

Regulating the City: Contemporary Urban Housing Law

Studies in Housing Law

A series of peer-reviewed papers on the topic of housing law broadly conceived, including doctrinal, jurisprudential, theoretical and sociolegal contributions from globally based scholars of housing law

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1 CONTEMPORARY HOUSING LAW

Julian Sidoli and Michel Vols

1.1 INTRODUCTION

This volume, entitled *Regulating the City: Contemporary Urban Housing Law*, is the first of a series of volumes featuring both collections of themed papers and monographs on the subject of housing law. Housing law in this series will not, however, be narrowly construed to mean simply academic studies of doctrinal, black-letter law, although this will be one angle. Rather, housing 'law' will be studied in the round. Further, the approach will be global. The housing question, while wearing different faces in different jurisdictions, is a global question and one of increasing urgency. It is hoped that a series like this will provide a forum for debate, for the sharing of ideas and for the dissemination of best practice. It will include a range of empirical studies along with comparative work. Theoretical questions will not, however, be ignored. The political, moral and social frameworks that underpin rights to property, which in turn form much of the basis of discussions of housing law and housing rights, is a vital question and one that has hitherto received little sustained attention. What follows in this introduction is a brief overview of some of the key themes and questions in housing law in order to better set the series in its academic context. These themes are not meant to be comprehensive. Such a discussion would be out of place in a collection like this. Rather, it will attempt to capture some of the theoretical and empirical richness that this umbrella term of housing law holds. Following this, a short outline of each of the papers will follow.

1.2 WHAT IS HOUSING LAW?

The question, what is housing law? might seem trite. However, the reply 'it is law concerned with housing' is inadequate. It simply begs the question. Certainly, the starting point is the law found in codes in civil law systems or statutes and cases in common law concerning tenancies, tenure, residency and related matters. This is only the starting point, however. It is necessary to know not only what the law says on paper but actually how it is interpreted by the courts and lived by the participants – the tenants, the squatters, the landlords, the local authorities and so on. Furthermore, many studies have shown that there is a 'gap'

between the law in books and the law as enforced and experienced.¹ Consequently, housing law must also include studies that examine the law in practice and the views and experiences of tenants and others – the lived experience of housing.

As noted by Jan Brouwer and Gregory Bull in the preface, housing law now captures a much wider range of issues and questions than merely matters of ownership or contracts. Undoubtedly, the scope of what is now considered housing law has grown over the past few decades as housing becomes a more pressing social need and its regulation grows more complex. Deliberately, we do not wish to take a particular doctrinal or conceptual approach. Rather, we wish to publish high-quality research that seeks to shed light on housing law in any way. By doing so, we hope for a useful exchange and cross-fertilisation of views, approaches and insights. This introductory chapter will begin by briefly outlining some of the principal approaches taken with regard to housing law. This is by no means exhaustive and certainly not intended as a taxonomy.

1.3 HOUSING RIGHTS

Much contemporary work in the field of housing law, and indeed housing more generally, has focused on the idea of housing rights. Housing rights are usually conceived by most academic lawyers as emerging from various international instruments such as the Universal Declaration of Human Rights (UDHR) of 1948, the European Social Charter, the African Charter on Human and Peoples' Rights, and the European Convention on Human Rights. In this sense, housing rights can be seen to be top-down, emerging from an external body that claims authority. This, indeed, is how most law is typically conceived, emerging from a positive model of parliament or executive issuing a law, which is then enforced by the mechanisms of state. Some of the housing rights can be characterised as first-generation human rights that result in clear and legally enforceable negative obligations for states. For example, the right to respect for the home as laid down in Article 8 of the European Convention on Human Rights protects residents against forced evictions. Other housing rights are part of 'soft law', which means they cannot be relied upon in court in a fundamental sense. They are second-generation human rights and necessarily dependent on a given state having the economic strength to provide the homes that they aspire to.² Some non-lawyers fail to understand this and do not conceptually separate, for example, a first-generation right such as a 'right to a fair trial' from a second-generation right such as the

1 See, for example, Cowan, D., *Housing Law & Policy*, Cambridge: Cambridge University Press, 2011.

2 See Kenna, P., 'Housing rights: positive duties and enforceable rights at the European court of human rights', *European Human Rights Law Review*, Vol. 2, 2008, pp. 193-208; Macklem, P., 'Human rights in international law: three generations or one?', *London Review of International Law*, Vol. 3, No. 1, 2015, pp. 61-92.

right to a reasonably well-paid employment. First-generation rights are non-negotiable and are not dependent on anything else. Second-generation rights are negotiated rights and are dependent on a number of things not least the economic wealth of the state concerned. Some non-lawyers therefore see these international human rights to housing as justiciable in a signatory state. This is not the case, however. They are aspirational in just the same way that signatories to environmental treaties are. This is even the case where states have rights to housing confirmed in their constitutions. Rarely can an individual successfully bring a claim for the state to provide her with a home.

Another feature of the housing rights discourse is the concept of adequacy. This has been so since its inclusion in the Universal Declaration of Human Rights in 1948. Housing must be adequate, not luxurious but also not of an extremely poor standard. What does this mean, though? What is adequate for a western European is doubtless different from that of someone from other parts of the world. Likewise, one's expectations regarding housing vary because of cultural contexts. For example, gypsies and travellers in very many cases do not want to have settled housing even though this might, according to generally accepted standards, provide more adequate housing and a higher quality of dwelling. This demonstrates once again that 'housing rights', while undoubtedly a useful tool for the advocate and useful as a conceptual mechanism, do not provide the answers that many assume they will.

As stated above, housing rights often feature in constitutions too.³ There is, however, no necessary or clear link between constitutional housing rights and actually better provision of housing. Just like international instruments, they often seem to be 'soft law' – aspirational but not justiciable. Nonetheless, there are exemptions to this rule. For example, a growing body of case law exists concerning the right to adequate housing as laid down in Section 26 of the South African Constitution.⁴

1.4 HOUSING AND LOCALISED LEGAL INTERVENTIONS

At the other end of the universalist ambitions of some who subscribe to a housing rights agenda are those who seek to find more immediate, more localised solutions often based on a paradigm of negotiation and communication. Sometimes these approaches – and the

3 See Oren, M., Alterman, R. & Zilbershatz, Y., 'Housing rights in constitutional legislation: a conceptual classification', in Kenna, P. (Ed.), *Contemporary Housing Issues in a Globalized World*, Surrey: Ashgate, 2014.

4 See Brits, R., 'Protection for homes during mortgage enforcement: human-rights approaches in South African and English law', *South African Law Journal*, Vol. 132, 2015, pp. 566-595; Fick, S. & Vols, M., 'Best protection against eviction? A comparative analysis of protection against evictions in the European Convention on Human Rights and the South African Constitution', *European Journal of Comparative Law and Governance*, Vol. 3, 2016, pp. 40-69.

issues they address – can be outside the traditional ambit of the law altogether.⁵ These can be extralegal forms of intervention like local action and advocacy groups. The appeal is not to an external statute or regulation but rather on a desire for mutual, beneficial cooperation.

There can also be local interventions that do use specifically legal means. For example, some instruments can be aimed at one particular aspect of the tenant experience. These can be enforced directly by the state through the courts or by a local municipality through regulation. In the United Kingdom two examples of small-scale instruments can be seen in tenancy deposit protection and in selective licensing. Both were introduced in the Housing Act 2004. Tenancy deposit legislation seeks to provide an essentially free system of adjudication over disputed tenant deposits. Previously, tenants who disagreed with deductions taken by their landlord at the end of the tenancy for damage to the property, cleaning or some other matter would have had to take their claim to court. This was potentially both expensive and onerous, especially for tenants of limited financial means. Although parties retain the right to take the matter to court, the vast majority decide to allow their claim to be decided by an independent adjudicator through a paper-based process. This speedy and low-cost system has sought to rectify what was perceived to be a serious problem for tenants, namely that landlords unfairly retained their deposits in many cases when they had not breached any terms of their tenancy agreement. Selective licensing attempts to deal with the problem of antisocial behaviour and also poor management standards by some landlords in the privately rented sector. These small-scale interventions raise conceptual and practical problems. Conceptually, they seem to suggest that there are no housing ‘rights’ as such, certainly not of the first order as these mechanisms, approaches and instruments operate at a localised, particularised level seeking to create solutions appropriate to a particular street or neighbourhood.

1.5 HOUSING, PROPERTY AND LANDLORD AND TENANT LAW

Under common law, housing law has traditionally been viewed by lawyers as a subset of a wider category of ‘property law’. Issues of ownership, dominion, possession, title were predominant in both the practice of lawyers and the reflection of academic lawyers. In England and Wales, lawyers have typically spoken about residential landlord and tenant rather than housing.⁶ In civil law legal cultures, such as the Netherlands, legal issues concerning housing become apparent in landlord and tenant law as well. Although this area

5 See Sidoli del Ceno, J., ‘Informal housing – plurality and the city’, in Davidson, N. & Mistry, N. (Eds.), *Law between Buildings: Emergent Perspectives in Urban Law*, Farnham: Ashgate, 2016.

6 See Bright, S., *Landlord and Tenant Law in Context*, Oxford: Hart Publishing, 2007; Cowan *supra* note 1.

of law deals with property rights of the landlord, it is most of the time characterised as a subset of 'law of obligations' or 'contract law'.⁷

A large majority of the legal research in landlord and tenant law focuses on only one jurisdiction and concerns traditional doctrinal analysis. However, recent discourse has moved on. There is a growing body of comparative legal research in landlord and tenant law. A major example is the European TENLAW-project, in which an international group of legal scholars analysed the legal rules concerning residential tenancies of over twenty European countries. The comprehensive national reports developed by the TENLAW-project have provided a strong basis for future comparative legal analysis.⁸

Besides that, recent research has focused on the impact of human rights such as the right to respect for the home on landlord and tenant law. In several European jurisdictions, case law concerning Article 8 of the European Convention on Human Rights has resulted in controversial case law and correspondingly interesting legal research.⁹ The impact of human rights results in a growing difference between the statutory regulation of housing and that which governs commercial property. Most developed jurisdictions have rules that safeguard against the unlawful eviction of residential tenants. Furthermore, there is a developing sense that the absolute property rights of the owners cannot trump the rights of residents automatically or immediately. This approach has seen support from Article 8 of the European Convention on Human Rights, as discussed above, but also from more sociolegal studies. Fox-O'Mahony, for example, has written about the concept of home. This is distinct from the typical legal categories that lawyers would invariably use – apartment, house, residential dwelling, warehouse, shop and so on. It suggests looking at certain types of property in a different way.¹⁰

1.6 HOUSING AND ECONOMICS

Many universities teach elements of housing law, housing studies and real estate studies in separate departments. Considering residential housing plays such a significant part in

7 See De Jonge, A.R., *Huurrecht*, Den Haag: Boom Juridische uitgevers, 2013.

8 See Schmid, C.U. & Dinse, J.R., *My Rights as Tenant in Europe. A Compilation of the National Tenant's Rights Brochures from the TENLAW Project*, Bremen: European Union, 2014. See also <www.tenlaw.uni-bremen.de/>.

9 See Nield, S., 'Article 8 respect for the home – a human property right?', *King's Law Journal*, Vol. 23, No. 2, 2013, pp. 147-171; Vols, M., Tassenaar, P.G. & Jacobs, J.P.A.M., 'Dutch courts and housing related anti-social behaviour. A first statistical analysis of legal protection against eviction', *International Journal of Law in the Built Environment*, Vol. 7, No. 2, 2015, pp. 148-161.

10 See Fox, L., *Conceptualising Home: Theories, Laws and Policies*, Portland: Hart, 2007; Fox O'Mahoney, L. & Sweeney, J. (Eds.), *The Idea of Home in Law: Displacement and Dispossession*, London: Ashgate, 2011; Fox O'Mahoney, L., 'The meaning of home: from theory to practice', *International Journal of the Built Environment*, Vol. 5, No. 2, 2013, pp. 156-171.

real estate, it would seem that there would be considerable overlap. However, the guiding principle of each discipline is quite distinct. Housing departments tend to focus on questions of housing need. Very often there is an emphasis on public housing provision by the state, municipality or other not-for-profit organisations. With real estate the emphasis is on housing as a financial commodity. This applies to whether the real estate in question is commercial or financial. For housing studies, it is the resident, the occupant of the housing, that is prior. For real estate, it is the financial aspect, that is, housing as an asset, housing development as a business opportunity, that comes first. The editors do not propose to take a dogmatic stance on any of these views here. Rather, a plurality of views is presented, drawn from a wide range of authors ranging from doctrinally based legal work to housing in a wider context.

1.7 HOUSING AND CRIMINALITY

The addressing of housing-related criminal or nuisance behaviour is a major area of interest within the field of housing law. The qualification of this type of behaviour differs in each jurisdiction. In the United States of America (USA), for example, a considerable amount of literature has been published on the fight against incivilities in residential areas and the addressing of drug-related crime.¹¹ In the United Kingdom, there is a growing body of doctrinal and sociolegal research concerning public and private landlords' responses towards anti-social behaviour.¹² Similar research has been conducted in continental Europe and other parts of the world.¹³

A number of key strategies towards housing-related criminality can be distinguished. First, in several countries, neighbourhood mediation services have been developed to address problem behaviour in residential areas.¹⁴ Second, landlords try to prevent problem tenants from entering the housing market. For example, public housing providers in the USA and Europe have developed a screening mechanism to check the criminal background of prospective tenants.¹⁵ Third, landlords seek to address problem behaviour with disci-

11 See Silva, L.R., 'Collateral damage: a public housing consequence of the "war on drugs"', *UC Irvine Law Review*, Vol. 5, No. 4, 2015, pp. 783-811; Dickinson, G.S., 'Towards a new eviction jurisprudence', *Georgetown Journal on Poverty Law Policy*, Vol. 23, No. 1, 2015, pp. 1-59.

12 See Flint, J. (Ed.), *Housing, Urban Governance and Anti-Social Behaviour*, Bristol: Policy Press, 2006; Cowan *supra* note 1, pp. 352-377.

13 See Vols, M. & Fick, S., 'Using eviction to combat housing-related crime and anti-social behaviour in South Africa and the Netherlands', *South African Law Journal*, Vol. 134, 2017 (in press).

14 See Ufkes, E.G. *et al.*, 'The effectiveness of a mediation program in symmetrical versus asymmetrical neighbor-to-neighbor conflicts', *International Journal of Conflict Management*, Vol. 2, No. 4, 2012, pp. 440-457.

15 See Thacher, D. 'The rise of criminal background screening in rental housing', *Law & Social Inquiry*, Vol. 33, No. 1, 2008, pp. 5-30.

plinary measures that discipline offenders by supervising, training, punishing and rewarding them without excluding the offender from obtaining or keeping housing. An example of such a disciplinary measure is the civil preventative orders in the United Kingdom, such as the Anti-Social Behaviour Orders and Injunctions Preventing Nuisance and Annoyance.¹⁶ Fourth, landlords use eviction to address criminal and other anti-social behaviour. A considerable amount of literature has been published on the use of eviction in the fight against housing-related crime.¹⁷ Fifth, landlords and municipalities have started special projects to (re)house unruly and criminal residents. For example, in the Netherlands special 'slum villages' are built to rehouse people that have been evicted because of serious nuisance behaviour.¹⁸

Of course, landlords can also be involved in criminal behaviour such as unlawful evictions and intimidation.¹⁹ Recently, there has been renewed interest in landlords who are involved in criminal behaviour. In the United Kingdom, new legislation has been introduced to address rogue landlords, as described by Abigail Jackson in this volume. In continental Europe, local authorities have been given powers to address rogue landlords too.²⁰

1.8 THE PAPERS IN THIS VOLUME

Many of what we have identified as key and emerging themes of housing law are represented in this book. Chapter 2 by Margot Young and Sophie Bender Johnston assesses the right to housing within the (Canadian) urban context. They link the concepts of the right to housing and the right to the city and explore what kind of synergy across the two might be possible. They argue that neither concept trumps the other, nor can either be reduced to the other.

In Chapter 3, Slavka Zeković, Tamara Maričić and Marija Cvetinovic present a detailed insight into housing policies in a jurisdiction that has received very little attention in the English-speaking world, namely Serbia. They give a detailed account of what has been a common feature in Eastern Europe but also in other parts of the world where a centralised planning model has been replaced, sometimes overnight, with a free market system.

16 See Brown K.J., 'Replacing the ASBO with the injunction to prevent nuisance and annoyance: a plea for legislative scrutiny and amendment', *Criminal Law Review*, Vol. 8, 2013, pp. 623-639.

17 See Vols, M., 'Neighbors from hell: problem-solving and housing laws in the Netherlands', *The Arizona Summit Law Review*, Vol. 7, 2014, pp. 507-526. See about reasons for and consequences of eviction in general: Desmond, M., *Evicted: Poverty and Profit in the American City*, New York: Crown Publishing, 2016.

18 See Vols & Fick *supra* note 13.

19 See Nelken, D., *The Limits of the Legal Process. A study of Landlords, Law and Crime*, London: Academic Press, 1983.

20 See Vols, M. & Hof, J.P., 'Malafide pandeigenaren en de Woningwet', *Tijdschrift voor Bouwrecht*, No. 2, 2016, pp. 108-120.

In Chapter 4, Marta Santos Silva and Pascal de Decker conducted a comparative legal analysis of housing law in Luxembourg and Flanders (Belgium). They assess the implications of the regulations of so-called Social Rental Agencies in these two jurisdictions that share similar housing situations but a significantly different legal regime.

In Chapter 5, Lucy Finchett-Maddock analyses the relationship of the right to housing with the right to protest and discusses the intersection of property in both rights. She assesses the relationship of Articles 8, 10 and 11 of the European Convention on Human Rights (ECHR) and argues that a right to housing and a right to protest can increasingly be used interchangeably in relation to understanding the category of home.

In Chapter 6, Hans Ola Jingryd analyses the role of real estate brokers in Swedish housing law. The Swedish real estate broker plays the part of lawyer to both buyer and seller. Jingryd assesses different legal obligations of brokers and analyses them from an economic and legal incentive perspective. The analysis shows that the Swedish legislation creates adverse incentives for the broker.

In Chapter 7, Michel Vols discusses the link between criminality and housing law. He describes the controversial Rotterdam Act, which enables local authorities to ban poor people from parts of the housing market. He assesses whether the strategy of screening and banning of housing seekers conflicts with human rights such as the right to freedom to choose a residence.

In the last chapter of this volume, Abigail Jackson explores the criminalisation of rogue landlords. She examines the way in which criminal sanctions have been imposed on landlords in England and Wales. She argues that although there is an increasing tendency to criminalise poor conduct by landlords, the law is ad hoc, localised and of questionable effectiveness.

REFERENCES

Bright, S., *Landlord and Tenant Law in Context*, Oxford: Hart Publishing, 2007.

Brits, R., 'Protection for homes during mortgage enforcement: human-rights approaches in South African and English law', *South African Law Journal*, Vol. 132, 2015, pp. 566-595.

Brown, K.J., 'Replacing the ASBO with the injunction to prevent nuisance and annoyance: a plea for legislative scrutiny and amendment', *Criminal Law Review*, Vol. 8, 2013, pp. 623-639.

Cowan, D., *Housing Law & Policy*, Cambridge: Cambridge University Press, 2011.

Desmond, M., *Evicted: Poverty and Profit in the American City*, New York: Crown Publishing, 2016.

De Jonge, A.R., *Huurrecht*, Den Haag: Boom Juridische uitgevers, 2013.

Dickinson, G.S., 'Towards a new eviction jurisprudence', *Georgetown Journal on Poverty Law Policy*, Vol. 23, No. 1, 2015, pp. 1-59.

Fick, S. & Vols, M., 'Best protection against eviction? A comparative analysis of protection against evictions in the European Convention on Human Rights and the South African Constitution', *European Journal of Comparative Law and Governance*, Vol. 3, 2016, pp. 40-69.

Flint, J. (Ed.), *Housing, Urban Governance and Anti-Social Behaviour*, Bristol: Policy Press, 2006.

Fox, L., *Conceptualising Home: Theories, Laws and Policies*, Portland: Hart, 2007.

Fox O'Mahoney, L., 'The meaning of home: from theory to practice', *International Journal of the Built Environment*, Vol. 5, No. 2, 2013, pp. 156-171.

Fox O'Mahoney, L. & Sweeney, J. (Eds.), *The Idea of Home in Law: Displacement and Dispossession*, London: Ashgate, 2011.

Kenna, P., 'Housing rights: positive duties and enforceable rights at the European Court of Human Rights', *European Human Rights Law Review*, Vol. 2, 2008, pp. 193-208.

Macklem, P., 'Human rights in international law: three generations or one?', *London Review of International Law*, Vol. 3, No. 1, 2015, pp. 61-92.

Nelken, D., *The Limits of the Legal Process. A study of Landlords, Law and Crime*, London: Academic Press, 1983.

Nield, S., 'Article 8 respect for the home – a human property right?', *King's Law Journal*, Vol. 23, No. 2, 2013, pp. 147-171.

Oren, M., Alterman, R. & Zilbershatz, Y., 'Housing rights in constitutional legislation: a conceptual classification', in P. Kenna (Ed.), *Contemporary Housing Issues in a Globalized World*, Surrey: Ashgate, 2014.

Schmid, C.U. & Dinse, J.R., *My Rights as Tenant in Europe. A Compilation of the National Tenant's Rights Brochures from the TENLAW Project*, Bremen: European Union, 2014.

Sidoli del Ceno, J., 'Informal housing – plurality and the city', in N. Davidson, & N. Mistry (Eds.), *Law between Buildings: Emergent Perspectives in Urban Law*, Farnham: Ashgate, 2016.

Silva, L.R., 'Collateral damage: a public housing consequence of the "war on drugs"', *UC Irvine Law Review*, Vol. 5, No. 4, 2015, pp. 783-811.

Thacher, D. 'The rise of criminal background screening in rental housing', *Law & Social Inquiry*, Vol. 33, No. 1, 2008, pp. 5-30.

Ufkes, E.G., Giebels, E., Otten, S. & Van der Zee, K.I., 'The effectiveness of a mediation program in symmetrical versus asymmetrical neighbor-to-neighbor conflicts', *International Journal of Conflict Management*, Vol. 2, No. 4, 2012, pp. 440-457.

Vols, M., 'Neighbors from hell: problem-solving and housing laws in the Netherlands', *The Arizona Summit Law Review*, Vol. 7, 2014, pp. 507-526.

Vols, M. & Fick, S., 'Using eviction to combat housing-related crime and anti-social behaviour in South Africa and the Netherlands', *South African Law Journal*, Vol. 134, 2017 (in press).

Vols, M. & Hof, J.P., 'Malafide pandeigenaren en de Woningwet', *Tijdschrift voor Bouwrecht*, No. 2, 2016, pp. 108-120.

Vols, M., Tassenaar, P.G. & Jacobs, J.P.A.M., 'Dutch courts and housing related anti-social behaviour. A first statistical analysis of legal protection against eviction', *International Journal of Law in the Built Environment*, Vol. 7, No. 2, 2015, pp. 148-161.