdant parkland, in one of London's most central and convenient inner-city neighbourhoods; that's Oval Quarter. Just 10 minutes by tube to the very heart of the capital... Oval Quarter is ideal for Westminster, The South Bank, Covent Garden, St Paul's, Tower Bridge, Canary Wharf and more. To this remarkably central, yet leafy, spot – hidden between Oval, Kennington, Camberwell and Stockwell – Oval Quarter brings more than 800 homes among a series of new and beautifully crafted large public spaces (www.ovalquarter.com).

A key driver behind this symbolic dispossession is London's current status as a lucrative destination for overseas investment, fuelling the city's massive property boom compared to the rest of the UK (Heywood, 2012). New-build residential property continues to be popular among Asian investors, with 48% of London investment coming from Singapore, Hong Kong, China and Malaysia (Gilmore, 2013). OQ was deliberately aimed at this investment market to generate the finance for construction through off-plan sales to investors. One of OQ's development partners, Pinnacle Regeneration Group, is 61% owned by a Hong Kong-based investor group that is making other inroads into London residential property (Hollander, 2012). Brixton itself is experiencing a new gentrification wave with young, middle class, and mainly white students and young families moving in, a radically changing high street marked by an exclusive "Champagne and Fromage" bar and some of the most rapid increases in property values in London, prompting a backlash against "yuppies" (Flynn, 2013). However, the marketing consultancy behind the Oval Quarter, BradleyDyer (2014), found that international investors were negative about MFN due to its association with the other side of Brixton – its recent history of riots and crime – and so came up with "Oval Quarter" because its association with Oval as a place helped to geographically shift the estate further

towards central London, making it more attractive to foreign capital (Lennon-Smith, 2014, p.32).

The sense of community dispossession was brought home at a public meeting in July 2013, when some 30 MFN residents of mixed tenure and ethnic background were played the promotional video. A palpable collective intake of breath was followed by head shaking, disapproval and angry comments about “gentrification” as it dawned on these residents that OQ was in fact the virtual re-branding of their own MFN estate. MFN residents generally express a strong identification with Brixton due to its importance as a site of post-war African Caribbean immigration, which, after social struggles against racism and discrimination that erupted in urban unrest during 1970s and 1980s, has become a vibrant if still deprived multi-cultural icon of London. A resident later described her concerns at a meeting with Lambeth and Regenter:

[...] what it seems like is that there is this new community – if you look at the Oval Quarter’s website – there’s this new community that’s coming in and is going to sit on top of this old community, because this old community isn’t even really visible.

Once again, residents were not properly consulted on such a significant change to their estate’s identity. While mention of new private housing was included in the planning information, at no point was there any mention of the estate itself being *geographically rebranded* in part or whole in Regenter’s 2010 Planning Application or Lambeth’s 2011 Full Business Case. Instead, Lambeth emphasised improving *their* quality of life, through creating a “New Myatts” (Lambeth, 2007). Yet the developer’s right to decide on a “destination name” for the private new build – although not the MFN estate – is buried in a single sentence in the sub-contract between Regenter and the Oval Quarter Developments Limited (Lambeth and Regenter Myatts Field North Limited, 2012, Schedule 14, p.76). This “legal” enactment of the PFI developer’s right to remove the estate’s identity leads us to a broader discussion of the role of law in facilitating dispossession on the ground.

5. Assembling dispossession: some preliminary thoughts on law and place

Throughout this account of how accumulation by dispossession becomes grounded in the everyday lived experiences of MFN residents, law has been lurking in the background so let us now bring it back into the analysis. From the perspective of legal geography scholarship, the work of Blomley (2004, 2008) is particularly apt here in conceptualising these processes of dispossession as a contemporary enclosure of local commons and collective property rights. While rights to choose a corporate energy supplier or enjoy private property might not be immediately understood in these terms, when these rights are removed for the material benefit of powerful corporations, they represent a modern take on the land expropriations of previous eras discussed in the Introduction. The displacement of homeowners and the virtual erasure of MFN in the place-marketing of the private OQ development point to another form of neighbourhood commons being dispossessed – namely the *imagined* rights of residents to their community “based upon and enacted through sustained patterns of local use and collective habitation, through ingrained practices of appropriation and ‘investment’” (Blomley, 2008, p.320). MFN residents have thus *produced* their local neighbourhood, creating a “property-like claim” that supports their right not to be “excluded” from it or decisions about its identity. The fact that such

collective property rights are being ignored or deprived points to the need for a greater politicization of this by community activists and sympathetic local politicians.

A second observation, drawing on Layard's (2010, p.412) "law of place", is that formal legal frameworks have played an essential role in bringing MFN as a space and a place into the circuit of capital accumulation, facilitating the estate's "spatial and temporal enclosure through conventional understandings of private property, relying on techniques of masterplanning, compulsory purchase, and stopping up highways". Other legal rights have had to be overcome in the process, most notably the private property rights of homeowners. Ironically, it was a previous round of accumulation by dispossession through housing privatisation under the Right to Buy that had spread these individual private property rights across the estate. In response, Lambeth employed the familiar legal mechanisms of place-making in assembling MFN's publicly and privately owned property and land for the purpose of PFI development and contractual coherence:

- producing an initial master-plan outline in 2006 that triggered Initial Demolition Notices to all residents thus suspending tenants' statutory "right to buy" properties earmarked for demolition at large discounts that could have rendered the redevelopment financially untenable;
- seeking a Compulsory Purchase Order (CPO) in 2007 (confirmed in June 2008) that allowed it to inform homeowners that their homes would be acquired either by agreement or compulsory purchase;
- gaining outline planning permission in October 2007 to further enshrine the key regeneration *principles* for the future redevelopment, thus reducing the risk of the scheme being legally challenged at a later date by unsuccessful bidders and residents, and enabling competitive procurement of a PFI partner to begin;
- serving Notices to Treat on all homeowners within the CPO area in June 2011 as a legal means of protecting its CPO powers after delays to the project timescales risked CPO expiry; and
- signing the PFI project agreement in May 2012 as a legally binding commercial agreement between Lambeth and Regenter (and Regenter and its sub-contractors) that created the legal framework for Lambeth to relinquish large swathes of the estate under a 125 year lease, contracting out its management duties to this private consortium for 25 years and granting the developer the right to decide on a "destination name" for the private new build.

However, there is a murkier side to the "law of place" in this housing-based scheme not present in Layard's (2010) example of a retail development that takes two particular but related forms. The first concerns the potential "abuse" of legal frameworks by both public and private partners in the PFI scheme for the purpose of ensuring the project is financially viable. For example, the legal basis for E.ON's right to assert its partial energy monopoly over MFN residents for 45 years appears highly disputable. According to the Electricity and Gas (Internal Markets) Regulations of 2011, MFN tenants are entitled to connect to any energy supplier they prefer unless the estate's supply infrastructure is unable to support it (which it is), or doing so would lead to a severe economic impact on the landlord (which it might). Yet, through its PFI contract, Lambeth as landlord is denying its tenants the right to retain their *current* energy preferences through interfering with the *established* energy supply infrastructure – a scenario that does not appear to have been anticipated in the new

regulations. Changing these existing arrangements would therefore place the onus on the landlord to carry out its statutory obligations to consult tenants and leaseholders under Section 105 of the Housing Act 1985 and Section 20 of the Landlord and Tenants Act 1985 respectively. Yet we have found no evidence that any such consultation has taken place. It seems, rather, that the CHP plant became a *fait accompli* during the largely impermeable processes of planning and procurement and now *post hoc* grounds dressed in legal language are being used to deny tenants their previous rights for the sake of securing the profit streams for the PFI consortium.

Similar to the energy issue, the legal basis of Regenter and Lambeth's use of CPO powers to dispossess homeowners who are unable to resolve their mortgage problems also appears disputable. CPO regulations make it clear that homeowners who face compulsory purchase should be left neither better off nor worse off in material terms as a result of having their homes forcibly acquired. Yet as we demonstrated, some homeowners with mortgages are being materially disadvantaged through having to sell their devalued homes at sub-market prices, leave their existing neighbourhood and become private renters in order to stay local where the equity they had built up over the years and their affordable mortgage payments are replaced by very high and rising rents and all of the other problems that private renting in a deregulated market brings. Meanwhile, other owner occupiers who are mortgage free or can access refinance can transfer to the new like for like properties on the estate and realise a large capital gain.

This links to the second murky aspect of the "law of place", namely, how discursive practices of law – irrespective of their actual lawfulness – are used to weaken, intimidate and disempower MFN residents into submission. Drawing on analyses of colonial dispossession, here we see law's ideological power as a disciplinary technology "wrapped in a specialised professional language" (Harris, 2004, p.177). The PFI consortium's uncertain legal rights to assert its energy monopoly were *de facto* established through simply citing the existing tenancy agreement and invoking the threat of eviction should tenants seek to obstruct them. Similarly with respect to dispossessed homeowners, we have seen how a questionable "legal" process – including the use of temporary licence to occupy contracts to facilitate vacant possession prior to the resolution of homeowners' precarious mortgage situations – was complemented by simply the threat of being "CPO'd" to generate voluntary sale. Following Blomley (2003, p.121), such "threats" must be understood as another form of "violence" that has always played "an integral role in the legitimation, foundation, and operation of a regime of private property".

Our final observation concerns the question of legal redress. In principle, where there is potential abuse of the law, there is potential legal redress. The mounting evidence of potential legal wrongdoing has pushed some residents to engage public interest lawyers in preparing a legal challenge to these multiple injustices. However, in practice, as well as the financial costs involved, there remains an enormous obstacle to MFN residents seeking justice through the law: this predominantly black community's negative historical experience of law, lawyers and the justice system. As one black resident and community activist told us starkly:

In my experience this is a black people's problem. We fear the law, we don't trust lawyers, we won't risk paying for legal help. The community just doesn't trust the legal process after everything our ancestors have been through, you know, the slave trade, colonialism, racism, the police... and now everything we are experiencing in Myatts Field North. (Interview with resident activist)

Conclusion

By tracing accumulation by dispossession *from above* under the privatised delivery mode of public housing regeneration down to the lived places where regeneration happens, we have seen three specific forms dispossession affecting people's lives: the dispossession of residents' consumer rights through the creation of a corporate energy supply monopoly; the dispossession of home through the forcible acquisition of precarious homeowners' properties; and the dispossession of place through the estate's online rebranding as Oval Quarter.

Behind each act is a very clear financial imperative through the PFI model to capture rents from land and services. For those precarious mortgaged households in particular who are unable to make financial arrangements to stay on the estate, we see a manifestly unjust and inequitable situation of home-place dispossession. Without doubt, the inaccessibility of mortgage finance is rooted in the toxic interplay between their personal and financial circumstances and the risk-averse ethos of the financial and banking sector since the 2008 financial crisis that left MFN residents struggling to meet much stricter criteria for borrowing money. But this should never have been a problem for these homeowners as they already had mortgages and were simply swapping their existing home for a new one. It is impossible to escape the conclusion that a core driving factor in their experiences of active dispossession and displacement is Lambeth and Regenter shared financial interest in minimizing the overall CPO cost by under-valuing leaseholder's existing homes, while maximizing the number of like-for-like properties that can be converted to open market sale, through failing to help marginal leaseholders port their mortgages.

This demonstrates how the financing underpinning Lambeth's PFI regeneration scheme – and the crucial acquisition and rehousing of leaseholders – depended hugely on further commodification, marketisation and effective enclosure of the estate, unlocking existing open and built space for the purpose of profit-seeking private development. Lambeth was from the outset allied to the needs of speculative house-building and the whims of the real estate market. It has opened itself and the estate's future up to the turbulent, crisis-prone dynamics and contradictions of capitalist markets, a decision that has forcefully shaped the evolution of the scheme and the very production of space and place.

We are also left with a powerful sense of how law – in both a material and discursive sense – has intervened in the everyday lives of MFN residents as a decisive technology of accumulation by dispossession. Layard's (2010) concept of the "law of place" has been further developed from retail schemes to housing developments to show how legal frameworks assist in enacting accumulation by dispossession in people's lives. Equally important is the ideological power of law as a discursive practice that ultimately undermines resistance to apparent injustices. The evidence of potential legal wrongdoing also represents a source of possible redress, but doubts remain as to whether residents will have the confidence and means to mount a legal challenge.

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