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# Precarious Territory: Property Law, Housing, and the Socio-Spatial Order

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**Abstract:** Most of us access shelter over land over which other people have legally sanctioned dominant interests and powers, creating systemic relations of security and vulnerability that I term precarious property. We all live inside the territory of property, but do so under different terms. Rather than thinking of the territory of property as an exclusive space of insiders and outsiders, I think of it as a relational technology that organises forms of conditional spatial access. Territorialised expressions of law play a crucial role in organising such relations through a "property space" that frames property's participants, their interactions, their alternatives to transacting, and the meanings of property itself. Thinking territorially about precarious property offers us both analytical and ethico-political insights, I suggest.

**Keywords:** property law, relationality, territory, precarious property, housing

## Introduction

Grace Richards lives in a trailer in the Métis community of Conklin, Alberta. Like many other community members, her trailer sits on land owned by someone else. "Sure we may have a place over our head, a temporary home", she notes:

> ... but the property that I'm living on, it does not belong to me. Every one of us that live in this situation where we're on someone else's property, every day, we face the fact that, OK, what if the landlord gets upset at us, and decides to pull the plug or asks us to leave? How do we tear down, and where do we go? Who else's property do we go to?[1]

Grace's story of shelter is clearly about exclusion, or the threat of the landlord pulling "the plug". But exclusion is insufficient to explain her challenging situation. Most immediately, this is a story of conditional access, and the challenges of living "on someone else's property, every day". In this, Grace is not alone. Most of us access shelter over land over which other people have legally sanctioned dominant interests and powers, creating what I term precarious property relations.[2]

In this paper I try to unpack the prevalence and significance of precarious property, through a territorial lens. However, such a project is obscured, I will suggest, by a prevailing geographic imaginary of property embedded in the "ownership model" (Blomley 2004). Rather than recognising Grace's "situation", it simply posits insiders and outsiders. I contest this view, on the principle that there is no

clear inside or outside to property, but only graduated positions of conditional access. In so doing, I aim to rework the territoriality at work in the dominant account. Rather than thinking of the territory of property law as it relates to shelter simply as an in/out binary space, I think of it as a relational technology that organises such forms of conditional spatial access. I take seriously the work of law in organising property's relationality and power. Territorialised expressions of law play a crucial role in organising such relations, through what I term a "property space" that frames property's participants, their interactions, their alternatives to transacting, and the meanings of property itself. I draw largely from the manner in which property law structures the access and use of land that can be used for shelter, recognising the profound relationship between housing, law, race, and poverty (Bonds 2019; Desmond and Bell 2015; Madden and Marcuse 2016). My focus on property in land draws largely from examples from common law settler societies, such as Canada and the United States.

## The Territory of Property

How do we imagine the spatiality of property as it relates to shelter? As I have argued elsewhere, Western liberal subjects are invited to think of property through the lens of the "ownership model" (Blomley 2004; Singer 2000). This conception of property agglomerates property rights in a single identifiable owner, identified by formal title, whose interests are deemed presumptively superior. Property is almost exclusively private property. A bright line is drawn between the owner and the collective: Although the state may intervene to limit these rights if they threaten harm to others, such interventions are seen as secondary to the core rights of the owner.

The ownership model depends upon and helps perform a particular geographic imagination, hinted at in the trope of home as castle, or the totem of the white picket fence (Nedelsky 1990). This is evident in John Locke's famous 1690 essay on property, for example, which is not only a history, tracing how the earth has moved from the divine commons to a world of private property, but a geography, that celebrates the transition from the modest and egalitarian world of the ancients, who "wandered with their flocks, and their herds … freely up and down" (1980: § 37), to one with sharply bounded spatialities of individualised title:

> [A]s families increased, and industry inlarged their stocks, their possessions inlarged with the need of them; but yet it was commonly without any fixed property in the ground they made use of, till they incorporated, settled themselves together, and built cities; and then, by consent, they came in time, to set out the bounds of their distinct territories, and agree on limits between them and their neighbours; and by laws within themselves, settled the properties of those of the same society … And thus … we see how labour could make men distinct titles to several parcels of it, for their private uses; wherein there could be no doubt of right, no room for quarrel. (Locke 1980: § 38, 39)

This is the familiar way in which we think of the spatiality of property—as private property, that is parcelled out into "distinct territories", set apart from

"neighbours". The enactment of property makes "several [separate] parcels". Law settles the property, in ways that leave "no room for quarrel". This is the view from the perspective of the owner, exercising his "private uses" over settled parcels of land. Territory is the means by which men can secure their land by excluding their neighbours.

The relationality of property at work here is literally hedged in. Property is largely about men who own land, secured by law inside their "parcels". Nonowners are nowhere to be found. The only relations that seem to matter within the Lockean "territorial trap" (Agnew 1994) are those between the solitary owner and the territory of ownership. Space, viewed in non-relational and topographical terms (Allen 2011) becomes simply the inert object of ownership, such that it is possible to speak of a parcel of land as "my property" (Blomley 2016b).

## Relationality, Housing, and Precarious Property

But such an account does not fully attend to the way in which property relations are actually organised and spatialised. The account offered by Kevin and Susan Gray (2009:3) offers a better treatment:

> There is no moment in any day in which we stand beyond land law's pervasive reach. No matter what we are doing, the law of land has something to say to us, since it constantly describes our jural status in relation to terra firma (whether as owner-occupiers, tenants, licensees, members of the general public, or even simply as trespassers). Largely unnoticed, land law provides a running commentary on every single action of every day.

Their characterisation is instructive in several senses. Most immediately, it makes clear that there is no moment in which we stand outside the reach of property law. Whatever we are doing, it "has something to say to us". However, what it says to us depends on our legal status, not just as owner occupiers, but as tenants, trespassers and so on. In so doing, the social relationality of property law becomes evident. The different forms of jural status ("tenant", "trespasser") they invoke alerts us to the way in which law positions us relative to others. While we are all caught up in such relations all the time, in other words, the terms under which we participate in these relations vary profoundly.

Property from this view is "simply the word used to describe particular concentrations of powers over things" (Gray and Gray 2009:90), operative between persons (Hallowell 1943:119–120) creating complex relations of dependence, sovereignty, and privilege. Property is thus not an individual entitlement, but a social institution that involves multiple people, all with interests in a shared resource. When we organise and distribute property rights, we allocate and enforce social privileges and resources. Property rights in that sense are "collective, enforced, even violent decisions about who shall enjoy the privileges and resources which this society allocates among its citizens" (Underkuffler 2003:146).

ther than think through its

Even narrowly defined, property is inherently relational. So far most property lawyers would be persuaded to go (Hohfeld 1913). Yet as one lawyer notes, even

when we recognise property as a relation, we "more often pay lip service to this idea rather than think through its full implications" (Singer 2009:1047). It is worth, therefore, unpacking some of these ramifications, particularly the manner in which property law structures power relations. I think of property "relations" here as the interactions between individuals through which access to and use of land is negotiated. Such relations are conceived of via a relational sociology, whereby individuals are socially constituted (Block 2013; Deakin et al. 2017; Munzer 1991; Nedelsky 1990).

Property relations indeed often centre on exclusion. The benefit I derive from my land depends in part on my legally sanctioned power to exclude others. This is the way property is often characterised, for better or worse (Merrill 1998; Proudhon 1966). But property cannot simply be a story of solitary exclusion between insiders and outsiders. Multiple property interests in the same land may be discerned (Blandy et al. 2018). Moreover, I argue for the importance of recognising that everyone's use or benefit of land as shelter depends on a legal relationship with others, many of whom are placed in positions of legal power relative to us. This can be through the permission or contractual agreement of others, such as the lease of an apartment. It can also occur through the staged concessions or forced compliance of others, as in colonial relations. All settlers access land through a relation with indigenous societies, the original holders of the land, although on highly unequal terms. While access through others is obvious in the case of those such as renters, mobile home park residents, or homeless people camping in state property, both dependent on the permissions of owners, it is also evident in the case of those with apparently more secure entitlements, such as the homeowner, who may require a relationship with a mortgagee, or the state.

Use and access of land for shelter is thus conditional on relations with others. Such relations implicate both parties, in ways that can be mutual and extractive. In some cases, it can entail formal obligations, such as the requirement that public land serve public ends, or the treaty obligations that settler societies should have with indigenous peoples (Pasternak 2017).

Property is thus a relational meshwork in which we are all variously positioned. However, as noted, the temptation to think of property through the ownership model as a conceptual and geographical space from which one is either inside or outside obscures this interlocking relationality. As Alexander (2012:1887) notes, this understanding:

> … supposes that ownership is solely a matter of the individual's relationship with the external world and that the internal workings of ownership are irrelevant to a proper concept of ownership. In fact, ownership's internal relations are every bit as essential to understanding ownership as are its external relations.

Indeed, property law is a means by which this codependency is organised. There is a rich ecology of legal forms that facilitate the shared use of space, such as easements, condominium law, and landlord–tenant law. While law facilitates exclusion, it also encourages the collective access and use of putatively exclusive spaces. It is a well established principle, for example, under US public accommodations law (Singer 2000) that owners of establishments such as malls or

restaurants who serve the public have an obligation to allow access to their property without inappropriate discrimination. Certain manifestations of state property also presume access and use. Property law facilitates access and use through other legally situated actors, such as landlords, therefore. Yet this does not presume horizontality. Property law serves to create particular forms of power between differently placed legal subjects. Such relations produce and are sustained by property law, that may hold up some interests (Keenan 2015), while making others vulnerable.

If we start from the Lockean perspective of those whose interests are most protected by a prevailing set of property rules, however, we are in danger of ignoring the relational interdependence inherent in a property system. For those with secure entitlements, inside the "castle", property easily appears as a zone of autonomy, rather than one of power and conditional relationality. Given that for most people, access and use of property for shelter depends on privileged others, who grant access under legally framed terms, there is merit, therefore, in starting not at the institutional centre, but from property's "margins" (Matsuda 1987; O'Mahoney 2014; Peñalver and Katyal 2007; Roark 2017; van der Walt 2009, 2010).

One way to think of these relations is through the lens of precariousness. The word "precarious" is of legal origin, its first use pertaining to a right or tenancy held at the favour of and at the pleasure of another person, signifying a vulnerability to the will or decision of others (Vasudevan 2015:351). Its Latin form, *precario*, is also used in law to refer to a permission. Following Hohfeld (1913), we can characterise a precarious property relation as entailing a power/liability pairing, in which one party has the power to change a particular set of relations, while the other lacks immunity to such changes.[3] I suggest, therefore, that we think about precariousness in property law in this more focused sense, in order to conceive of the work that property law does in structuring asymmetric relations of vulnerability and privilege. Defined broadly, such a concept can be identified in numerous property settings, such as rental housing, state lands, settler colonialism, mortgage arrangements, homelessness and so on (Carr et al. 2018).

A precarious property lens is useful in several senses. Its relationality reminds us that property is not an inside/outside condition, within which one is either located, or from which one is exiled, but a series of relationships and rights that entangle us all.[4] To characterise the homeless as in a condition of "no-property" (Baron 2004), for example, obscures the enduring presence of territorialised property relations in the production and regulation of their condition. The homeless may be exiled from the land of homeownership, but they know full well the relational work of property law and its territoriality. The "expelled" continue to have a relationship to property (public, private), but under conditions of enhanced vulnerability (Blomley 2009; Waldron 1991). This is why property is so important: it can neither be willed away, as some critics suppose (Hardt 2011), nor mythologised as an egalitarian form of horizontal mutuality, as private property proponents suppose.

Framing relationality this way is also useful in directing us to those who derive benefits from a hierarchical property relation. Just as racialised and gendered

forms of imagined "independence" are grounded on concrete forms of dependence (Mills 1997; Pateman 1998), so property law also structures interlocking relations of vulnerability *and* privilege. A relational analysis directs us not only to those made precarious by a set of legal relations, but also points us to those who benefit from such relations. As noted, such relations may be mutually beneficial. They may also entail forms of mutual "recruitment" (Purdy 2007). But they may also sustain predation, extraction and violence, reliant on and productive of deeply entrenched forms of social power (Hunt 1991). Consider the huge wealth that is extracted from providing substandard precarious rental housing for the poor, unable to negotiate the conditions under which housing is provided. The legal status of "tenant" does not stand alone, but requires the "landlord". A mortgagee has a relation (often extractive) to the mortgagor. There is no eviction without the sheriff's deputies who carry it out, and no extractive market without the law that protects a landlord's right to maximum profit on a decaying apartment. My ability as a settler to acquire fee simple title rests on the production of precarious property relations for indigenous people.

## The Territory of Property

To argue, as I do here, that there is no outside to property is to make more than a metaphorical point. To occupy, traverse, use, and dwell in social space is to confront property. None of us can escape it, whether using a municipal sidewalk, accessing a store or hotel, camping out in a state-owned urban park, or traversing indigenous land. This is also evident when it comes to shelter, whether one is sleeping rough in a parking structure, renting an apartment, securing a mortgage, or acquiring fee simple title. Land is a particular resource: its use is often rivalrous. Unlike other resources, it cannot be rolled up and stored (Li 2014). Thus any productive use of land requires the ability to regulate the access of some potential users, whether through outright exclusion, or conditional inclusion. Property is thus ineluctably a form of human geography. But its particular spatialities are not straightforward.

A Lockean conception of territory is inadequate in helping us think through these spatialities. But territory is still useful, if we make it a livelier, and more relational concept (cf. Brighenti 2006). The territory of property is relational in at least two senses, I wish to suggest. First, it is a product of extant social relations in a culture at a particular time (Massey 2005). Territory can be organised in many ways, with different degrees of exclusivity, temporal permanence, and boundedness (Peluso 2005). Lockean territory is but one highly contingent and deeply problematic imagining of the territory of property. Property's territoriality is thus a relational product. But it is also, secondly, a relational resource. Territory is not just a space within which property acts. Property's territoriality can be thought of as a socio-legal technology that organises the multiple relations that structure the use, occupation, possession, and imagining of land (Blomley 2016c). Following Sack (1986), we can argue that it is a powerful practical and ideological resource through which relations between others are communicated, enforced, and legitimised. Sack argues that territoriality is an indispensable means to power,

at all levels: territoriality is not simply an outcome of power, but a means by which power relations are exercised and legitimised.

There are efficiencies in territorialising a set of power relations, Sack (1986) argues. Boundaries, he notes, are powerful symbolic devices that communicate direction and possession. Enforcing power relations is often easier when they are territorialised. Crossing a boundary, for example, signals a predictable set of sanctions. Moreover, because of the tendency to treat territory as non-political, power relations are obscured and legitimised, as when the police officer says "you can't do that here". The effect is to make power relations appear impersonal and neutral given that rules appear to apply to territories rather than people. As Sack (1986:33) puts it, "territory appears as the agent doing the controlling".

## Shelter and the Property Space

So far I have argued that it is vital to acknowledge the asymmetries that property law sustains (Rosser 2013). Most of us access land through others in ways that place us in situations of legal vulnerability. The highly differentiated terms under which we do so are a matter of profound significance, shaping a social order through patterned forms of dependency and privilege. When seeking shelter, we all enter the territory of property, but do so under different terms.

Property law is the institutionalised expression of these relations, regulating the access and use of valued resources, such as housing. What, then, is the relational work that property law does, and how is territory both a product of property's work, and a means by which it is realised? The work of the legal realist Robert Hale (1943; see also Cockburn 2018; Cohen 1927) subsequently developed within critical legal studies (notably Anonymous 1994; Kennedy 1991) is helpful here. We can also learn from more recent property theorists, attentive to property's relationality, particularly Cooper (2007) and Keenan (2015). They help us think about the manner in which property law organises the transactional settings in which people necessarily find themselves, vis-à-vis others, seeking access to vital socio-spatial resources, such as shelter. I call this relational complex the property space.

The property space structures "the positional power that a person occupies in the transactions through which she lives" (Anonymous 1994:875–876). In so doing, I shall suggest, it reveals the work of law in producing precarious property: that is, the power/liability pairings that configure interlocking relations of vulnerability and privilege, such as the landlord/tenant relation. It also reveals the vital work of territory in grounding relative status within such relations, enforcing the power relations endemic to property, closing off certain spaces from transactions, and by virtue of the depoliticisation of territory, reifying the relations that are so generated.

The property space, in organising the background rules (Kennedy 1991) of property, is too often forgotten, or treated as merely technical. Yet such legal "technicalities" (Riles 2005) produce political and often territorialised work. At minimum, the property space situates the participants in any relation, specifies what the participants can do to each other, frames alternatives to transacting, and communicates powerful meanings to the participants.[5] Put more bluntly, the

property space engages in naming, acting, bounding, and speaking. While clearly these intersect in crucial ways, in what follows I treat them as discrete.

## *Naming*

Who counts in the property space, and what is their standing relative to others? Law interpellates the participants in any property relationship, determining their relative status, as well as excluding those without standing in any legal context (Kennedy 1991). Such often under-recognised (Gordon 1984:103) forms of legal interpellation play a foundational role in structuring social positions. This can privilege certain actors, while creating vulnerability for others, such as the "tenant". Designation as a "licensee" rather than a "tenant" can also create enhanced forms of precariousness, as "property guardians" in the UK (Ferreri et al. 2017) know only too well. Similarly, the legal designation of "Indian", inflected with racial and gendered conceptions, frames the property status of Indigenous people, including their access to shelter (Bhandar 2018:151; Keenan 2019).

More generally, the broader relational framing of the participants in any transactional complex can be highly consequential. Property law tends to individualise the participants, reliant on a sharply dyadic politics that severs people from their lived geographies, producing a flat juridical surface "upon which law's equally mythic actors (autonomous, de-contextualised, [quasi] disembodied [pre-eminently, 'rational' contractors]) glide upon a grid of linear, smooth, mutual and neutral interactions" (Grear 2013:38–39). Such a "bracketing" (Blomley 2014) should be thought of as a relational excision, removing moral attention from that which is now positioned as outside the terms of the contract (Mertz 2007:12). As a consequence, landlord–tenant relations, in law, are between individual landlords and individual tenants, as compared to rentiers and the working class. This is possible, in part, through the prevalence of contract as a legal form that works to conceal the coercive relationships that structure access to housing, producing a pervasive ideological imagery that imagines the social order as organised through voluntary, privatised collaborations between individuals (Feinman and Gabel 1982; Strauss 2019).

The presumptive level playing field of contract is belied by the manner in which law positions the participants in this relation. Of crucial significance is the manner in which law creates the "owner" by constituting the person with the highest quantum of legal power in relation to any resource, and then situating others in relation to this presumed centrality. This legal move is highly consequential, sustaining precarious property relations. Law weighs relative standing in a way that sustains certain predictable outcomes in any relational property dispute. It shapes the manner in which the state's coercive power may be mobilised, granting one person greater powers to withhold a vital resource to another. So, for example, such a paradigm presumes the hierarchical power of strong property rights in the case of a dispute between tenant and landowner, allowing landowners to assert their rights to exclusive possession by evicting anyone who cannot prove a stronger right in defence. Depending on the jurisdiction, the right to evict may be exercised without any reference to contextual factors, such as the general socio-

political context or the particular personal circumstances of the occupier (van der Walt 1999). As a consequence, the normal, neutral and objective enforcement of landlord–tenant law "will therefore more often than not privilege the protection of existing rights" (van der Walt 2009:73).

Yet the legal naming of the "owner" is a relatively recent invention within the common law, only becoming formalised in the early modern era. Not coincidentally, this interpellation draws from and helps sustain a set of territorial arrangements (Blomley 2019). Medieval English lawyers did not have a term that had the scope and explanatory power that later lawyers found in the words "property" or "ownership". It was only by the 17th century that "property" was legally applied to land, from which it became possible to designate a single person as an owner (Seipp 1994). Edward Coke, the early 17th century English jurist, separated absolute property rights from "special" property rights, arguing that whoever held the "absolute" property in a thing could assert their claim against the world, whereas he or she who held the "special" interest could assert it against everyone but the "absolute" owner. The effect was significant. While multiple people could have different sorts or degrees of property interest in the same land, the lawyer's lexicon began to only allow for one "owner", who was free to do with a thing as the law allowed (Seipp 1994).

There is an important territorial dimension to this. As land became an object of "ownership" it began to be conceived of through a zero-sum territorial framing. Property became a space from which "non-owners" were to be excluded. The early modern period thus sees a shift in the spatial imaginary of property in land. Lawyers increasingly invoked "a stark mental image of one solitary person alone in complete and exclusive possession of one tract of land" (Seipp 1994:87), as compared to premodern geographies in which "many persons other than the 'tenant in possession' would work and live on a given parcel of land, and derive benefit from it …" (Seipp 1994:45).

The Lockean territorial imaginary discussed earlier arises from this cognitive shift. Blackstone (1979:209) maps the emergent landscape, whereby:

> … every man's land is in the eye of the law enclosed and set apart from his neighbour's; and that either by a visible and material fence, as one field is divided from another by a hedge; or by an in ideal invisible boundary, existing only in the contemplation of the law, as when one man's Land adjoins to another's in the same field.

This spatial logic endures. Gray and Gray (2009:105) identify the "territorial imperative" as central to a deeply engrained view of property as a socially accepted fait accompli, measured by the owner's ability to "vindicate his sovereign control over territorial space".

Yet status within property law is not self-defined. Scholarship on racial capitalism reminds us that property is an "ontological proposition" that serves to "produce and delimit subjectivation, property, and value" (Byrd et al. 2018:3). Not everyone gets to be an owner. One critical question thus becomes: "who can count as the subject who can claim home and land?" (Roy 2017:A10).

The property space plays a crucial role in recognising certain subjects as worthy claimants, while forcing others into dependence and vulnerability. This becomes

important for those who are deemed, following Blackstone, to have only "special" rights as against an "absolute" owner, like tenants. It also becomes evident when people are forced to use "public" property to secure shelter. Despite its name, public property is not common property, but state property, over which ownership rights operate. Thus it is, for example, that homeless research informants camped on a road median described to me the daily "shuffle" they experienced in the city of Abbotsford, British Columbia, as they were forced to move (several times a day, in some cases) between the abutting and highly territorialised parcels of City owned property, and land owned by the privately owned Canadian Pacific Railway.

## *Acting*

As the example above illustrates, the property space prescribes what the designated participants in any property space can do with, and do to one another, and under what conditions. The property space consequently authorises some to harm the interests of others, allowing them to call upon the violent capacities of the state to control the behaviour of others if needed. Such actions can take many forms, but notably often rely upon territorial tactics.

The manner in which property law authorises and sustains certain legal "actions" relies upon and sustains particular forms of hierarchical property relations. This has become increasingly evident in the private rental market at "city's end" (Roy 2017), where most poor people now access housing. By definition, private rental housing entails a property relation, whereby a renter holds a temporary right to use land or property from a landlord, who retains the "reversionary interest" by virtue of their ownership status. In legal terms, a lease always entails a "lesser estate granted out of a larger estate in land" (Gray and Gray 2009:321). Legally, tenants "live under a precarious roof" (Ziff 2018:349). Property law structures the interactions that are permitted within property asymmetric relationships. The institutional availability of actions such as eviction or mortgage foreclosure reveal the power relations operative in any property context, as well as their racialised and colonial genealogies (Atuahene and Berry 2019; Barker 2018; Chakravartty and da Silva 2012; Park 2016).

The ability of the landlord to exact and extract rent, for example, must be thought of in both relational and territorial terms (Andreucci et al. 2017; Soederberg 2017). Rent is the consideration which a tenant agrees to pay in return for the right of exclusive possession under a lease. More bluntly, it grants a tenant conditional but exclusive rights to occupy legal territory controlled by the legally designated owner. While rent is often thought of purely as an economic transaction, it is also legal. Most immediately, as Harvey (1974:242) noted, it is buttressed by property relations: "any examination of how rent originates and is realised cannot proceed without evaluating the performance of these supportive institutions".

For rent is inherently legal. It derives from feudal conceptions of land, in which the obligation of the tenant to perform "rent service" (in cash or service) was integral to the tenurial relationship between landlord and tenant. Now it is

conceived of in more contractual terms. For a tenancy to exist, it must be supported by a "consideration", such as rent.[6] As a legal form, the relationality of rent demands more careful scrutiny. The ability of tenants to withhold rent under certain conditions (for example, in relation to the implied warranty of habitability in the US), or that of landlords, including private equity investors, to use evictions as a means of increasing rents, attests to its relational politics (Akers et al. 2019). Highly extractive rental markets, rife with eviction, such as those documented by Desmond (2016) are not necessarily an expression of illegality, but a demonstration of how landlords can exploit their already existing relational advantage within the property space (Rosser 2017). Evictions, deriving from legal vulnerability, fall heavily on already precarious populations: women, the working class, and racialised people (Akers and Seymour 2018; Hartman and Robinson 2003). Evictions, once rare, have now become commonplace in many housing markets, particularly given the residualisation of the rental sector, and the shift in the income/rent ratio, itself shaped by property dynamics.[7]

It is necessary to be blunt here. Eviction legally realises the absolute expulsion of people and their possessions from a space to which they cannot return without the permission of the owner. The sharply territorialised logic of eviction is revealed in its euphemisms: to be "put out", to "get the boot", to "get the bum's rush", to be "bounced". Eviction is a naked form of territorialised legal power, premised on a precarious property relation. The most effective way to enact the ownership of land, Desmond (2016:45) notes, "is to force people from it".

Eviction and rental extraction need to be thought of in concert, particularly given that nonpayment of rent tends to be the dominant cause of eviction. Rather than singular moments, rent demands and the threat of eviction produce sustained forms of relational subjugation: many renters live in a continual state of rent arrearage, and the risk of eviction can thus become a disciplinary and immanent threat. As Garboden and Rosen (2019:5) note, "the threat of eviction provides an omnipresent signifier that, for poor renters, their tenure is a contingent one". In Baltimore, for example, about 6500 evictions are executed per year, while landlords file for eviction approximately 150,000 times, or more than once for every renter household in the city (Garboden and Rosen 2019:1; Kennedy 2002).

The evictability of tenants is also facilitated by the widespread recalibration of the property space, such as the British Housing Act of 1988, which ushered in the "assured shorthold tenancy", which protects tenants for six months only, granting landlords heightened powers to evict, and increase rents. By 2007, almost 90% of new private rental lettings in the UK were subject to shorthold tenancies.

Evictions also relate clearly to homelessness. Enhanced precarity is evident in the fact that the end of an assured shorthold tenancy has been cited as the most common cause of the loss of home amongst English households (Department for Communities and Local Government 2016). The legal condition of homelessness entails the lack of a secure property interest in land, forcing people into a reliance on the charitable acquiescence or hostile refusal of other owners, in particular the state.

## *Bounding*

Thirdly, the property space, by opening and foreclosing alternatives to transacting, structures the relative capacity of actors. These often have a territorial dimension, closing off particular spaces—for example, by enforcing or extinguishing common rights to access land, or providing or privatising non-market housing—and thus forcing the vulnerable into precarious property relations, such as the private rental sector. The legal realist Hale (1923) emphasised the disciplinary consequences of the legal rules that structure any party's alternatives to remaining in a capitalist employment context. Should the worker choose not to contract her labour, she faces the challenge of finding food. Property law closes off such alternatives: "While there is no law against eating in the abstract, there is a law which forbids him to eat any of the food which actually exists in the community—and that law is the law of property" (Hale 1923:472).

Similarly, alternatives to engaging in commodified housing markets are obviated by legal ground rules. The "right to buy" in the United Kingdom saw a massive 70% decline in public owned housing which, while not exempt from tenancy law, nevertheless offers a vital respite from the predations of Rachmanite landlords (Christophers 2018). Abandoned or empty houses, hoarded by speculators, are also increasingly unavailable spaces of shelter, given the intensified criminalisation of squatting. In 2010, trespass penalties were increased in Spain, and squatting criminalised in the Netherlands; in 2012, a new law was passed in England and Wales making squatting a criminal offence; in 2015, a French law clarified the power of authorities to evict squatters (Finchett-Maddock 2014; Vasudevan 2017:6). In so doing, non-commodified, less precarious spaces of shelter become unavailable.

Forms of legal action play a crucial role in bounding certain types of property. The action of trespass, the act of unlawful entry on another's land, is widely used against homeless people forced to use public property, for example. Originally denoting any crime less than a felony, trespass has been tied to land, and framed in sharply exclusive and territorial terms, such that merely crossing a territorial line, absent any damage, constitutes an offence. It is routinely used by the state to enforce its ownership interest in public property, and via the delegation of private powers to police, as Herbert and Beckett (2008) demonstrate in Seattle, through the widespread use of "trespass admonishments", expelling homeless people not just from private property, but from libraries, recreation centres, public transportation, university campuses, hospitals, and social service agencies. Such forms of power instantiate colonial power, while also echoing its inception. The introduction of settler-colonialism in British Columbia, for example, was dependent on the disciplinary and highly territorial work of property law, notably trespass, in structuring everyday Indigenous movement, notes Harris (2002). It was not agents of the state, but the vigilant and watchful eyes of nearby property owners or leaseholders, backed by the law, who "turned Native people into trespassers" (Harris 2002:271). The effect, of course, was to force Indigenous people into a constrained and precarious set of legal settings—either the reserve, owned by the state, or the vagaries of the settler housing market, while opening up space to settler property relations.

## *Talking*

The property space is highly semantic. Indeed, one powerful strain of property theory celebrates the clear meanings of property, based on sharply territorial messaging. For Smith (2003:1147), "[p]roperty presents a simple message to the outside world". The territorial boundary, in particular, is said to generate simple on/off signals of exclusion. Rather than prompting conversations, real or implied, concerning the meanings, ethical dimensions and behavioural impacts of boundaries, the supposed "beauty of the property system is that it shortcuts discussion. Simple signals tell owners that they are free to choose how to use their property and tell nonowners to keep out" (Baron 2010:952).

Putting aside the empirical evidence that people "read" property's territory in ways that depart from simple "keep out" messaging (Blomley 2016b), it is important to consider the manner in which the territorialisation of property relations communicate deeply ideological messages. In particular, the dominant tendency to imagine the territory of property as an apolitical, inert space, shapes ethical evaluation of property's relationality. To the extent that spaces "appear to have their own rules, not the rules constructed for them" (Cresswell 1996:159), territorialisation displaces and depersonalises the politics of the property space. It makes actions of eviction and trespass, for example, appear impersonal "spatial" exercises, rather than inherently political.

The messaging of territorialised property is also evident in the symbolic devaluation of the property precariat, and their relation to land and shelter. Unable to secure their "distinct territories", the precarious are presented as incomplete and deformed owners, alerting us to the crucial link between property and personhood (Roy 2019). Thus it is that owners of private property are imagined to live in "homes", located in "residential communities", while renters live in "units of housing", "apartments", or "projects" that are, if anything, a threat to "community" (Krueckeberg 1999). Esther Sullivan's (2018) important work on mobile home parks is instructive here. The single largest source of unsubsidised affordable housing in the US, many mobile homes are owned by their occupants, while situated on land owned by others. Mobile homes, Sullivan notes, are effectively immobile, both practically and affectively. As such, eviction from land that does not belong to a resident effectively destroys property that does. Powerful stigmatising "trailer trash" discourses that frame cultural mobile home residents "position the mobile home park as a marginalised and substandard community form" (Sullivan 2018:945). A pervasive spatial imaginary, evident in zoning and financing practices, represents the mobile home resident (in ways that echo colonialist discourses of the "Indian") as transient, temporary and nomadic, detached from a fixed territory. Mainstream housing policy and financial practices, predicated on permanence, discriminate against mobile home residents. Legally classified as chattel property, mobile home loans are akin to car loans, with higher interest rates, and greater vulnerability to predatory lending practices, for example. Regulation, Sullivan (2018:950) argues, "ensures a separate, secondary, and dehumanised social status for mobile home residents".

## Reterritorialising Property

The property space and associated territorialisations is not a given, but a product of social struggle. It emerges with and through histories of colonialism, racialisation, and capitalism. It is grounded in and productive of ongoing, violent forms of relationality, notably through the devaluing of oppressed subjects, who are granted fewer relational powers, at an extreme, becoming objects of property themselves (Bhandar 2018; Byrd et al. 2018; Lancione 2019).

Social movements know only too well the importance of the property space in structuring the territorial politics of land. The specification of the participants in a property relation, the interactions that are permitted or excluded, the alternatives to transacting, and the meanings of property are historic sites of struggle. These are often articulated territorially, in struggles to have indigenous relationships to land recognised within settler legal systems (Blomley 2015), battles around rent, or the relative power of the landlord to evict (Blackmar 1989), the ontological standing of racialised and marginalised property subjects (Bhandar 2018), predatory mortgage relations (D'Adda et al. 2018), squatting (Vasudevan 2017) and the generalised "right not to be excluded" (Blomley 2016a).

Such struggles contest the territory of property, revealing that the two have no necessary conjunction. They can and are differently conceived. The arguments of Indigenous scholars offer suggestive possibilities here. Lenape scholar Joanne Barker (2018) notes the way in which her Nation's territory has been systematically eroded through debt relations. She draws from the work of Park (2016), who documents the manner in which the recovery of debt through the forced sale of seizure of land is a 17$^{th}$ century colonial innovation, departing from English practices, which made it very hard to remove families from their ancestral land. Conversely, in the Americas, debt relations became an instrument of colonial dispossession, reliant on indigenous territorial seizure.

Albeit eroded, Lenape territory becomes a counter analytic for Barker (2018). By this, I understand her to insist that the radical politics of land in settler societies needs to reckon with the foundational seizure of indigenous territory. But importantly she also offers a different epistemology of territory. She refuses the idea of Lenape territory as a space of capitalist, settler property. Rather, she characterises Lenape territory as "a mode of relationality and related set of ethics and protocols for lived social responsibilities and governance defined within discrete Indigenous epistemologies" (Barker 2018:21). If territory is a relational device, these relations work differently in Lenape territory, it seems. As Indigenous territory demands a different "pedagogy of political movements and the frameworks of critical theory" (Barker 2018:20), what might it teach us about remaking the territory of settler colonial property and shelter via an ethic of responsibility, rather than individualised rights (Barker 2018; Bhandar 2018:193–200; Byrd et al. 2018; Crabtree 2013; Hunt 2014a, 2014b)?

Property politics can also entail related struggles for a different relational geography, resituating the abstract territorialities of property speculation and landlord investment in dense geographies of home, family, and place. Maharawal and McElroy (2018:381) document the powerful work of the US-based Anti-Eviction Mapping Project in these terms, on the principle that the geographic

representation of property is a "terrain of struggle". Contesting real estate spaces of speculation and financialisation, they generate counter-mappings that reveal the heightened evictability of tenants in San Francisco, and the violent whiteness of racial banishment. In so doing, they challenge the powerful "dependence subtexts" of property (Cockburn 2018; Cockburn and Thorup 2018). Layering data points with lived emplaced histories, they reveal the manner in which the "landscapes of property speculation are not an abstract terrain but rather an intimate topography composed of the clatter and clang of objects moved, lives and homes disrupted" (Maharawal and McElroy 2018:387).

## Conclusions

Such vital work invites us to reflect how property's relationalities and associated geographies could be differently conceived. Attending carefully to the manner in which we live on the land of others is vital to social justice. Access to land is a prerequisite for human freedom, on the simple principle that everything has to happen somewhere (Waldron 1991). Viewed through an anticolonial lens, land is life. Given that we all access land through and in relation to others, a recognition of property law's relational work in structuring the relational geographies in which we live is fundamental.

If such an analysis is analytically helpful, it is also ethically useful. Firstly, it helps challenge the pernicious consequences of the binary logic worked by the ownership model that draws a distinction between those who imagine themselves to be "inside" a system and those who are placed "outside". For "insiders", the danger is that the prevailing spatial logic encourages a moral superiority, in which my "right" to secure entitlements is based on just desert, while those imagined as "outside" (such as the homeless) are assumed to be less worthy, or imagined as dependent parasites (Cockburn and Thorup 2018). But conversely, leftists who worry at using property-inflected concepts such as dispossession to defend those marginalised by a set of property relations, with the fear that to do so is to reproduce the very forms of individualised ownership that the critics challenge (Butler and Athenasiou 2013; Roy 2017), are also in danger of invoking a sharp conception of property holders as insiders and outsiders. The obverse of exclusion would appear, in this frame, to be inclusion. But rather than thinking of property as creating insiders and outsiders, perhaps it is helpful to recognise the ways in which we are all always already entangled in property relations, and then to assess how property law works to place us in positions of relative security and vulnerability. While it is wise to recognise the perils of property discourse, a precarious property framing suggests that the goal need not be a zero-sum game of turning "outsiders" into "insiders", but rather one of configuring the inherent relationality of property in such a way as to mitigate against vulnerability, echoing McKittrick (2011:960):

> We might re-imagine geographies of dispossession and racial violence not through the comfortable lenses of insides/outsides or us/them … but as sites through which "co-operative human efforts" can take place and have a place.

Secondly, such a relational perspective is also ethically useful in its reframing of vulnerability. Rather than a traditional focus on designated "vulnerable populations", or a characterisation of the condition as one of lack, pathology, or dependency, vulnerability is seen as inherent to the human condition. As embodied beings, we all depend on relational networks of care and support (Butler 2009; Fineman 2008). Judith Butler (2009) extends questions of precarity to a recognition of the precariousness that characterises all humans, and the relations that establish our interdependency as social beings. This generates an ethical obligation, she argues: if we are all precarious, it is necessary for us to protect those conditions (including property systems) that can minimise against precariousness (Alexander 2009).

This is an appealing argument, whereby a recognition of shared precariousness directs us to a politics of equality and a robust universalisation of rights: "If we take the precariousness of life as a point of departure, then there is no life without the need for shelter and food, no life without dependency on wider networks of sociality and life" (Butler 2009:24–25). This allows us to contest the "cruel optimism" (Berlant 2011) of the ownership model, and its promise that the Lockean territory of property will protect us from vulnerability and the precariousness of social and political life. The "castle" of private property appears to provide a citadel that reduces a dependency upon others. It promises to provide access to the psychic, material, social and cultural resources that make for an autonomous life (Nedelsky 1990).

However, if life is precarious, as Butler argues, so are property relations. There is no castle. All title in land "remains relative … and essentially defeasible" (Gray and Gray 2009:90). Title can "revert" to the state through various practices, including expropriation (Dymski et al. 2013). The financial crisis revealed, to millions of mortgage holders that they were, in effect, renting from the bank, which as first on title repossesses the property in the case of foreclosure. Thousands of Japanese-Canadian owners, most of them citizens, discovered that they could be forcibly dispossessed of their land and assets in the 1940s (Stanger-Ross et al. 2017). Even those supposedly inside the "castle" are governed by precarious property relations.

Yet this is not to argue that the institutionalised form of property under liberal settler capitalism is precarious. Far from it: more accurately, precariousness is socially distributed. Indeed, a relational analysis reveals that the security of the privileged to access and secure shelter produces and depends upon the production of property precarity for others. As a settler, I access land over the bodies of indigenous people, and the erasure of their title. "My" title is possible only because of a systematic process of colonial violence, the effect of which was and is to turn indigenous people into supplicants. Moreover, the legal presumption of property as exclusive and indivisible (Gray and Gray 2009:105) ensures that I have no formal obligation to share land with them. Their inability to squat on my land, and thus gain title through adverse possession, is protected by statute.[8] I have the legal power to bring an action of trespass should they enter upon my land without invitation. My "propertied citizenship" rests on presumptions linking whiteness and land (Moreton-Robinson 2015). My power to extract rent from

them as tenants on my land is directly correlated to their precarious legal status. If I am thus "held up" (Keenan 2015) by the organised precarity of others, general invocations of vulnerability or precariousness will not do. A recognition of property's complex relational work directs us to a different ethic, captured perhaps by Nagar's (2019) invocation of "radical vulnerability". This and related work are needed if we are to understand the crucial work of property law in constituting socio-spatial relations.

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## Endnotes

[1] https://www.cbc.ca/news/it-is-very-hard-living-what-it-s-like-to-be-homeless-in-rural-alberta-1.5000706 (last accessed 23 July 2019).

[2] In Canada, for example, a majority of homeowners held a mortgage in 2016 (https://www150.statcan.gc.ca/n1/daily-quotidien/181212/dq181212a-cansim-eng.htm). Only 37% of American homeowners were "free and clear" in 2019 (https://www.msn.com/en-us/money/realestate/almost-40-percent-of-us-homes-are-free-and-clear-of-a-mortgage/ar-AAEthVB). In the US, around 18 million people live in mobile homes, a significant proportion of them housed on someone else's land (Sullivan 2018). A growing proportion of households rent, particularly in larger cities: London, for example, is estimated to be 60% rental by 2025.

[3] Of course, not all property relations are precarious (Cooper 2007). Common property, for example, assumes a horizontal, rather than asymmetric right of access and use, at least for those within a "commons". One can also imagine situations in which a person in a property relationship may be technically precarious yet not placed in situations of subordination and hierarchy (my thanks to John Lovett for this observation).

[4] To argue that there is no outside to property relations is not to argue that there is no outside to capitalist, settler property relations. Property, defined as a set of relations between people in regards to valued resources, can be defined in multiple ways, and must not be reduced to capitalist private property: "[T]hat there can be no such thing as production, nor, consequently, society, where property does not exist in any form, is a tautology … But it becomes ridiculous when from that one jumps at once to a definite form, e.g. private property" (Marx, quoted in Waldron 1988:38).

[5] A fuller treatment would also include the important relational work of judicial arbitration in regards to property relations in housing. Important work can be found in van der Walt (2009) and Bezdek (1992). There are, of course, other factors that shape the interactions between parties that may not be immediately "legal", such as the willingness of tenants to act collectively.

[6] Rent is an important indicator of an "intention to be legally bound" (Fatac Ltd v. Commissioner of Inland Revenue [2002] NZLR 648 at 66).

[7] This has been shaped by processes such as gentrification and the decline in social housing, which reduced rental units, and the growth in the renter population, fuelled by foreclosures, echoing the claim that "property as an institution often produces scarcity rather than arising in responses to it" (Verdery 2003:16). I pick up these threads in the next section on "bounding" within the property space.

[8] Section 28 of the British Columbia Limitations Act, in my case, that states that unless a right to land came into effect prior to 1 July 1975, "no right or title in or to land may be acquired by adverse possession".

## References

Agnew J (1994) The territorial trap: The geographical assumptions of international relations theory. *Review of International Political Economy* 1(1):53–80

Akers J and Seymour E (2018) Instrumental exploitation: Predatory property relations at city's end. *Geoforum* 91:127–140

Akers J, Seymour E, Butler D and Rathke W (2019) Liquid tenancy: "Post-crisis" economies of displacement, community organizing, and new forms of resistance. *Radical Housing Journal* 1(1):9–28

Alexander G (2009) The social-obligation norm in American property law. *Cornell Law Review* 94(4):746–819

Alexander G (2012) Governance property. *University of Pennsylvania Law Review* 160 (7):1853–1887

Allen J (2011) Topological twists: Power's shifting geographies. *Dialogues in Human Geography* 1(3):283–298

Andreucci D, García-Lamarca M, Wedekind J and Swyngedouw E (2017) "Value grabbing": A political ecology of rent. *Capitalism Nature Socialism* 28(3):28–47

Anonymous (1994) Distributive liberty: A relational model of freedom, coercion, and property law. *Harvard Law Review* 107(4):859–876

Atuahene B and Berry C (2019) Taxed out: Illegal property tax assessments and the epidemic of tax foreclosures in Detroit. *UC Irvine Law Review* 9(4):847–886

Barker J (2018) Territory as analytic: The dispossession of Lenapehoking and the subprime crisis. *Social Text* 36(2):19–39

Baron J (2004) Homelessness as a property problem. *Urban Lawyer* 36(2):273–288

Baron J (2010) The contested commitments of property. *Hastings Law Journal* 61(4): 917–968

Berlant L (2011) *Cruel Optimism*. Durham: Duke University Press

Bezdek B (1992) Silence in the court: Participation and subordination of poor tenants' voices in legal process. *Hofstra Law Review* 20:533–608

Bhandar B (2018) *Colonial Lives of Property*. Durham: Duke University Press

Blackmar E (1989) *Manhattan for Rent*. Ithaca: Cornell University Press

Blackstone W (1979 [1768]) *Commentaries on the Laws of England, Volume 3*. Chicago: University of Chicago Press

Blandy S, Bright S and Nield S (2018) The dynamics of enduring property relationships in land. *Modern Law Review* 81(1):85–113

Block F (2013) Relational work and the law: Capturing the legal realist critique of market fundamentalism. *Journal of Law and Society* 40(1):27–48

Blomley N (2004) *Unsettling the City: Urban Land and the Politics of Property*. New York: Routledge

Blomley N (2014) Disentangling law: The practice of bracketing. *Annual Review of Law and Social Science* 10:133–148

Blomley N (2015) The ties that blind: Making fee simple in the British Columbia treaty process. *Transactions of the Institute of British Geographers* 40(2):168–179

Blomley N (2016a) The right to not be excluded: Common property and the struggle to stay put. In A Amin and P Howell (eds) *Releasing the Commons* (pp 89–106). New York: Routledge

Blomley N (2016b) The territory of property. *Progress in Human Geography* 40(5):593–609

Blomley N (2016c) The boundaries of property: Complexity, relationality, and spatiality. *Law and Society Review* 50(1):224–255

Blomley N (2019) The territorialization of property in land: Space, power and practice. *Territory, Politics, Governance* 7(2):233–249

Bonds A (2019) Race and ethnicity I: Property, race, and the carceral state. *Progress in Human Geography* 43(3):574–583
Brighenti A (2006) On territory as relationship and law as territory. *Canadian Journal of Law and Society* 21(2):65–86
Butler J (2009) *Frames of War: When is Life Grievable?* London: Verso
Butler J and Athenasiou A (2013) *Dispossession: The Performative in the Political*. Malden: Polity
Byrd J A, Goldstein A, Melamed J and Reddy C (2018) Predatory value: Economies of dispossession and disturbed relationalities. *Social Text* 36(2):1–18
Carr H, Edgeworth B and Hunter C (eds) (2018) *Law and the Precarious Home*. Oxford: Hart
Chakravartty P and Ferreira da Silva D (2012) Accumulation, dispossession, and debt: The racial logic of global capitalism. *American Quarterly* 64(3):361–385
Christophers B (2018) *The New Enclosure*. London: Verso
Cockburn P (2018) *The Politics of Dependence: Economic Parasites and Vulnerable Lives*. London: Palgrave Macmillan
Cockburn P and Thorup M (2018) Proprietors and parasites: Dependence and the power to accumulate. *Philosophy and Social Criticism* 44(2):179–199
Cohen M (1927) Property and sovereignty. *Cornell Law Quarterly* 13(1):8–30
Cooper D (2007) Opening up ownership: Community belonging, belongings, and the productive life of property. *Law and Social Inquiry* 32(3):625–664
Crabtree L (2013) Decolonising property: Exploring ethics, land, and time through housing interventions in contemporary Australia. *Environment and Planning D: Society and Space* 31(1):99–115
Cresswell T (1996) *In Place/Out of Place: Geography, Ideology, and Transgression*. Minneapolis: University of Minnesota Press
D'Adda G, Delgado L and Sala E (2018) Responding to the precarization of housing: A case study of PAH Barcelona. In H Carr, B Edgeworth and C Hunter (eds) *Law and the Precarious Home: Socio-Legal Perspectives on the Home in Insecure Times* (pp 289–315). Oxford: Hart
Deakin S, Gindis D, Hodgson G M, Huang K and Pistor K (2017) Legal institutionalism: Capitalism and the constitutive role of law. *Journal of Comparative Economics* 45(1): 188–200
Department for Communities and Local Government (2016) "Statutory Homelessness and Prevention and Relief, April to June 2016: England". Housing Statistical Release, 28 September https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/555808/Statutory_Homelessness_and_Prevention_and_Relief_Statistical_Release_April_to_June_2016.pdf (last accessed 17 November 2017).
Desmond M (2016) *Evicted: Poverty and Profit in the American City*. New York: Crown
Desmond M and Bell M (2015) Housing, poverty, and the law. *Annual Review of Law and Social Science* 11:15–35
Dymski G, Hernandez J and Mohanty L (2013) Race, gender, power, and the US subprime mortgage and foreclosure crisis: A meso analysis. *Feminist Economics* 19(3):124–151
Feinman J and Gabel P (1982) Contract law as ideology. In D Kairys (ed) *The Politics of Law* (pp 373–386). New York: Basic Books
Ferreri M, Dawson G and Vasudevan A (2017) Living precariously: Property guardianship and the flexible city. *Transactions of the Institute of British Geographers* 42(2):246–259
Finchett-Maddock L (2014) Squatting in London: Squatters' rights and legal movements. In A Katzeff, B van der Steen and L van Hoogenhuijze (eds) *The City is Ours* (pp 207–231). Oakland: PM Press
Fineman M A (2008) The vulnerable subject: Anchoring equality in the human condition. *Yale Journal of Law and Feminism* 20(1):1–23
Garboden P and Rosen E (2019) "The Threat of Eviction: How Landlords Shape a Contingent Tenure." https://www.law.nyu.edu/sites/default/files/Garboden_Rosen_ThreatofEviction_2019.pdf (last accessed 5 September 2019)
Gordon R (1984) Critical legal histories. *Stanford Law Review* 36:57–125
Gray K and Gray S (2009) *Elements of Land Law* (5th edn). Oxford: Oxford University Press

Grear A (2013) Vulnerability, advanced global capitalism, and co-symptomatic injustice: Locating the vulnerable subject. In M A Fineman and A Grear (eds) *Vulnerability: Reflections on a New Ethical Foundation for Law and Politics* (pp 37–50). Farnham: Ashgate

Hale R L (1923) Coercion and distribution in a supposedly non-coercive state. *Political Science Quarterly* 38(3):470–494

Hale R L (1943) Bargaining, duress, and economic liberty. *Columbia Law Review* 43(5): 603–628

Hallowell A I (1943) The nature and function of property as a social institution. *Journal of Legal and Political Sociology* 1:115–138

Hardt M (2011) Reclaim the common in communism. *The Guardian* 3 February https://www.theguardian.com/commentisfree/2011/feb/03/communism-capitalism-socialism-property (last accessed 5 September 2019)

Harris C (2002) *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia*. Vancouver: UBC Press

Hartman C and Robinson D (2003) Evictions: The hidden housing problem. *Housing Policy Debate* 14(4):461–501

Herbert S and Beckett K (2008) "This is home for us": Questioning banishment from the ground up. *Social and Cultural Geography* 11(3):231–245

Hohfeld W (1913) Some fundamental legal conceptions as applied in judicial reasoning. *Yale Law Journal* 23(1):16–59

Hunt A (1991) Marxism, law, legal theory, and jurisprudence. In P Fitzpatrick (ed) *Dangerous Supplements* (pp 102–132). London: Pluto

Hunt S (2014a) "Witnessing the Colonialscape: Lighting the Intimate Fires of Indigenous Legal Pluralism." Unpublished PhD thesis, Simon Fraser University

Hunt S (2014b) Ontologies of indigeneity: The politics of embodying a concept. *Cultural Geographies* 21(1):27–32

Keenan S (2015) *Subversive Property: Law and the Production of Spaces of Belonging*. New York: Routledge

Keenan S (2019) From historical chains to derivative futures: Title registries as time machines. *Social and Cultural Geography* 20(3):283–303

Kennedy D (1991) The stakes of law, or Hale and Foucault! *Legal Studies Forum* 15(4): 327–366

Kennedy D (2002) Legal economics of US low income housing markets in light of "informality" analysis. *Journal of Law in Society* 4:71–98

Krueckeberg D A (1999) The grapes of rent: A history of renting in a country of owners. *Housing Policy Debate* 10(1):9–30

Lancione M (2019) Radical housing: On the politics of dwelling as difference. *International Journal of Housing Policy* https://doi.org/10.1080/19491247.2019.1611121

Li T M (2014) What is land? Assembling a resource for global investment. *Transactions of the Institute of British Geographers* 39(4):589–602

Locke J (1980 [1690]) *Second Treatise of Government*. Indianapolis: Hackett

Madden D and Marcuse P (2016) *In Defense of Housing: The Politics of Crisis*. London: Verso

Maharawal M M and McElroy E (2018) The Anti-Eviction Mapping Project: Counter mapping and oral history toward Bay Area housing justice. *Annals of the American Association of Geographers* 108(2):380–389

Massey D (2005) *For Space*. London: Sage

Matsuda M J (1987) Looking to the bottom: Critical legal studies and reparations. *Harvard Civil Rights-Civil Liberties Law Review* 22(2):323–399

McKittrick K (2011) On plantations, prisons, and a black sense of place. *Social and Cultural Geography* 12(8):947–963

Merrill C (1998) Property and the right to exclude. *Nebraska Law Review* 77(4):730–755

Mertz E (2007) *The Language of Law School: Learning to Think Like a Lawyer*. Oxford: Oxford University Press

Mills C W (1997) *The Racial Contract*. Ithaca: Cornell University Press

Moreton-Robinson A (2015) *White Possessive: Property, Power, and Indigenous Sovereignty*. Minneapolis: University of Minnesota Press

Munzer S R (1991) Property as social relation. In S R Munzer (ed) *New Essays in the Legal and Political Theory of Property* (pp 76–105). Cambridge: Cambridge University Press
Nagar R (2019) Hungry translations: The world through radical vulnerability. *Antipode* 51(1):3–24
Nedelsky J (1990) Law, boundaries, and the bounded self. *Representations* 30:162–189
O'Mahoney L F (2014) Property outsiders and the hidden politics of doctrinalism. *Current Legal Problems* 67(1):409–445
Park K-S (2016) Money, mortgages, and the conquest of America. *Law and Social Inquiry* 41(4):1006–1035
Pasternak S (2017) *Grounded Authority: The Algonquins of Barriere Lake Against the State*. Minneapolis: University of Minnesota Press
Pateman C (1998) *The Sexual Contract*. Redwood City: Stanford University Press
Peluso N (2005) Seeing property in land use: Local territorializations in West Kalimantan, Indonesia. *Danish Journal of Geography* 105(1):1–15
Peñalver E M and Katyal S K (2007) Property outlaws. *University of Pennsylvania Law Review* 155:1095–1186
Proudhon P J (1966 [1840]) *What is Property?* New York: Howard Fertig
Purdy J (2007) People as resources: Recruitment and reciprocity in the freedom-promoting approach to property. *Duke Law Journal* 56(4):1047–1117
Riles A (2005) A new agenda for the cultural study of law: Taking on the technicalities. *Buffalo Law Review* 53(3):973–1033
Roark M L (2017) Under-propertied persons. *Cornell Journal of Law and Public Policy* 27 (1):1–64
Rosser E (2013) The ambition and transformative potential of progressive property. *California Law Review* 101(1):107–172
Rosser E (2017) Exploiting the poor: Housing, markets, and vulnerability. *Yale Law Journal* 126:458–476
Roy A (2017) Dis/possessive collectivism: Property and personhood at city's end. *Geoforum* 80:A1–A11
Roy A (2019) "Property as Simulacrum: Informality and Illegality in the Postcolony." Paper presented to the Melbourne School of Design, University of Melbourne, 20 August
Sack R D (1986) *Human Territoriality: Its Theory and History*. Cambridge: Cambridge University Press
Seipp D J (1994) The concept of property in the early modern law. *Law and History Review* 12(1):29–91
Singer J (2000) *Entitlement: The Paradoxes of Property*. New Haven: Yale University Press
Singer J W (2009) Democratic estates: Property law in a free and democratic society. *Cornell Law Review* 94:1009–1062
Smith H (2003) The language of property: Form, context, and audience. *Stanford Law Review* 55(4):1105–1191
Soederberg S (2017) The rental housing question: Exploitation, eviction, and erasures. *Geoforum* 89:114–123
Stanger-Ross J, Blomley N and Landscapes of Injustice Research Collective (2017) "This land is worth a million dollars": Property, restitution, and reductivism in the dispossession of Japanese Canadians. *Law and History Review* 35(3):711–751
Strauss K (2019) Contract. In *Antipode* Editorial Collective (eds) *Keywords in Radical Geography* (pp 64–67). Oxford: Wiley
Sullivan E (2018) Dignity takings and "trailer trash": The case of mobile home park mass evictions. *Chicago-Kent Law Review* 92(3):937–959
Underkuffler L (2003) *The Idea of Property: Its Meaning and Power*. Oxford: Oxford University Press
Van der Walt A J (1999) Property rights and hierarchies of power: A critical evaluation of land reform policy in South Africa. *Koers* 64(2/3):259–294
Van der Walt A J (2009) *Property in the Margins*. Oxford: Hart
Van der Walt A J (2010) Property and marginality. In G Alexander and E Pénalver (eds) *Property and Community* (pp 81–105). Cambridge: Cambridge University Press

Vasudevan A (2015) The makeshift city: Toward a global geography of squatting. *Progress in Human Geography* 39(3):338–359
Vasudevan A (2017) *The Autonomous City: A History of Urban Squatting*. London: Verso
Verdery K (2003) *The Vanishing Hectare*. Ithaca: Cornell University Press
Waldron J (1988) *The Right to Private Property*. Oxford: Clarendon Press
Waldron J (1991) Homelessness and the issue of freedom. *UCLA Law Review* 39:295–324
Ziff B (2018) *Principles of Property Law*. Toronto: Carswell