

Contents

<i>Preface</i>	v
Introduction. The Right to Housing: Law, Concepts, Possibilities	1
I Assumptions, Definitions, Scope	3
A. Law, Concepts, Possibilities or Concepts, Law, Possibilities?: a Note on the Structural Tensions	3
B. Defining Housing, House and Home	4
C. A 'Right to Housing' versus 'Housing Rights'	5
D. Categorising the Right to Housing: Economic, Social or Cultural Right?	7
PART I LAW	
Introduction	13
1 The Right to Housing in the International Bill of Rights	15
I Introduction	15
II Universal Declaration of Human Rights	15
III International Covenant on Economic, Social and Cultural Rights	17
A. General Comments 4 and 7 and the Elements of the Right to Housing	20
(i) <i>Legal Security of Tenure</i>	21
(ii) <i>Availability of Services, Materials, Facilities and Infrastructure</i>	23
(iii) <i>Affordability</i>	24
(iv) <i>Habitability</i>	25
(v) <i>Accessibility</i>	26
(vi) <i>Location</i>	27
(vii) <i>Cultural Adequacy</i>	28
B. Optional Protocol: New Opportunities for Enforcement and Interpretation	29
C. Conclusions on the Interpretation of the Right to Housing under the ICESCR	31
IV International Covenant on Civil and Political Rights	32
A. Discrimination, Unlawful Interference and Inhuman Treatment in Housing	33
B. Socio-economic Conditions and the Enjoyment of ICCPR Rights	35

2	The Right to Housing in Subject-Specific International Conventions	38
I	Introduction	38
II	Convention on the Elimination of All Forms of Discrimination Against Women	39
III	Convention on the Rights of the Child	41
IV	Convention on the Elimination of All Forms of Racial Discrimination	43
V	Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment	46
VI	Conclusion	48
3	The Right to Housing in Regional Covenants	49
I	Introduction	49
II	The Right to Housing in Europe	49
A.	Revised European Social Charter	50
	(i) <i>The Scheme of Rights Protection under the RESC</i>	50
	(ii) <i>State Housing Policy and Vulnerability</i>	54
	(iii) <i>Housing Restitution</i>	57
	(iv) <i>Roma Rights</i>	60
B.	<i>European Convention on Human Rights</i>	67
	(i) <i>The Scheme of Rights Protection under the ECHR</i>	67
	(ii) <i>Article 8: Home, Family, Private Life and the Right to Housing</i>	68
	(iii) <i>Protocol 1 Article 1 and the Right to Protection of Property</i>	71
	(iv) <i>Right to Life under Article 2 and Positive Obligations for a Right to Housing</i>	72
	(v) <i>Destruction of Housing, Destitution and Inhuman Treatment under Article 3</i>	73
	(vi) <i>Conclusions on the Right to Housing under the ECHR</i>	74
III	African Regional Housing Rights	75
A.	The Scheme of Rights Protection in Africa	75
B.	Implied Right to Housing and Shelter in the African Charter	76
C.	Conclusion	82
IV	Inter-American Human Rights System	83
A.	The Inter-American Scheme of Human Rights Protection	83
B.	Implying a Right to Housing in the Americas: Three Methods	85
	(i) <i>Forced Evictions, Expulsions and the Destruction of Housing</i>	85
	(ii) <i>Housing and the Dignified Life</i>	87
	(iii) <i>Remedies and Reparations, including Material Goods</i>	89
V	Arab Charter on Human Rights	91

VI	Conclusions on the Regional Protection of the Right to Housing	92
4	The Right to Housing as a Constitutional Right: South African and Indian Experiences	94
I	Introduction	94
II	A Justiciable Right to Housing: the South African Approach	94
	A. Crafting a South African Approach to the Right to Housing: the <i>Grootboom</i> Case	97
	B. Reasonableness and its Discontents	99
	C. <i>Joe Slovo</i> : Recovering the Social, the Political and the Historical?	103
	D. Conclusions on the South African Approach to the Right to Housing	108
III	The Right to Housing as a Right to Life: the Indian Approach	108
	A. Introduction	108
	B. The Right to Housing as a Right to Life and Livelihood	110
	C. Conclusions on the Indian Experience	118
5	The De-radicalised Right to Housing: An Assessment of Interpretive Failings	120
I	Introduction	120
II	Gaps and Weaknesses in the Legal Interpretation of the Right to Housing	121
	A. The Issue of Definition	122
	B. The Problem of Proceduralisation	129
	(i) <i>Procedural Interpretation of the Right to Housing</i>	129
	(ii) <i>Programmatic Approach to the Right to Housing</i>	131
	C. The Failure of the Legal Right to Housing in the Context of Human Rights Violation	134
III	Conclusion	137
PART II CONCEPTS		
	Introduction	141
6	Privacy	145
I	Introduction	145
II	Public/Private and the Operation of Law in the Creation of Homelessness	146
III	Visible Homelessness of Street and Pavement Dwellers and Deprivation of the Private	148
IV	Women's Essential Homelessness and Enforced Privacy	152
V	Erasing the Public/Private Distinction and the Hidden Homelessness of Domestic Workers	159

VI	Conclusion: Homelessness, Rightlessness and the Right to Housing as Social Belonging	165
7	Identity	169
I	Introduction	169
II	Promoting Identity: Constituting Personhood and Community through Housing	173
A.	Housing and Personhood	173
B.	Housing and the Constitution of Community	178
III	Constraining and Erasing Identities: Housing as Social Control	183
A.	Constraining Identities: Women, Family and the Ideal of Home	184
B.	Erasure of Indigenous Identity: Forced Displacement and Acculturation through Housing Policy	189
IV	Conclusion	196
8	Space	198
I	Introduction: the Spatiality of Rights	198
II	Housing as Social Control/Housing as Social Transformation	200
III	Mumbai: Housing, Rights, Citizenship, Space	201
IV	Vision Mumbai and the Planning of Social Transformation	206
A.	Inclusion or Invisibility: City Beautification and Rights to Space	209
B.	Territory, Rights and Control: Governing the Space of the City	217
V	Conclusion: the Boundaries of Spatial Analysis and the Possibilities of the Right to Housing	223
 PART III POSSIBILITIES		
9	Possibilities, Politics, Law	231
I	The Right to Housing: Illustrating Ambivalence in Human Rights for Social Transformation	231
II	Institutional Mythologies and the Hidden Politics of Human Rights	233
A.	Institutional Mythologies	234
B.	The Hidden Politics of Human Rights	237
III	The Ownership of Rights	239
A.	The Critique of Rights as Cooptation and False Promise	240
B.	Agency and the Ownership of Human Rights	241
C.	Law, Politics and Possibilities: the Role of Legal Subjectivity	246
IV	Conclusion: Human Rights Utopia and Fundamental Human Equality	249
	<i>Bibliography</i>	251
	<i>Index</i>	269