



Law, Property & Society

The Idea of Home in Law Displacement and Dispossession

**Edited by Lorna Fox O'Mahony
and James A. Sweeney**

The Idea Of Home In Law Displacement And Dispossession

Rachael Walsh



The Idea Of Home In Law Displacement And Dispossession:

The Idea of Home in Law Dr Lorna Fox O'Mahony, Professor James A Sweeney, 2013-02-28 The Idea of Home in Law Displacement and Dispossession explores an important set of legal and policy issues surrounding the concepts of home and homelessness taking a growing area of legal scholarship into the new arena of human rights and international law The collection considers the ideas concerning home both in the sense of the dwelling place as a special type of property and territorial claims to homeland which underpin many contemporary legal problems by examining a range of contexts where people are displaced or dispossessed from their homes The essays focusing on dispossession consider themes ranging from mortgage and rent arrears in the UK to responses to the foreclosure crisis in the USA and from eviction for the purposes of economic development in South Africa to the exclusion of asylum seekers from the UK's social housing and welfare provision and within the framework of the European Convention on Human Rights The displacement theme meanwhile examines transnational home issues from the experiences of exiles and refugees in areas of conflict to the impact of the broader context of economic social and cultural rights on attempts to protect housing and home through international law At the heart of each essay the contributors experts from across the fields of law policy and housing rights examine the circumstances in which displacement and dispossession take place and reconsider how law and policy respond to such circumstances with a particular focus on the impact of loss of home for the human person At a time of particular and increasing concern about security of tenure and the role of law and policy in protecting people who are vulnerable to forced eviction The Idea of Home in Law presents a bold opportunity to raise questions about the rights and norms associated with housing and home and to generate new insights for scholarship and for national and international policy debates concerning displacement and dispossession

The Idea of Home in Law, 2011 The Property Rights of Refugees and Internally Displaced Persons Anneke Smit, 2012-05-23 The Property Rights of Refugees and Internally Displaced Persons Beyond Restitution pursues a rigorous examination of the various ways in which the protection of housing and property rights can contribute to durable solutions to displacement

Transnational Mortgage Law Guido Comparato, Irina Domurath, 2025-09-05 This book uncovers and reconstructs the growing body of legal principles and rules governing mortgages that have been developed by different transnational institutions and actors It shows how mortgages have evolved from a type of real security commonly used to facilitate lending by mitigating credit risk to a transferable commodity with the potential to affect international financial stability and consumer welfare In doing so the book reveals the emergence of new policy objectives and rationales for regulation that have led to changes in the structure and functions of mortgage laws Characterising this development as a type of transnational law the book highlights the paradigm shifts in the law of residential mortgages brought about by their increasing global relevance The analysis reveals tensions between the goals of risk mitigation financial stability consumer protection and housing justice The result is an innovative analysis at the

intersection of contract law property law and international financial regulation The book portrays transnational mortgage law as a complex field governed by a plurality of socially and economically relevant but potentially conflicting goals and principles

The Right to Housing Jessie Hohmann, 2013-03-01 A human right to housing represents the law's most direct and overt protection of housing and home Unlike other human rights through which the home incidentally receives protection and attention the right to housing raises housing itself to the position of primary importance However the meaning content scope and even existence of a right to housing raise vexed questions Drawing on insights from disciplines including law anthropology political theory philosophy and geography this book is both a contribution to the state of knowledge on the right to housing and an entry into the broader human rights debate It addresses profound questions on the role of human rights in belonging and citizenship the formation of identity the perpetuation of forms of social organisation and ultimately of the relationship between the individual and the state The book addresses the legal theoretical and conceptual issues providing a deep analysis of the right to housing within and beyond human rights law Structured in three parts the book outlines the right to housing in international law and in key national legal systems examines the most important concepts of housing space privacy and identity and finally looks at the potential of the right to alleviate human misery marginalisation and deprivation The book represents a major contribution to the scholarship on an under studied and ill defined right In terms of content it provides a much needed exploration of the right to housing In approach it offers a new framework for argument within which the right to housing as well as other under theorised and contested rights can be reconsidered reconnecting human rights with the social conditions of their violation and hence with the reasons for their existence Shortlisted for The Peter Birks Prize for Outstanding Legal Scholarship 2013 *Modern Studies in Property Law, Volume 11*

Sue Farran, Russell Hewitson, Adam Ramshaw, 2021-07-29 What are the contemporary challenges faced by property law as we enter the 2nd decade of the 21st century This collection brings together the research and perspectives of an international body of academics and practitioners to consider these challenges and how even familiar topics must develop to meet new demands and developments As with previous books in the Modern Studies in Property Law series this volume adopts a broad approach to topics encompassed by property law in the firm belief that the boundaries that divide are shadowy at best and constantly moving in the endeavour to keep up with what is modern This collection looks at 5 themes Comparative perspectives including a chapter on grazing and cropping rights in Northern Ireland and analysis of the anomalies of the English trust law as seen from a civil law perspective Taking and alienating property including a chapter on bankruptcy and the family home Modern dilemmas including chapters on trusts in virtual currency and on smart homes Old chestnuts new challenges including analysis of the mortgage law reform in Scotland and a chapter on the ouster principle in common law jurisdictions and Wills death and other morbid topics with chapters on English succession law and the role of knowledge and approval in retrospective assessments of capacity Unfortunately the COVID 19 pandemic prevented the 13th biennial

conference being held in 2020 as planned but despite this the authors and co editors persevered to produce this interesting and diverse collection **Land Use Law and Disability** Robin Paul Malloy,2015 This book argues that communities need better planning to be safely navigated by people with mobility impairment and to facilitate intergenerational aging in place

Moral Rhetoric and the Criminalisation of Squatting Lorna Fox O'Mahony,David O'Mahony,Robin Hickey,2014-10-24 This collection of critical essays considers the criminalisation of squatting from a range of different theoretical policy and practice perspectives While the practice of squatting has long been criminalised in some jurisdictions the last few years have witnessed the emergence of a newly constituted political concern with unlawful occupation of land With initiatives to address the threat of squatting sweeping across Europe the offence of squatting in a residential building was created in England in 2012 This development which has attracted a large measure of media attention has been widely regarded as a controversial policy departure with many commentators Parliamentarians and professional organisations arguing that its support is premised on misunderstandings of the current law and a precarious evidence base concerning the nature and prevalence of squatting *Moral Rhetoric and the Criminalisation of Squatting* explores the significance of measures to criminalise squatting for squatters owners and communities The book also interrogates wider themes that draw on political philosophy social policy criminal justice and the nature of ownership to consider how the assimilation of squatting to a contemporary punitive turn is shaping the political social legal and moral landscapes of property housing and crime **Home Equity and Ageing**

Owners Lorna Fox O'Mahony,2012-01-06 The growing use of housing equity to support a range of activities and needs raises complex issues particularly for older owners In an environment in which older owners are pushed towards housing equity transactions to meet income and welfare costs they are required to make choices from a complex and sometimes bewildering range of options The transactions which facilitate the use of home equity as a resource to spend in later life from trading down and ordinary secured and unsecured debt to targeted products including reverse lifetime mortgages home reversion plans and sale and rentback agreements raise important legal and regulatory issues This book provides a contextual analysis of the financial transactions that older people enter into using their housing equity It traces the protections afforded to older owners through the ordinary law of property and contract as well as the development of specific regulatory protections focused on targeted products The book employs the notion of risk to highlight the nature and causes of the situational vulnerabilities to which older people are now subject as consumers of housing equity showing that the older owner's personal situation is crucial in determining whether and why they may seek to release equity the options and products available to them and the impact of harms resulting from adverse transactions The book critically evaluates the extent to which this context is incorporated in the legal frameworks through which these transactions are governed as a measure of the appropriateness of existing legal provision as well as considering the arguments surrounding special protection for older owners in housing equity transactions **Researching Property Law** Sarah Blandy,Susan Bright,2015-08-31 For those

embarking on or engaged in property law research this is a unique resource which includes contributions from twelve international scholars who each analyse a different research approach addressing its value associated methodology and the challenges involved in pursuing it Contemporary Housing Issues in a Globalized World Padraic Kenna, 2016-05-13 The globalization of housing finance led to the global financial crisis which has created new barriers to adequate and affordable housing It presents major challenges for current housing law and policy as well as for the development of housing rights This book examines and discusses key contemporary housing issues in the context of today's globalized housing systems The book takes up the challenge of developing a new paradigm working towards the possibility of an alternative future Revolving around three constellations of writing by diverse contributors each chapter sets out a clear and developed approach to contemporary housing issues The first major theme considers the crisis in mortgage market regulation the development of mortgage securitization and comparisons between Spain and Ireland two countries at the epicentre of the global housing market crisis The second thematic consideration focuses on housing rights within the European human rights architecture within national constitutions and those arising from new international instruments with their particular relevance for persons with disabilities and developing economies The third theme incorporates an examination of responses to the decline and regeneration of inner cities legal issues around squatting in developed economies and changes in tenure patterns away from home ownership This topical book will be valuable to those who are interested in law housing rights and human rights policy making and globalization

Property and Sovereignty James Charles Smith, 2016-04-15 This book explores the relationships between property and the concept of sovereignty from a number of different perspectives It distinguishes between the dual meaning of sovereignty in property discourse political sovereignty and owner sovereignty The contributors discuss the nature of sovereignty in both senses applying it to a wide range of topics such as the evolution of property rights in fragile and conflict affected nation states and notions of sovereign property in new worlds A section on the Arts illuminates the relationships between property sovereignty and culture and a further section investigates regulatory property and governmental control over resources The book concludes with an exploration of sovereign shaping of private property entitlements to achieve instrumental ends This interesting collection will be valuable to those in the fields of legal philosophy property theory international and comparative law and political sociology This book explores the relationships between property and the concept of sovereignty from a number of different perspectives It distinguishes between the dual meaning of sovereignty in property discourse political sovereignty and owner sovereignty The contributors discuss the nature of sovereignty in both senses applying it to a wide range of topics such as the evolution of property rights in fragile and conflict affected nation states and notions of sovereign property in new worlds A section on The Arts illuminates the relationships between property sovereignty and culture and a further section investigates regulatory property and governmental control over resources The book concludes with an exploration of sovereign shaping of private property entitlements to achieve

instrumental ends This interesting collection will be valuable to those in the fields of legal philosophy property theory international and comparative law and political sociology

The European Court of Human Rights in the Post-Cold War Era James A. Sweeney, 2013 This book examines the case law of the European Court of Human Rights with particular reference to democratic transitions in Europe and the consequent enlargement of the European Convention system The book analyses how the Court has responded to the difficult circumstances presented by the new Contracting Parties

Property Rights and Social Justice Rachael Walsh, 2021-06-10 Property Rights and Social Justice analyses progressive property in action by examining the role of constitutional property rights guarantees in mediating private ownership and social justice It combines insights from property theory with enlightening doctrinal analysis of the interaction between property rights and social justice in the constitutional and broader legal context It does so through the prism of the Irish Constitution's property guarantees which uniquely in the English speaking common law world both protect property rights and requires their regulation by the State to secure social justice Through this analysis the book grounds key debates in contemporary property theory in fresh illuminating doctrinal examples and enhances global debates about the constitutional protection of property rights It argues that primacy is perhaps inevitably afforded to political determinations about the appropriate mediation of property rights and social justice meaning that the political impact of constitutionalisation needs to be disentangled from its strict legal effects

An Introduction to International Refugee Law M. Rafiqul Islam, Md. Jahid Hossain Bhuiyan, 2013-05-15 The book is designed to provide an overview of the development meaning and nature of international refugee law The jurisprudence on the status of refugees loss and denial of the refugees status non refoulement asylum problems and challenges of refugee protection the law of return and the right of return critical refugees and immigration law and the role of international organizations in protection of refugees are revisited in the context of contemporary realities The relationship between armed conflict climate change and human right violations induced refugees and the existing international refugee regime emerging will be succinctly highlighted and analysed in the book This lucidly written and timely book will be immensely helpful to anyone grappling with the demonstrated inadequacies of international refugee law in real life situations today and desirous of the reorientation of its meaning and scope to cater for the changing needs and shared expectation of the international community in the 21st century

Public Interest, Private Property Anneke Smit, Marcia Valiante, 2015-12-15 At a time when pollution urban sprawl and condo booms are leading municipal governments to adopt prescriptive laws and regulations this book lays the groundwork for a more informed debate between those trying to preserve private property rights and those trying to assert public interests Rather than asking whether community interests should prevail over the rights of private property owners Public Interest Private Property delves into the heart of the argument to ask key questions Under what conditions should public interests take precedence And when they do in what manner should they be limited Drawing on case studies from across Canada the contributors examine the tensions

surrounding expropriation smart growth tree bylaws green development and municipal water provision They also explore frustrations arising from the perceived loss of procedural rights in urban planning decision making the absence of a clear definition of public interest and the ambiguity surrounding the controls property owners have within a public planning system

Geographies of Love Christian Lenz, 2016-04-15 *Geographies of Love* is the first study to explore the cultural lifeworlds of British Australian and Indian chick and ladlit characters Offering unique case studies including Bridget Jones's Diary About a Boy and Almost Single the book explores how women and men search for love and how they commit themselves to romances in specific spaces and places the home and the office as well as shops clubs and bars This cross disciplinary study provides scholars students and keen readers with multiple points of access and easily relatable situations It applies the complex phenomenon of cultural geographies within the field of literary studies and sheds new light on a most passionate feeling

Restitution and the Politics of Repair Magdalena Zolkos, 2020-09-21 Analyses the social imaginary of undoing repair and return underpinning the international norm of restitution making Approaches restitution not just as a legal norm of property return but as a social imaginary and a cultural psychoanalytic scene of undoing repair and return Brings together philosophic political socio legal and cultural psychoanalytic approaches to the study of restitution Outlines a heterogeneous and multifaceted idea of restitution emergent in modernity and looks at the peripheries of the modern restitutive tradition in the search for alternatives and counter traditions This book takes a unique approach grounded in political and cultural discourse to develop a political theory of restitution Challenging assumptions about restitution in the Western legal and political tradition where it has become nearly synonymous with reacquisition and where legal studies focus on material objects and claims to their ownership Zolkos argues that the development of restitutive norms has been auxiliary to the emergence of modern state sovereignty and excavates the restitutive tradition's mythical religious substrate Bringing together texts from within and outwith the Western canon of political theory and philosophy including the writings of Grotius Durkheim Freud and Klein as well as Mary Shelley's *Frankenstein* the book undertakes a dual task reading literary texts as a political theorising of restitution and reading political or sociological texts as literary narratives with distinctive restitutive tropes of repair undoing and return

Vulnerability Martha Albertson Fineman, Anna Grear, 2016-02-11 Martha Albertson Fineman's earlier work developed a theory of inevitable and derivative dependencies as a way of problematizing the core assumptions underlying the autonomous subject of liberal law and politics in the context of US equality discourse Her vulnerability thesis represents the evolution of that earlier work and situates human vulnerability as a critical heuristic for exploring alternative legal and political foundations This book draws together major British and American scholars who present different perspectives on the concept of vulnerability and Fineman's vulnerability thesis The contributors include scholars who have thought about vulnerability in different ways and contexts prior to encountering Fineman's work as well as those for whom Fineman's work provided an introduction to thinking through a vulnerability lens

This collection demonstrates the broad and intellectually exciting potential of vulnerability as a theoretical foundation for legal and political engagements with a range of urgent contemporary challenges Exploring ways in which vulnerability might provide a new ethical foundation for law and politics the book will be of interest to the general reader as well as academics and students in fields such as jurisprudence philosophy legal theory political theory feminist theory and ethics Laws and Societies in Global Contexts Eve Darian-Smith, 2013-01-31 This text promotes a more global sociolegal perspective that engages with multiple laws and societies and diverse sociolegal systems based on very different historical and cultural traditions interacting on multiple local national and global levels The approach to global legal pluralism seeks to provide a framework for envisioning new global governance regimes that move beyond state based solutions to deal with trenchant transnational challenges

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