

The London School of Economics and Political Science

Home and International Law

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Declaration

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Abstract

International lawyers talk about housing but rarely about home. This is surprising when one considers that home is central to everyday life in the world. Home is the navel of our daily journeys and an arbiter of the transitions we make during our life course. The image of ‘home as haven’ conjures a place liberated from fear, emotionally noble and natural, a metaphor for comfort, solidarity and protection.

Yet home throughout the world is far from this ideal. Home destruction, forced eviction, displacement, distress sales, dispossession, repossession, unaffordability and homelessness are also emblematic experiences of home. As the desire for home is twinned with increasing anxieties about it arising from the pressures and possibilities of globalisation and its attendant spatial transformations, economic crisis, political realignment and escalating social inequality, the need to ask how the intimate realm of home is linked to the norms, ambitions and contradictions of global phenomena and the international legal regimes that relate to them is extensive.

While home is not a well-developed concept in international law, in this thesis I argue that international law is in fact *already present* at home. Through three studies of home set in different contexts, I illustrate some of the ways that international law gets involved in transformations of home. I suggest that international law’s ‘homemaking’ work can have devastating effects and that these effects are frequently ignored or elided by scholars and lawmakers in the field. Nonetheless, I also argue that the concept of home can be understood as an analytical tool which opens up a terrain of experience – of loss, suffering and struggle but also radical engagement and expanded agency – that is not captured or expressed in international law.

Taking a global socio-legal perspective and a critical geographic approach to home, this thesis traces how international law reaches into, takes place in, and gives shape to everyday life in relation to home. While the main aim of the thesis is to draw international law scholars’ attention to home, it also contributes to methodological discussions among international law scholars working at the interface of the local and the global and especially those scholars interested in the everyday life of international law.

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In loving memory of Jennifer Zeffert, 1954-2004

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All photographs by Henrietta Zeffert

List of cases and legislation

Cases

Abu Helou and others v Government of Israel HCJ 302/72 (1972) 27(2) PD 169

Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice, 9 July 2004

Al-Naazer v Commander of Judea and Samaria (1981) 36(1) PD 701

Al Nawar v Minister of Defence 16 Israel Yearbook of Human Rights 321 (1986)

Amar et al v IDF Commander in the West Bank, HCJ 6696/02, 6th August 2002

Association for Civil Rights in Israel v Officer Commanding Central Command (1998) 43 (2) PD 529

Ayreib v Appeals Committee, HCJ 277/84 40(2) PD 57

Ayyub v Minister of Defence HCJ 606/78 (1978) 33(2) PD 113

Beit Sourik Village Council v. The Government of Israel et al HCJ 2056/04 (2004) 48(5) PD 807

Dweikat et al v Government of Israel et al HCJ 390/79 (1979) 34(1) PD 1

Lindiwe Mazibuko & Others v City of Johannesburg & Others (CCT 39/09), [2009] ZACC 28; 2010 (3) BCLR 239 (CC); 2010 (4) SA 1 (CC) (8 October 2009)

Mara'abe v The Prime Minister of Israel HCJ 7957/04 15 September 2005

Yoav Hess et al v The Commander of IDF Forces in the Judea and Samaria et al HCJ 10356/02 (2004) 58(3) PD 443

Legislation

Absentees' Property Law 1950

Amendment to the Land Law 2004

Balfour Declaration 1917

Consolidated Appropriations Act 2014

Development Authority (Transfer of Properties) Law 1950

Emergency Defense Regulations 1945

Homelessness Reduction Bill (HL Bill 96, 30 January 2017)

Housing Act 1935 (UK)

Housing Act 1980 (UK)

Housing Act 1985 (UK)

Housing Act 1988 (UK)

Housing Act 2004 (UK)

Housing and Planning Act 1986 (UK)

Land Law 2001 (Kingdom of Cambodia)

Law on Investment in the Kingdom of Cambodia 1994 (Kingdom of Cambodia)

Law on Amendment to the Law on Investment of the Kingdom of Cambodia 2004 (Kingdom of Cambodia)

The Laws of Palestine (Palestine)

Local Government and Housing Act 1989 (UK)

Local Government, Planning and Land Act 1980 (UK)

Jordanian Urban Planning and Infrastructure Law 1966

Jordanian Law of Cities, Villages and Buildings No 79, 1966

Land Ordinance 1943 (Acquisition for Public Purpose)

Land Law of the Kingdom of Cambodia 2001

Law on Investment of the Kingdom of Cambodia 1994

Law on the Amendment to the Law on Investment of the Kingdom of Cambodia 2003

Mawat Ordinance 1921

Ottoman Land Code 1858 (trans F Ongley)

Security Provisions Order (West Bank), 1967

*Security Provisions Order (West Bank), (Amendment No. 9), (Order No. 144), 22 October 1967
in 8 Proclamations, Orders and Appointments of West Bank Command 303*

Land Law of the Kingdom of Cambodia 1994

Sub-decree No 46 on the Procedures to Establish Cadastral Index Map and Land Register 2002

*Sub-decree 129 on Rules and Procedures on Reclassification of State Public Properties and
Public Entities 2006*

Life, authentic life, is supposed to be all struggle, unflagging action and affirmation, the will butting its blunt head against the world's wall, suchlike, but when I look back I see that the greater part of my energies was always given over to the simple search for shelter, for comfort, for, yes, I admit it, for cosiness.¹

¹ John Banville, *The Sea* (Picador, 2005) 60.

CHAPTER ONE

Introduction

The function of a home is to provide: '1. A shelter against heat, cold, rain, thieves and the inquisitive. 2. A receptacle for light and sun. 3. A certain number of cells appropriated to cooking, work, and personal life.'²

1.1 Ambitions beyond functionality

At home. Winter rain streaks across the window of my study. I'm comforted by the sound of the kettle whistling in the kitchen and the chunky noise of the heater revving up. Looking around I notice all of the ambitions beyond functionality that my home possesses, those Le Corbusier would have decried as romantic cobwebs.³ The quilt and the crochet blanket hung over the rocking chair, the shelves heaving with books; our board game collection, an old radio on the sill; postcards on the fridge mapping past journeys; the chip in the floor where the cabinet collapsed last summer; stout teapots and saucepans standing sentinel above the stove; coats, umbrellas and sports equipment burdening the hat stand, shoes lined up by the front door; fairy lights draped over the balcony, ashtrays and recycling.

This home has sheltered solitude and philandered flamboyance. It has rendezvoused with friends, and hosted parents who came for the weekend but ended up staying for weeks. It has been party to the seduction of lovers, burnt toast and fire alarms. It has cautiously invited tradesmen to operate on its forsaken pipes and circuit wires. It has planned hijinks and colluded in the susurrations of late night conversations under the lamp. It stores memories in the box room, and its sturdy architecture of doors, cupboards, wardrobes and drawers offers the kind of order and regularity that is consoling in an otherwise frenetic and fractured city life. Stages of our lives

² Charles-Édouard Jeanneret (Le Corbusier), Letter to Madame Savoy, 1935.

³ Le Corbusier famously described the home as a 'machine for living'. His designs are among the most important precedents for the International Style in modern architecture: streamlined, minimal, simplistic, efficient, and importantly, unadorned. A utopian, Le Corbusier's machine for living arguably animated a fantasy of total social organisation. Compare Peter King, critiquing Le Corbusier's idea of home and urging the importance of personal meaning in identifying and signifying what home is: Peter King, *In Dwelling: Implacability, Exclusion and Acceptance* (Routledge, 2008).

have unfolded within these walls that speak to us and guide our slippers along the hallway.

Our homes, for good or ill, are endowed with intimate knowledge of matutinal habits, midnight victuals and private longings. They acknowledge our belonging in the world through the letters we receive at their address, through their unconditional forgiveness of our taste in furniture design, and their patience for the flawed way we brew tea. Our homes nurture and protect what is closest to us and what matters most to us – people, objects, memories – and allow us to include in our lives the people we are committed to and who are committed to us, and to exclude others. Our homes prop up flagging spirits in a life of ceaseless and inexplicable disappointment by serving as a temple to our authentic self and embalming an idealisation of the values we aspire to. They cushion our vulnerabilities and compensate for human frailty. Like a beloved, our homes pine for us when we are gone and commemorate our return by reminding us who we are.

Our homes are quintessentially ordinary places: they are a familiar space, full of familiar things. Peter King argues that our home is ‘the one place where we seek to avoid the exceptional and the surprising. It is commonplace, even nondescript, and fits around our regular routines so that we lose sight of its complexity.’⁴ Our homes are ordinary in their ubiquity; they form the backdrop to everyday life. They are something we all have or seek to have, and we see ourselves as harmed if we do not have them. What we seek in our homes is ‘stability, routine and a means to avoid change’.⁵ Our homes are important because we need this stability and lack of change amid the facticity of life in the outside world. ‘We need some solid ground to stand on, or something solid to push off from. We need this solidity to give our lives shape.’⁶ For these, among other reasons, home is somewhere near the centre of most people’s lives, even amid the brilliant diversity of human experience.

However, the reality of home is more nuanced than this. Home can be ambiguous, contradictory and uncertain. As Homi Bhabha writes:

Home may not be where the heart is, nor even the hearth. Home may be a place of estrangement that becomes the necessary space of engagement; it may represent a desire for

⁴ Peter King, *The Common Place: The Ordinary Experience of Housing* (Ashgate, 2005) 1.

⁵ Ibid.

⁶ Ibid 92.

accommodation marked by an attitude of deep ambivalence towards one's location. Home may be a mode of living made into a metaphor of survival."⁷

For Bhabha the experience of 'unhomeliness' is, paradoxically, key to understanding what home is.⁸ This departure from the traditional association of home with that which is safe, sure and comforting is attested to by feminists who have long argued that home can be a place of alienation, violence and domination, especially for women.⁹ Nowhere is this more apparent than in the phrase 'violence in the home'. Rachel Pain argues that the 'vast majority of incidents of violence against women take place in the home'.¹⁰ Home as a place of oppression and insecurity has been examined by scholars across all disciplines, from family studies¹¹ and psychology¹² to gender studies and discrimination theory,¹³ among others that could be mentioned.

Many of the authors whose work I discuss in this thesis agree that the concept of home comprises a mixture of positive and negative associations and that it traverses contrasting subjectivities. Keith Jacobs and Jeff Malpas argue that, on the one hand, home is 'an object that enables us to reflect upon our fears and anxieties about the modern world', and on the other hand, 'it functions as a domain of imaginative elaboration onto which we project our fantasies of escape from those same fears and anxieties.'¹⁴ In a similar vein Arien Mack observed over two decades ago that:

We are confronted every day with painful images and stories about the growing numbers of homeless people, about criminal violence toward children, and about the plights of

⁷ Homi Bhabha, 'Halfway House' (1997) 35(9) *Artforum International* 11.

⁸ On the 'unhomely', see Homi Bhabha, 'The World and the Home' (1992) 31-2 *Social Text* 141.

⁹ See in particular Bidy Martin and Chandra Mohanty, 'Feminist Politics: What's Home Got to Do With It?' in Teresa De Lauretis (ed), *Feminist Studies, Critical Studies* (Macmillan, 1988) and Bonnie Honig, 'Difference, Dilemmas, and the Politics of Home' (1994) 61(3) *Social Research* 563.

¹⁰ Rachel Pain, 'Social Geographies of Women's Fear of Crime' (1997) 22 *Transactions* 231. See also Alison Blunt and Robyn Dowling, *Home* (Routledge, 2006) 125-6. See also Karel Kurst-Swanger and Jacqueline Petcosky, *Violence in the Home: Multidisciplinary Perspectives* (Oxford University Press, 2003).

¹¹ Holden Bouwers, 'Review of Adolescent Violence in the Home: Restorative Approaches to Building Healthy, Respectful Family Relationships' (2016) 45 *Journal of Youth and Adolescence* 1041, and see references below.

¹² Michele Cascardi, 'From Violence in the Home to Physical Dating Violence Victimization: The Mediating Role of Psychological Distress in a Prospective Study of Female Adolescents' (2016) 45(4) *Journal of Youth and Adolescence* 777.

¹³ Anuradha Paranjape, Giselle Corbie-Smith, Nancy Thompson and Nadine Kaslow, 'When Older African American Women Are Affected by Violence in the Home' (2009) 15(8) *Violence Against Women* 977.

¹⁴ Keith Jacobs and Jeff Malpas, 'Material Objects, Identity and the Home: Towards a Relational Housing Research Agenda' (2013) 30(3) *Housing, Theory and Society* 281.

those exiled from their homelands. And all of this coexists with persistent images of home as a place of comfort, safety and refuge.¹⁵

While its contradictory, ambiguous and contested character makes home notoriously difficult to define, in this thesis I work with an understanding of home as one of the ways that individuals articulate a sense of identity in the world. On this view, home can be understood to comprise a range of meanings that are integral to the formation of the self. Home meanings include (but are not limited to) notions of being and belonging, dwelling and building, tradition and preservation, refuge and haven, homeland, memory and nostalgia. Home meanings can be thought of as artifacts that inform and shape our individual life stories as well as our collective memories and identities. Blunt and Dowling summarise the multidimensional meanings of home this way:

Some may speak of the physical structure of their house or dwelling; others may refer to relationships or connections over space and time. You might have positive or negative feelings about home, or a mixture of the two. Your sense of home might be closely shaped by your memories of childhood, alongside your present experiences and your dreams for the future.¹⁶

This thesis examines the concept of home through the prism of international law. I seek to investigate the ways international law engages with home, the sorts of ‘homemaking’ work it does and what the concept of home might reveal to us about the ‘everyday life’ of international law. The central thesis is that despite the lack of focus on the topic to date, international law is *already present* at home, and that critically analysing international law through the lens of home garners insights about human experience – in particular, experiences of attachment and suffering – that are not otherwise expressed in the language, frameworks and discursive moves of international law.

To elaborate this thesis I deploy three case studies. The case studies connect international law with the wider global forces and systemic logics that shape the conditions in which international legal ideas and processes emerge and intervene at home, such as development, military occupation and financialisation, and trace how international law gets involved in transformations of home, often (but not always) with devastating effects. The case studies are critical of

¹⁵ Ariën Mack, ‘Home: A Place in the World – Editor’s Introduction’ (1991) 51(1) *Social Research* 5, 6.

¹⁶ Blunt and Dowling, above n 10, 1.

international law to the extent that it facilitates experiences of dispossession and displacement from home and works to obscure, elide or deny home interests. However, rather than dismissing international law, I also use the case studies to consider the limits and possibilities for radical engagement and expanded agency offered by international law as it engages with home.

Later in this chapter I set out these arguments and my research questions more fully. In Chapter Two, I explain the methodological framework and methods I adopted for the thesis as a whole. The remaining parts of this chapter are organised around several themes. In the next part I look more deeply at the concept of home. I first consider some of the questions an exploration of home raises. I then examine several concepts that are related to home – but which are not the same as home – and which already exist within the corpus of international law; namely, housing, property, land and territory. Following this, I turn to the wider literature to explore how home is conceptualised in fields outside of international law. Drawing this literature together, I offer a working definition of home for the purpose of this thesis based on five key themes of home. In the second part of the chapter, I situate this thesis within the small but burgeoning field of international law and everyday life. In this part, I consider the concept of the ‘everyday’ as it has been debated by scholars across various disciplines, and in particular by socio-legal scholars. I then note the more recent shift to the study of law and everyday life in global contexts, as well as the growing field of international law and everyday life. In the final part of the chapter I set out my central arguments and research questions and indicate the contribution to scholarship this thesis makes. I conclude with an overview of the thesis chapters.

1.2 Homes speak to us

I’ve been thinking about home for a long time. I’ve usually come at it from calculating how many different homes I’ve lived in over the years. Too many. Yet what is remarkable is the ritual of homemaking that has played out in each. The almost identical efforts I’ve made to burrow and nest in a space, to transform house into home, time and again. Home is a practice, a process, and a preoccupation; one I share with many others, if the deluge of television shows about home renovation and auctions is anything to go by.¹⁷

¹⁷ Architectural writer Douglas Murphy argues the BBC’s long-running ‘home makeover’ show *Changing Rooms* ‘did much to open the doors to the flood of ‘property porn’ programmes that would clog up the schedules for most of the 00s.’ See *Unbuilding Britain*, <<http://youyouidiot.blogspot.co.uk/2013/06/unbuilding-britain.html>>.

Homes speak to us in ways that sometimes seem inconvenient or irresolvable. They demand answers to questions that occupy us until we have satisfied them. Where is home? What is home? Am I ever 'at home'? There are few among us who, at some point in their lives, have not been even mildly troubled by these questions. Perhaps it would be unreal to be free of these questions, because they say something about the human condition, about the longing and need to 'be' in the world. Our homes are more than 'machines for living'.¹⁸ We carry on emotional and spiritual lives in and around them as much as we have a physical relationship with them. Our homes are meaningful places. They are, as Harvey Perkins and David Thorns argue, 'one of the key locales which shape our sense of place and enables us to develop our sense of who we are'.¹⁹ Our homes are 'centrally important elements in the phenomenology of everyday life'.²⁰

As an expression of our inner being, we want our homes to extol values we think are worthwhile. So it matters that the concept of home refers to qualities like sanctuary and gentleness, humour, memory or grandeur. Alain de Botton writes about how we 'seek associations of peace in our bedrooms, metaphors for generosity and harmony in our chairs, and an air of honesty and forthrightness in our taps'.²¹ Our homes matter as 'a rendition of values critical to our flourishing, a transubstantiation of our individual ideals in a material medium'.²² In a similar vein Herman Hertzberger argues: 'Architecture should offer an incentive to its users to influence it wherever possible, not merely to reinforce its identity, but more especially to enhance and affirm the identity of its users'.²³ And while our homes may be defined by their ordinariness, this is not to say that the ordinary around us is mundane. Our homes have a significance created by their association with us.²⁴ Our homes speak to us in a psychological sense as much as in a physical sense:

We need a refuge to shore up our states of mind, because so much of the world is opposed to our allegiances. We need our rooms to align us to desirable versions of ourselves and to keep alive the important, evanescent sides of us.²⁵

¹⁸ Le Corbusier, Letter to Madame Savoye, above n 2; see also above n 3.

¹⁹ Harvey Perkins and David Thorns, 'House and Home and Their Interaction with Changes in New Zealand's Urban System, Households and Family Structures' (1999) 16(3) *Housing, Theory and Society* 124.

²⁰ Ibid.

²¹ Alain de Botton, *The Architecture of Happiness* (Pantheon, 2007) 98.

²² Ibid 100.

²³ Herman Hertzberger, *Lessons for Students in Architecture* (010 Publishers, 4th ed, 2001) 390.

²⁴ King, above n 4, 75.

²⁵ De Botton, above n 21, 107.

Asking questions about home in the process of researching this thesis has only quickened my curiosity about it and led to more questions. Other scholars have been similarly intrigued. As Shelley Mallett asks, '[i]s home a space (or spaces), a place (or places), a feeling, a practice or a state of being in the world?'²⁶ While our homes, in their ordinariness, tend to merge into the landscape of everyday life, perhaps it is true that the more we look, the more we see, and that beyond the external walls and façade we may be drawn into 'the complexity and grandeur of the ordinary.'²⁷

1.3 Home and international law

When my work and my home life began to merge, it struck me that among my fellow international lawyers home rarely features in their work. We might approach it through tangents and margins – in building regulations or local planning laws that implicate human rights, in visas that define a person's 'home state' for asylum, or in the types of property that can be targeted under the laws of war. International law protects the right to housing yet there is an important distinction between housing and the concept of home. Nor do we generally think of our homes as having any more than private lives, lives beyond the front door, still less lives in the international domain.

This is not to say that international law jettisons home entirely. International law engages with several concepts that are closely aligned with – and are sometimes even conflated with – home, such as housing, land, property and territory. Article 25(1) of the 1948 *Universal Declaration of Human Rights* (UDHR)²⁸ and Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)²⁹ recognise and protect the right to housing. The right provides that everyone is entitled to a standard of living adequate for health and wellbeing, including housing³⁰ and 'the right to live somewhere in security, peace and dignity.'³¹

²⁶ Shelley Mallett, 'Understanding Home: A Critical Review of the Literature' (2004) 52(1) *The Sociological Review* 65.

²⁷ King, above n 4, 52.

²⁸ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

²⁹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3.

³⁰ Article 25(1) UDHR, above n 28.

³¹ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23, [7] ('*General Comment No. 4*').

Property is protected in various ways in international law, such as Article 17 of the UDHR which states that '[e]veryone has the right to own property alone as well as in association with others' and that 'no one shall be arbitrarily deprived of his property.'³² Article 8 of the *European Convention on Human Rights* protects 'private and family life, home and correspondence'. Article 8 has been interpreted as the protection of real and personal property.³³ Article 1 Protocol 1 of the ECHR also protects the right to peaceful enjoyment of property.³⁴ The international law of war limits the destruction of real property³⁵ and specifies minimum obligations for housing prisoners of war.³⁶ International law also provides guidance on housing, land and property restitution for refugees in the *Principles on Housing and Property Restitution for Refugees and Displaced Persons*.³⁷ Meanwhile, the concept of land is deeply embedded in ideas of sovereignty, territory and self-determination that are themselves foundational to international law. There are also more specific entitlements to land and protection of territory in the Refugees Convention³⁸ and in the *Declaration on the Right of Indigenous Peoples*,³⁹ among other examples.

It is important to note the ways international law engages with concepts of housing, land, property and territory because these concepts can be said to fall within the constellation of home meanings. However, as scholars have been at pains to reflect, the concept of home remains distinct.⁴⁰ It is also the case that international law itself positions home outside the scope of its jurisdiction. Indeed, a quick glance at the contents page of international law textbooks confirms that the principal domains of the discipline are far from home. These are the urgent and exceptional matters of states and citizens: peace and security, war and the treatment of prisoners, sanctions, terrorism and the settlement of international disputes, trade and data sharing,

³² Article 17 UDHR, above n 28. See also protection of property under UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137 ('*Refugee Convention*'), Articles 13, 18, 19, 29, 30, among other examples.

³³ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, Article 8.

³⁴ Protocol 1 Article 1 *ibid*.

³⁵ See Article 53, International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, 75 UNTS 287.

³⁶ See for example Article 85 on the size of internees' living quarters, *ibid*.

³⁷ UN Sub-Commission on the Promotion and Protection of Human Rights, *Principles on Housing and Property Restitution for Refugees and Displaced Persons*, 28 June 2005, E/CN.4/Sub.2/2005/17 (the Pinheiro Principles). The Pinheiro Principles were developed by Paulo Sérgio Pinheiro, the United Nations special rapporteur on housing and property restitution in the context of the return of refugees and internally displaced persons.

³⁸ For example see Article 1C, *Refugee Convention*, above n 32.

³⁹ For example see Article 9, UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples, resolution adopted by the General Assembly*, 2 October 2007, A/RES/61/295.

⁴⁰ See, among other discussions, Blunt and Dowling, above n 10, and Lorna Fox O'Mahony *Conceptualising Home: Theories, Laws and Policies* (Hart, 2007).

environmental and development issues, the regulation of common spaces – the sea and polar regions – refugees, indigenous peoples, and human rights.⁴¹ The chief concerns of international law also play out in contexts apparently divorced from home: a case in the international criminal court; a call for humanitarian intervention; a treaty open for signature; a high level meeting; a ‘failed state’. One gets the impression from this that international law deals only in extraordinary and exceptional cases and crises and high-level events.⁴² It appears to be a privileged branch of law which occupies, as Sundhya Pahuja and Luis Eslava have put it, ‘the upper quadrant of legal taxonomies, the final step in doctrinal and legal argumentation’.⁴³ Presenting itself this way, international law has a drama and an administrative energy that contrasts with the mundane, ordinary and quotidian realm of home.

As Eslava argues, the other thing international law does by presenting itself this way is to direct our gaze at particular things and places.⁴⁴ It tells us what is, and what is not, worth looking at. Drawing our attention here but not there, international law distinguishes between the relevant (the extraordinary and the exceptional, the crises and cases) and the less relevant (the local, the everyday and the domestic, the ‘lower-order occurrences’).⁴⁵ Eslava describes this as international law’s technique of ‘enframing’ reality.⁴⁶ Like photography, he explains that international law’s visual economy ‘dictates why some events, and not others, are considered exceptional and worth being captured.’⁴⁷ Academic accounts tend to confirm this distinction between the relevant and less relevant, the exceptional and the ordinary. In his classic definition, Hans Kelsen described international law as a ‘supreme legal order’ with ‘unlimited validity in time and space’, furthering the impression that it is not a discipline concerned with ordinary places or things.⁴⁸ Much contemporary international law scholarship invokes the discipline as the ‘law of exceptional, state-centric actions and relations’.⁴⁹ Occupying that higher plane, international law is self-

⁴¹ For example, see Malcolm Evans, *International Law* (Oxford University Press, 4th ed, 2014); Antonio Cassese, *International Law* (Oxford University Press, 2nd ed, 2005); Malcolm Shaw, *International Law* (Cambridge University Press, 7th ed, 2014); James Crawford, *Brownlie’s Principles of Public International Law* (Oxford University Press, 8th ed, 2012).

⁴² See throughout Luis Eslava, ‘Istanbul Vignettes: Observing the Everyday Operation of International Law’ (2014) (2)1 *London Review of International Law* 3.

⁴³ Sundhya Pahuja and Luis Eslava, ‘Beyond the (Post)colonial: TWAAIL and the Everyday Life of International Law’ (2012) 45(2) *Journal of Law and Politics in Africa, Asia and Latin America* 195, 215.

⁴⁴ Eslava, above n 42, 3.

⁴⁵ *Ibid* 6.

⁴⁶ *Ibid* 3. See also Annelise Riles, ‘The View From the International Plane: Perspective and Scale in the Architecture of Colonial International Law’ (1995) 6 *Law and Critique* 39.

⁴⁷ Eslava, above n 42, 4.

⁴⁸ Hans Kelsen, *Principles of International Law* (Rinehart, 1966), 177-8.

⁴⁹ Pahuja and Eslava, above n 43, 215.

contained and coherent. It chooses to be seen in some places and not others, and so shapes our perception of everyday life accordingly. Home lies outside, or on the outskirts, of international law's field of vision.

This apparent distance between home and international law is all the more puzzling when I return to that reflection on my own and others' preoccupation with home. The desire for home, for the kith and kin and sense of being in the world that we hope may come with a home, is presumably felt as keenly by the resident of a London terrace as it is by the inhabitant of a Mumbai slum, by a Sydney city-dweller as it is by a Romani traveller. That common desire is, however, twinned with (and intensified by) increasing anxieties about home today. These anxieties arise out of disparate global phenomena – from mass population displacement following conflict (Afghanistan, Sudan, Syria, Ukraine) to the mortgage and household debt crisis (the US, Spain, Ireland, the UK), and uneven development, aggressive speculation and land grabbing (China, Colombia, Cambodia).

While these concerns are not unique to our time, two things are distinctive about their contemporary phase. First, patterns and conditions of human habitation are being transformed at a rapid pace and on a dramatic scale, raising new and urgent questions about home. Second, the global order is more intensively and extensively involved in determining the local effects of these concerns. This is reflected in, among other examples, the local presence of international institutions and procedures; the expansion of human rights and transnational activism to local and community groups; the proliferation of multilateral treaties that bring together states, international institutions, NGOs and individual actors; and the formation of new orders under negotiated climate and data sharing agreements which have direct implications for how people organise their everyday affairs. The relocation of local problems and concerns to the international – and the interjection of the international in the local – designs new spaces in which the flows, conditions and disciplines of the global order find shape and expression. It is this departure that challenges the traditional perception of international law as inhabiting the 'higher places' and being a law of the 'above and beyond', concerned only with the extraordinary and exceptional. The new attention of the global order to the local, as well as the scale and pace of transformations in human habitation, makes more urgent the need to ask how our homes are linked to the norms, ambitions, and contradictions of international law.

At the same time, if home is such a central part of our everyday lives, and if the international is increasingly attentive to what goes on at the local level, in day-to-day life, international law might

not actually be so far away from home. It may, in fact, already be there. Going back to the contents page of the international law textbook, one begins to imagine the possibilities for home we might find there: in wartime claims to homeland; in refugees' flight from home; in indigenous peoples' struggle for home and identity; and in the loss of home to environmental degradation and development projects. These are just some of the ways we might begin to think about home in international law. Moreover, that home and international law share certain characteristics encourages looking into the connections between them: both comprise a set of practices and discourses that aim to create a particular order in the world; both have a private and sentimental side; and both have at their heart a particular type of universality.⁵⁰ One just needs to begin to see things through the lens of home to be able to imagine these possibilities. To assist with this, in the next part of this chapter I turn to the wider literature and examine how home is conceptualised in fields outside of international law. In particular, I highlight the key themes that inform the definition of home I work with in this thesis.

1.4 The meaning of home

When one turns to the academic literature on the topic it is clear that the meaning and experience of home is diverse and ambiguous. Home has been a sustained subject of scholarly interest and agenda setting for some time. Generations of social scientists, philosophers, architects and historians have puzzled over the meaning and significance of home. This has set the foundations for the efflorescence of work on home since the 1980s.⁵¹ Home has recently been examined by scholars in architecture,⁵² anthropology,⁵³ archaeology,⁵⁴ urban studies,⁵⁵ geography,⁵⁶ housing

⁵⁰ On these ideas, see further Anne Orford, 'Constituting Order' in James Crawford and Martti Koskenniemi (eds), *The Cambridge Companion to International Law* (Cambridge University Press, 2012) 271 and Gerry Simpson, 'The Sentimental Life of International Law' (2015) 3(1) *London Review of International Law* 3.

⁵¹ See further Jeanne Moore, 'Placing Home in Context' (2000) *Journal of Environmental Psychology* 207, 207.

⁵² Carole Després, 'The Meaning of Home: Literature Review and Direction for Future Research and Theoretical Development' (1991) 8(2) *Journal of Architectural and Planning Research* 96; Lynne Walker, 'Home Making: An Architectural Perspective' (2002) 27(3) *Signs: Women in Culture and Society* 823-35; Witold Rybczynski, *The Most Beautiful House in the World* (Penguin, 1990).

⁵³ Tony Chapman and Jenny Hockey (eds), *Ideal Homes? Social Change and Domestic Life* (Routledge, London, 1999).

⁵⁴ Susan Kent, 'Ethnoarchaeology and the Concept of Home: A Cross-cultural Analysis' in David Benjamin and David Stea (eds), *The Home: Words, Interpretations, Meanings and Environments* (Avebury, 1995) 163-181.

⁵⁵ Henny Coolen and Janine Meesters, 'Editorial Special Issue: House, Home and Dwelling' (2012) 27(1) *Journal of Housing and the Built Environment* 1.

⁵⁶ Peter Somerville, 'Homelessness and the Meaning of Home: Rooflessness and Rootlessness?' (1992) 16(4) *International Journal of Urban and Regional Research* 529.

studies,⁵⁷ health,⁵⁸ disability,⁵⁹ history,⁶⁰ linguistics,⁶¹ psychology,⁶² phenomenology and philosophy⁶³ and diaspora studies,⁶⁴ among other disciplines.⁶⁵ There have also been special issues on home in *Social Research*,⁶⁶ *New Formations*,⁶⁷ *Women's Studies International Forum*,⁶⁸ *Signs: Journal of Women in Culture and Society*⁶⁹ and *Housing, Theory and Society*,⁷⁰ as well as a new journal devoted to the subject, *Home Cultures*,⁷¹ and a range of recent books from various disciplines, including *Ideal Homes*,⁷² *Burning Down the House*,⁷³ *Home Possessions*⁷⁴ and *Home Truths*.⁷⁵ Yet home has been almost entirely overlooked by legal scholars,⁷⁶ and the relationship between home and international law remains unexamined.⁷⁷

⁵⁷ Among others, Hazel Easthope, 'A Place Called Home' (2004) 21(3) *Housing, Theory and Society* 128-38; Hazel Easthope, 'Making a Rental Property Home' (2014) 29(5) *Housing Studies* 579-96.

⁵⁸ Isabel Dyck, Pia Kontos, Jan Angus and Patricia McKeever, 'The Home as a Site For Long-term Care: Meanings and Management of Bodies and Spaces' (2005) 11(2) *Health and Place* 173-85.

⁵⁹ Rob Imrie, 'Housing Quality, Disability and Domesticity' (2004) 19(5) *Housing Studies* 685-90.

⁶⁰ Claire Langhamer, 'The Meanings of Home in Postwar Britain' (2005) 40(2) *Journal of Contemporary History* 341; Isabela Quintana and Seong Leong, 'Making Do, Making Home' (2015) 41(1) *Journal of Urban History* 47.

⁶¹ Stefan Brink, 'Home: The Term and the Concept From a Linguistic and Settlement-Historical Viewpoint' in Benjamin and Stea, above n 54, 17-24. See also Amos Rapoport, 'A Critical Look at the Concept "Home"' in the same volume, 27-30.

⁶² Sarah Nettleton and Roger Burrows, 'When a Capital Investment Becomes an Emotional Loss: The Health Consequences of the Experience of Mortgage Possession in England' (2000) 15(3) *Housing Studies* 463.

⁶³ Witold Rybczynski, *Home: A Short History of an Idea* (Penguin, 1986); James Tuedio, 'Thinking About Home: An Opening for Discovery in Philosophical Practice' in Henning Herrestad, Anders Holt and Helge Svare (eds) *Philosophy in Society* (Unipub Forlag, 2002) 201-15; and see Gilles Deleuze and Felix Guattari, *What is Philosophy?* (Columbia University Press, 1994) Part One exploring notions of territorialisation, deterritorialisation and reterritorialisation in relation to home.

⁶⁴ Alison Blunt, *Domicile and Diaspora: Anglo-Indian Women and the Spatial Politics of Home* (Blackwell, 2005).

⁶⁵ To these I would include other works that have inspired my thoughts on home: Gaston Bachelard, *The Poetics of Space* (Maria Jolas trans, Beacon, 1962, 1992 ed); Junichiro Tanizaki, *In Praise of Shadows* (Vintage, 1934) and Edwin Heathcote, *The Meaning of Home* (Francis Lincoln, 2012).

⁶⁶ *Social Research* published a special issue on home in 1991.

⁶⁷ *New Formations* published a special issue on home in 1992.

⁶⁸ *Women's Studies International Forum* published a special issue on 'concepts of home' in Volume 20, Issue 3 of 1997.

⁶⁹ *Signs* published a special issue on interdisciplinary perspectives of home and gender in 2002.

⁷⁰ *Housing, Theory and Society* published a special issue on 'Mental Geographies of Home and Place' in Volume 25, Issue 1 of 2008.

⁷¹ *Home Cultures: The Journal of Architecture, Design and Domestic Space* (Taylor and Francis).

⁷² Chapman and Hockey, above n 53.

⁷³ Rosemary George, *Burning Down the House: Recycling Domesticity* (Westview, 1999).

⁷⁴ Daniel Miller (ed), *Home Possessions: Material Culture Behind Closed Doors* (Berg, 2001).

⁷⁵ Blair Badcock and Andrew Beer, *Home Truths: Property Ownership and Housing Wealth in Australia* (Melbourne University Press, 2000).

⁷⁶ With the notable exception of exemplary work by Lorna Fox O'Mahony on home in the context of the United Kingdom domestic legal system: *Conceptualising Home*, above n 40.

⁷⁷ There is however an extensive literature on housing in legal scholarship, including international legal scholarship. See in particular my references in Chapter Five.

In much of the more recent work on home scholars tend to approach home as a ‘multifaceted’ and ‘multi-layered’ phenomenon.⁷⁸ Alison Blunt and Robyn Dowling define home as simultaneously a material place and an affective space of emotion and belonging; as a locus of power and identity, where home is tied to debates in which human experience is calibrated according to race, age, gender, sexuality and class; and as a fluid and open-textured space, host to personal relations in which public and political worlds transect.⁷⁹ Thus, home is at once a ‘place/site, a set of feelings/cultural meanings, and the relations between the two.’⁸⁰ As Susan Saegert argues about home: ‘[n]ot only is it a place, but it has psychological resonance and social meaning.’⁸¹

Other scholars contend that home is an intrinsically intangible phenomenon.⁸² This sense is captured in the formula ‘home = house + x’.⁸³ ‘X’ represents ‘the social, psychological, and cultural values which a physical structure acquires through use as a home’⁸⁴ and the feelings of belonging and identity that extend beyond the raw materials of the house.⁸⁵

Home is also an ‘intensely political’ site, both ‘in its internal intimacies and through its interfaces with the wider world.’⁸⁶ Any attempt at an objective analysis of home must expect a passionate response. As Peter Saunders and Peter Williams reflect:

The home is a major political background – for feminists, who see it as the crucible of gender domination; for liberals, who identify it with personal autonomy and a challenge

⁷⁸ For example, Somerville, above n 56; Sophie Bowlby, Susan Gregory and Linda McKie, ‘“Doing Home”: Patriarchy, Caring and Space’ (1997) 20(3) *Women’s Studies International Forum* 343; Julia Wardaugh, ‘The Unaccommodated Woman: Home, Homelessness and Identity’ (1999) 47(1) *The Sociological Review* 91; and Mallett, above n 26.

⁷⁹ Blunt and Dowling, above n 10, 22.

⁸⁰ Ibid 2-3.

⁸¹ Susan Saegert, ‘The Role of Housing in the Experience of Dwelling’ in Irwin Altman and Carol Werner, *Home Environments* (Plenum, 1985), 287.

⁸² Kim Dovey, ‘Home and Homelessness’ in Altman and Werner, *ibid* 33-64.

⁸³ Rapoport, above n 61.

⁸⁴ Lorna Fox, ‘The Meaning of Home: A Chimerical Concept or a Legal Challenge?’ (2002) 29(4) *Journal of Law and Society* 580, 590 (emphasis in original) and Fox O’Mahony, above n 40 (my emphasis). However, Fox O’Mahony’s broad conceptualisation of home (defining home as physical structure; territory; financial investment; identity; and as a social and cultural phenomenon) does not explore how, or where exactly, the transformation of house to home occurs.

⁸⁵ Ibid 10.

⁸⁶ Alison Blunt, ‘Cultural Geographies of Home’ (2005) 29(4) *Progress in Human Geography* 505, 510.

to state power; for socialists, who approach it as a challenge to collective life and the ideal of a planned and egalitarian social order.⁸⁷

In this thesis I deploy a working definition of home based on five key themes of home drawn from the wider literature. These are: home as being; home as haven; home as property; home as homeland; and home as nostalgia. Each of these themes raises further subthemes and ideas, and together these guide my exploration of international law and home in the chapters that follow. Let me introduce them briefly here.

Home as being

The significance of home to the experience of dwelling is well established in philosophy. Martin Heidegger argued that it is through dwelling that we come to 'be' in the world:

The way in which you are and I am, the manner in which we humans are on the earth, is *Buan*, dwelling. To be a human means to be on the earth as a mortal. It means to dwell... man is insofar as he dwells.⁸⁸

For Heidegger, dwelling is less about living in a physical structure, or dwelling-place (*Heimat*), than about a particular state of *being* or an experience of *being* in the world (*sich aufhalten*).⁸⁹

Henri Lefebvre too saw dwelling as essential to being human:

The material habitation, the dwelling, the fact of settling on the ground (or detaching oneself from it), the fact of becoming rooted (or uprooted), the fact of living here or there (and consequently of leaving, going elsewhere), all these facts and phenomena are inherent in what it is to be human.⁹⁰

John Hollander suggests that the dwelling-place in Modern English means 'a place of origin returned to' and notes how the English language reinforces a particular enclosure in the words

⁸⁷ Peter Saunders and Peter Williams, 'The Constitution of Home: Towards a Research Agenda' (1988) 3(2) *Housing Studies* 81, 91.

⁸⁸ Martin Heidegger, *Basic Writings: From Being and Time (1927) to the Task of Thinking (1964)* (David Farrell Krell trans, Routledge, 2nd ed, 1993), Part I.

⁸⁹ *Ibid* 290.

⁹⁰ Henri Lefebvre, *Key Writings* (Continuum, 2003).

‘womb’ and ‘tomb’, ‘as if the *-omb* were a general human home.’⁹¹ Joseph Rykwert argues that ‘[h]ome is where one starts from’⁹² while Mary Douglas contends that the cardinal points of the home ‘are not mere coordinates for plotting position but “directions of existence.”’⁹³ Understood in these ways home is closely related to the ideas of being and belonging.

Home as haven

A recurring theme in the literature is the association of home with a person’s inner world, and themes of haven, refuge, retreat, privacy, security, control and protection. Home is a place of retreat and relaxation and a window into our private lives.⁹⁴ Heidegger wrote that dwelling means ‘to remain, to stay in a place... to be at peace, to be brought to peace, to remain at peace... preserved from harm and danger, preserved from something, safeguarded.’⁹⁵ Other writers associate home, and in particular home ownership, with the idea of ‘ontological security’.⁹⁶ Peter Saunders argues that home ownership is a means by which individuals can attain ontological security in their everyday life.⁹⁷ He explains ontological security as the ability to control one’s environment, free from surveillance, to be free and to be at ease in a world and condition that rarely affords either.⁹⁸ The private realm of the home offers security,⁹⁹ control,¹⁰⁰ and a place of regeneration and freedom.¹⁰¹

The problem with the ‘home as haven’ thesis, reflected in much of the early literature, is that the reality of home is more contingent and conflicted than it suggests. It has been argued that the

⁹¹ John Hollander, ‘It All Depends’ (1991) 58(1) *Social Research* 31, 34.

⁹² Joseph Rykwert, ‘House and Home’ (1991) 58(1) *Social Research* 51.

⁹³ Mary Douglas, ‘The Idea of a Home: A Kind of Space’ (1991) 58(1) *Social Research* 287, 290 citing James Littlejohn, ‘The Temne House’ (1960) 14 *Sierra Leone Studies* 63.

⁹⁴ Rybczynski, above nn 52 and 63.

⁹⁵ Heidegger, above n 88, Part I. See also reflection on Heidegger and Bachelard’s discussion of dwelling in Lefebvre, above n 90, 122-3.

⁹⁶ ‘Ontological security’ was first defined by Anthony Giddens in *The Constitution of Society* (Polity, 1984) as ‘[c]onfidence or trust that natural and social worlds are as they appear to be, including the basic existential parameters of self conception and social identity.’ See further discussion in Munro and Madigan, above n 11; Saunders and Williams, above n 87; and most recently in David Madden and Peter Marcuse, *In Defence of Housing* (Verso, 2016), 77ff on the relationship between ontological security, homeownership and other tenure forms.

⁹⁷ Peter Saunders, ‘Beyond Housing Classes: The Sociological Significance of Private Property Rights in Means of Consumption’ (1984) 8(2) *International Journal of Urban and Regional Research* 202.

⁹⁸ *Ibid.*

⁹⁹ Dovey, above n 82.

¹⁰⁰ Jane Darke, ‘Women and the Meaning of Home’ in Rose Gilroy and Roberta Woods (eds), *Housing Women* Routledge, 1994).

¹⁰¹ See further ‘Introduction’ in Graham Allan and Graham Crow (eds), *Home and Family: Creating the Domestic Sphere* (Palgrave Macmillan, 1989).

home as haven thesis exaggerates ‘the emotional nobility of the home’¹⁰² and ensured that home has become one of the most idealised sites of human existence.¹⁰³ One scholar writes that the use of home as a metaphor for experiences of joy, comfort and protection has ‘conspired to produce a normative association between home and positivity’.¹⁰⁴ Some have rejected the ‘benign’ approach to home in a world of conflict and tension,¹⁰⁵ and others have called for a more realistic approach to the study of home against purely optimistic accounts.¹⁰⁶ Feminists, meanwhile, have long argued that home is not always safe, protected or free from threat and violence.¹⁰⁷ They have suggested that home research needs to ‘focus on the ways in which home disappoints, aggravates, neglects, confines and contradicts as much as it inspires and comforts us.’¹⁰⁸ One example of this approach is the edited collection *Ideal Homes?*. The authors bring into focus the contrasting and contradictory character of home, presenting home as a site of struggle, exclusion and violence,¹⁰⁹ and ‘the domestic’ as a continuous process of negotiation and contest.¹¹⁰ Their work is a reminder that the comforting and discomfiting dimensions of home may in fact be interdependent:

It makes much more sense to view home as a site of and for ambiguity since its protective functions are interconnected with its limited characteristics. Feelings of solidarity, safety, and protection are often achieved by severe acts of exclusion and regulation, which are in turn oppressive.¹¹¹

¹⁰² Barbara Ehrenreich and Deirdre English, *For Her Own Good: 150 Years of the Experts' Advice to Women* (Pluto, 1979) 10, cited in Katherine Brickell, ‘“Mapping” and “Doing” Critical Geographies of Home’ (2011) *Progress in Human Geography* 1, 1.

¹⁰³ Brickell *ibid.*

¹⁰⁴ *Ibid.* See also Moore, above n 51, and John Short, ‘Foreword’ in Irene Cieraad (ed), *At Home: An Anthropology of Domestic Space* (Syracuse University Press, 1999).

¹⁰⁵ David Sibley, *Geographies of Exclusion: Societies and Difference in the West* (Routledge, 1995) 93.

¹⁰⁶ John Porteous and Sandra Smith, *Domicide: The Global Destruction of Home* (McGill-Queens University Press, 2001) 152.

¹⁰⁷ See, among others, Iris Marion Young, ‘House and Home: Feminist Variations on a Theme’ in *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton University Press, 1997) and hooks, bell, ‘Homeplace: A Site of Resistance’ in bell hooks (ed), *Yearning: Race, Gender, and Cultural Politics* (South End Press, 1990).

¹⁰⁸ Moore, above n 51, 213.

¹⁰⁹ See, among others, Tim Brindley, ‘The Modern House in England: An Architecture of Exclusion’ in Chapman and Hockey, above n 53, 30-44 and in the same volume, Laura Goldsack, ‘A Haven in a Heartless World? Women and Domestic Violence’, 121-133.

¹¹⁰ Tony Chapman, ‘“You’ve Got Him Well Trained”: The Negotiation of Roles in the Domestic Sphere’ in Chapman and Hockey, *ibid* 163-181.

¹¹¹ Nicole Schröder, *Spaces and Places in Motion: Spatial Concepts in Contemporary American Literature* (Gunter Narr Verlag, 2006) 33 cited in Brickell, above n 102, 2.

Home as property

The idea of home as property is another prevalent theme in the literature. This may reflect a bias towards Anglo-European and Anglo-American experiences of home in which property is central to social organisation and to the formation of individual identity. Property operates to ‘regulate relations among people by distributing powers to control valued resources’.¹¹² Yet property also governs our internal relationships, our relationship to ourselves: rights in property form a ‘protective carapace’ over us, allowing us to meet changes in the world with a sense of security.¹¹³

While private property in the home is individualistic (focusing on individual rights to use, exchange and exclude), private property in the home is social and political in its effects and origins.¹¹⁴ The social linkages that underpin the institution of private property are intensified in the context of the home, where the relationships between inhabitants are often based on kin, intimacy, caring, tradition and religion, as well as economic relationships, such as between landlord and tenant. The arrangements for home as property also have important implications for social ordering.¹¹⁵ In both eastern and western cultures access to home as property is an indicator of one’s social status and position within a social hierarchy. ‘The balance of power in a society accompanies the balance of property and land.’¹¹⁶ The emphasis in the scholarly literature, reflecting deeper cultural mythology around the rights of private property and homeownership, excludes many others whose experience of home is not regulated by the rights of property.¹¹⁷ Socio-legal scholars have used Bourdieu’s theories of law as a site and mechanism of power (including the power to exclude) in property studies.¹¹⁸ The relation of home and property also has problematic implications affecting class, race and gender relations.¹¹⁹

¹¹² Joseph Singer, ‘Property and Social Relations: From Title to Entitlement’ in Charles Geisler and Gail Daneker, *Property and Values: Alternatives to Public and Private Ownership* (Island, 2000) 3.

¹¹³ King, above n 4, 68.

¹¹⁴ See, among others, work by Peter Hollowell, *Property and Social Relations* (Heinemann, 1982) and more recently Joseph Singer, *Entitlement: The Paradoxes of Property* (Yale University Press, 2000).

¹¹⁵ Nicholas Blomley, ‘Law, Property, and the Geography of Violence: The Frontier, the Survey and the Grid’ (2003) 93(1) *Annals of the Association of American Geographers* 121, 122.

¹¹⁶ Charles Adams (ed), *The Works of John Adams, Volume 9* (Books for Libraries, 1969) 367, cited in Blomley *ibid.*

¹¹⁷ See, for example, Easthope, above n 57 and Ann Winstanley, David Thorns, and Harvey Perkins, ‘Moving House, Creating Home: Exploring Residential Mobility’ (2002) 17(6) *Housing Studies* 813-32.

¹¹⁸ Pierre Bourdieu, ‘The Force of Law: Towards a Sociology of the Juridical Field’ (1987) 38 *Hastings Law Journal* 814. See discussion in, for example, Sarah Blandy, Jennifer Dixon and Ann Dupuis, ‘Theorising Power Relationships in Multi-owned Residential Developments: Unpacking the Bundle of Rights’ (2006) 43 *Urban Studies* 2365. See also Sarah Blandy and David Sibley, ‘Law, Boundaries and the

Home as homeland

Meanwhile, the notion of home as homeland features in post-colonial, critical race and gender studies work on home. ‘Homeland’ is a powerful spatial imaginary that articulates ideas of nation and nationhood, and fuses the experience of exile with attachment to home. In nationalist and imperialist politics, material and imaginative geographies of the homeland have been particularly important. Thembisa Waetjen, writing about how notions of home and national belonging were narrated by the South African Zulu nationalist movement, argues that in ‘nationalist discourses, political meaning is attached to the spaces in which people carry out their ordinary lives.’¹²⁰ Home and the domestic world are transposed onto the idea of homeland. Thembisa understands this as follows:

The idea of a homeland is of a place embodying social essences, cultural or historical, that legitimately claims to a natural sovereignty. A homeland is the landscape also of historical memory that offers tangible images of rootedness and grounded community. Within a set of delineated borders, the autonomous nation is a family with a rightful home.¹²¹

Nation as homeland discourses are often animated by gendered use of domestic and familial imagery.¹²² We speak of nations as motherlands and fatherlands, and the word nation itself comes from the Latin, *natio*, to be born. And we ‘adopt’ countries which are not our ‘native’ homes and are ‘naturalised’ into the ‘national family’ and the ‘Family of Nations’.¹²³

In promoting patriotism and nationalism, the homeland narrative has also sheltered power, wealth and land.¹²⁴ Homeland is often part of the armory of states’ protective practices. Iris Marion

Production of Space’ (2010) 19(3) *Social & Legal Studies* 275. Compare United States perspective in Thomas Merrill, ‘Property and the Right to Exclude’ (1998) 77(4) *Nebraska Law Review* 730 see also Robert Ellickson, ‘The Untenable Case for an Unconditional Right to Shelter’ (1992) 15 *Harvard Journal of Law and Public Policy* 17.

¹¹⁹ See Nicholas Blomley, above n 115, 122; Jeremy Waldron, ‘Homelessness and the Issue of Freedom’ (1991-92) 39 *UCLA Law Review* 295; and Singer, above n 112, 13, among others.

¹²⁰ Thembisa Waetjen, ‘The “Home” in Homeland’ Gender, National Space, and Inkatha’s Politics of Ethnicity’ (1999) 22(4) *Ethnic and Racial Studies* 653, 654.

¹²¹ Ibid.

¹²² Blunt and Dowling, above n 10, 151.

¹²³ Anne McClintock, ‘Family Feuds: Gender, Nationalism and the Family’ (1993) 44 *Feminist Review* 63; quoted in Blunt and Dowling, *ibid* 161.

¹²⁴ See perspectives in Homi Bhabha (ed), *Nation and Narration* (Routledge, 1990).

Young argued that values associated with home – safety, privacy, individual agency – can be transferred to the homeland.¹²⁵ Thus, homeland offers safety, autonomy, ownership over territory, and ‘preserves the story of a collective life.’¹²⁶ Yet where protecting the homeland is a euphemism for dominating the weak, it may serve to undermine the values of home. Under the protector/protected relationship, citizens pledge loyalty to the state in return for security. Patriotism for homeland sees citizens embrace their own subordination and denies autonomy and individual agency.¹²⁷

Home and nostalgia

Finally, the nostalgic home, and the idea of home as nostalgia, makes many appearances in humanist writing on home. It is perhaps most famously explored in Bachelard’s 1958 phenomenology of home, *The Poetics of Space*. To Bachelard, ‘our house is our corner of the world’ and ‘an instrument with which to confront the cosmos’.¹²⁸ Home is a repertory for the imagination and its material forms, created through dreams, memories and emotions: ‘the house is one of the greatest powers of integration for the thoughts, memories and dreams of mankind.’¹²⁹ Its value lies in that ‘the house shelters day-dreaming, the house protects the dreamer, the house allows one to dream in peace.’¹³⁰

Yet nostalgia for home lays traps and dangers. The return home may not be as sweet as the longed-for and idealised home promises, such as in Odysseus’ bloody homecoming to Ithaca. Moreover, the cost of the unified subject that the nostalgic, ideal home promises may be withdrawal from politics and the exclusion of the other. As Bonnie Honig argues:

The dream of home is dangerous, particularly in postcolonial settings, because it animates and exacerbates the inability of constituted subjects – or nations – to accept their own

¹²⁵ See Young, above n 107. See also Iris Marion Young, 'The Logic of Masculinist Protection: Reflections on the Current Security State' (2003) 29(1) *Signs: Journal of Women in Culture and Society* 1.

¹²⁶ Carole Pateman, 'House, Home and Homeland' (2008) 4(2) *Politics & Gender* 341, 343.

¹²⁷ *Ibid* 344.

¹²⁸ Bachelard, above n 65, 3-4, 17.

¹²⁹ *Ibid* 6.

¹³⁰ *Ibid* 6.

internal divisions, and it engenders zealotry, the will to bring the dream of unitariness of home into being.¹³¹

These five key themes form the basis of the working definition of home I deploy in this thesis and guide my exploration of home and international law in the chapters that follow. I take up this multifaceted definition in order to make clear that there is no universal or monolithic meaning of home. Indeed, the meanings of home are not limited to those I discuss in this thesis. As David Benjamin argues, '[a]lthough we might study the *house* as a discrete variable, *home* is not an empirical variable whose meaning we might define in advance of careful measurement and explanation.'¹³² The definition of home I use in this thesis also challenges conceptualisations of home that elevate material, utilitarian and commercial considerations of home above the intangible and affective, expressive and symbolic qualities of home.¹³³ It affirms that for most people (including transient and refugee populations) inhabitation involves relations to memory, identity and everyday experiences, as well as to physical places and material objects, and that home, whatever its form, continues to be an important focus for the articulation and formation of human life, identity and feeling. Finally, the concept of home I deploy can be distinguished from other concepts, such as housing (which most often refers to the physical structure and provision of shelter) and place (a bounded location or destination, real or imaginary). Housing and place are concepts for which there is already a considerable literature and while I do discuss these concepts at various points, they are not my concern in this thesis.

1.5 Studying the 'everyday'

Having now introduced the key problematic of this thesis, and with an understanding of home in mind, it is important to situate the thesis within debates about law and the everyday, and in particular the 'everyday life' of international law. Despite the traditional focus of international law scholarship on the 'extraordinary' and the 'exceptional', a handful of scholars have begun to turn to the 'everyday life' of international law. In 2002, Hilary Charlesworth was the first to ask, what might the everyday life of international law look like?¹³⁴ She asked this question in the context of arguing that international lawyers' heightened attention to crisis (that is, to the

¹³¹ Bonnie Honig, 'Difference, Dilemmas, and the Politics of Home' (1994) 61(3) *Social Research* 563, 585.

¹³² David Benjamin, 'Afterword', in Benjamin and Stea (eds), above n 54, 294.

¹³³ See for example Keith Jacobs and Jeff Malpas, 'Material Objects, Identity and the Home', above n 14, 282.

¹³⁴ Hilary Charlesworth, 'International Law: A Discipline of Crisis' (2002) 65(3) *Modern Law Review* 377, 391.

extraordinary and exceptional events, cases and interventions) leads them to cast themselves in a 'heroic mould'¹³⁵ and that this in turn contributes to the production of an impoverished set of substantive principles.¹³⁶ By regarding crises as its 'bread and butter' work and the engine of progressive development of the discipline, Charlesworth warned that international law becomes 'simply a source of justification for the status quo.'¹³⁷ One way forward, she suggested, may be to refocus our work on the issues of structural injustice that underpin everyday life. That is, the phenomena that are not widely studied by international lawyers and which remain at the margins of the 'international law world.'¹³⁸ This thesis takes its course from that injunction, taking home as a key site for the experience of everyday life as well as being central to a range of concerns relating to individual, social and other forms of injustice.

While the notion of the 'everyday' is relatively new to international law scholars, its study has a long tradition in other disciplines. As Laura Nader and Tim Plowman argue, 'the quotidian has been a central concern of anthropology since the development of ethnographic enquiry.'¹³⁹ As such, international law scholars now 'turning' to ideas of the everyday and the local are endowed with a rich heritage of work exploring and critiquing notions of the everyday, from sociologists and philosophers such as Erving Goffman, Michel de Certeau, Henri Lefebvre, Martin Heidegger, Gaston Bachelard and Maurice Merleau-Ponty,¹⁴⁰ to scholars in geography, urban studies, architecture and art history such as Yi-Fu Tuan, Jane Jacobs, Doreen Massey and Jane Rendell.¹⁴¹ The concerns of everyday life have been described as 'the humble and solid stuff, what we take for granted, the bits and pieces linked by time and that make up our daily routine.'¹⁴² For de Certeau, everyday life comprises the daily practices, the 'ways of operating or doing things' that

¹³⁵ Ibid 387.

¹³⁶ Ibid 390.

¹³⁷ Ibid 390.

¹³⁸ Ibid 390.

¹³⁹ Laura Nader and Tim Plowman, 'Anthropology and Everyday Scholarship: Legal Anthropology' (1996) 98(3) *American Anthropologist* 624, 625.

¹⁴⁰ See Erving Goffman, *The Presentation of Self in Everyday Life* (Doubleday, 1959); Michel de Certeau, *The Practice of Everyday Life* (University of California Press, 1984); Henri Lefebvre, *The Production of Space* (Donald Nicholson-Smith trans, Wiley-Blackwell, 1991) and *Key Writings*, above n 90; Martin Heidegger, above n 88; Bachelard, above n 65; Maurice Merleau-Ponty, *The Phenomenology of Perception* (Routledge, 1945, 2013).

¹⁴¹ Yi-Fu Tuan, 'Humanistic Geography' (1976) 66(2) *Annals of the Association of American Geographers* 266; Jane Jacobs, *The Death and Life of Great American Cities* (Random House, 1961, 2002); Doreen Massey, *For Space* (SAGE, 2005); Jane Rendell, *Site-writing: The Architecture of Art Criticism* (IB Tauris, 2006). See also, from a legal scholar, Mariana Valverde, *Everyday Law on the Street: City Governance in an Age of Diversity* (University of Chicago Press, 2012). I discuss the work of some of these authors in chapter two.

¹⁴² Lefebvre, above n 140, 51.

are usually considered as the background of social activity.¹⁴³ He saw everyday practices – going to work or coming home, for example – as stories that ‘write’ places, traversing and organising spaces, selecting and linking them together and making ‘sentences and itineraries’ out of them.¹⁴⁴ Walter Benjamin proposed to examine history by concerning himself with ‘the conquered’, whom he thought of as everyone in ordinary, everyday life.¹⁴⁵ And yet, as one author notes: ‘Everyday things represent the most overlooked knowledge.’¹⁴⁶ Despite – or perhaps because of – the immanence of the everyday, its framing of daily life, we tend neither to notice nor question it.

1.6 Law and the everyday

Socio-legal scholars were the first legal scholars to address the everyday in the study of law.¹⁴⁷ For Ewick and Silbey, the focus on the everyday arose in the context of investigating legal consciousness. They sought to study the everyday as the ‘commonplace transactions and relationships’ that do (or do not) assume a legal character and ‘the ways in which the shape of everyday life is informed by law.’¹⁴⁸ Sarat and Kearns defined the everyday as ‘what goes on without saying because it cannot be said.’¹⁴⁹ Legal literature on ‘law in everyday life’¹⁵⁰ and ‘the common place of law’¹⁵¹ has moved through different phases. In early work, scholars conceived law and the everyday as autonomous and distinct.¹⁵² This work emphasised the primacy of law in generating norms and the role of law in reacting to disruptions – ‘trouble cases’¹⁵³ – and restoring

¹⁴³ De Certeau, above n 140, xi.

¹⁴⁴ Ibid 115.

¹⁴⁵ Walter Benjamin, ‘Theses on the Philosophy of History’ (1940) in Hannah Arendt (ed), *Illuminations* (Random House, 1968, 2002) 253.

¹⁴⁶ Don DeLillo, *Underworld* (Stacey Ulster ed, Continuum, 2011) 109.

¹⁴⁷ Patricia Ewick and Susan Silbey’s seminal work in this field has been particularly influential: see *The Common Place of Law: Stories From Everyday Life* (University of Chicago Press, 1998) and see references below. I use the UK terminology ‘socio-legal’ and the US ‘law and society’ interchangeably in this chapter. For both, their object is the study of legal systems as they actually operate, the methods are usually those of the social sciences, and the data usually goes beyond the ‘conventional “authorities”’: Lawrence Friedman, ‘The Law and Society Movement’ (1986) *Stanford Law Review* 763, 764. However, I do distinguish some aspects of the traditions: see my discussion below. See further Susan Silbey and Austin Sarat, ‘Critical Traditions in Law and Society Research’ (1987) 21(1) *Law and Society Review* 165.

¹⁴⁸ Reflecting a ‘law first’ position: Patricia Ewick and Susan Silbey, ‘Conformity, Contestation and Resistance: An Account of Legal Consciousness’ (1992) 26(3) *New England Law Review* 749, 738. See my discussion below on the ‘law first’ perspective and its evolution.

¹⁴⁹ Austin Sarat and Thomas Kearns (eds), *Law in Everyday Life* (University of Michigan Press, 1993), 6.

¹⁵⁰ Ibid.

¹⁵¹ Ewick and Silbey, above n 147.

¹⁵² Patricia Ewick, ‘Law and Everyday Life’ in James Wright (ed), *Encyclopedia of the Social and Behavioral Sciences* (Elsevier, 2015), 468-73.

¹⁵³ Karl Llewellyn and E. Adamson Hoebel proposed the ‘trouble case’ method: see chapter 2, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence* (William S Hein & Co, 1941). See also

order to everyday life. Law played a restorative function, but it was at the same time constitutive of order itself: people, identity, relationships and the material world were seen as emerging from legal ideas. In this ‘law first’ perspective, law operates in and produces ‘the routine and the familiar; the personal and the intimate.’¹⁵⁴ From the ‘law first’ position, scholars moved to seeing law and the everyday as mutually constitutive. Ewick argued that law, as it circulates through the everyday, shaping and constituting social life, is itself also shaped by encounters ‘on the ground’. As people and groups chose to reject, avoid, ignore, translate or appropriate the law, the content, form and reach of law itself was produced.¹⁵⁵ Sarat and Kearns shared this view. In their seminal collection of essays, *Law and Everyday Life*, the authors offer two perspectives on coupling everyday life with law: one instrumentalist, based on understanding how the outside intervening force of law can advance or retard everyday interests, and the other constitutive, conceiving of law and the everyday as inextricably intertwined, each providing the other with tacit assumptions.¹⁵⁶ The everyday is a normative resource that is ‘powerfully shaped by law’ but on which law also ‘deeply depends’¹⁵⁷ and a more intensive focus on the everyday would ‘recognize more fully the interactive character of law’s relation to society.’¹⁵⁸ In the same collection of essays another author puts the position more simply: ‘Everyday life constitutes law and is constituted by it.’¹⁵⁹

Within western scholarly tradition, socio-legal scholars have also deployed the ‘everyday’ in different ways. Mariana Valverde argues that American socio-legal scholars traditionally invoked the ‘everyday’ against the abstraction of law¹⁶⁰ and, in the 1980s and 1990s, drew much from the work of Goffman and Clifford Geertz on the sociology of the everyday.¹⁶¹ Meanwhile, Valverde argues that for British/Continental socio-legal scholars swept up in the structural Marxism of the

discussion in Austin Sarat, Marianne Constable, David Engel, Valerie Hans and Susan Lawrence (eds), *Everyday Practices and Trouble Cases* (Northwestern, 1998) 223ff.

¹⁵⁴ Ewick, above n 152, 473.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Sarat and Kearns, above n 149, 56.

¹⁵⁸ Ibid 8.

¹⁵⁹ David Engel, ‘Law in the Domains of Everyday Life: The Construction of Community and Difference’ in Sarat and Kearns, above n 149, 126.

¹⁶⁰ Mariana Valverde, ‘“Which Side Are You On?” Uses of the Everyday in Sociolegal Scholarship’ (2003) 26(1) *PoLAR* 86.

¹⁶¹ For example Goffman, above n 140, and Clifford Geertz, *The Interpretation of Cultures* (Basic Books, 1973). See further Friedman, above n 147, locating the origins of the movement in nineteenth century scholars such as Max Weber. See also Llewellyn and Hoebel at above n 153.

1960s, the everyday was wielded as a weapon against structuralism and its ‘theorisations of social existence’.¹⁶²

We now have an extensive catalogue of legal scholarship on the everyday. Socio-legal scholars have attended to some of the most immediate points where law meets everyday life, such as the street, benefit offices, lower courts, lawyers’ offices and mediation programs.¹⁶³ Some of this work demonstrates how law – often a source of discipline and oppression – can also be used as a pivot for resistance, for example through everyday acts of resistance against law and the transformation of law through collective action.¹⁶⁴ The ‘turn to space’ in social science in the 1980s also gave rise to several distinctive branches of legal scholarship engaging with the everyday, such as law and space,¹⁶⁵ legal geography¹⁶⁶ and urban law.¹⁶⁷ These studies have explored law in streetscapes, cities, housing developments and ‘gray spaces’ such as informal settlements and camps, among other spaces.¹⁶⁸ Following the Lefebvrian account of space as

¹⁶² Valverde, above n 160, 93.

¹⁶³ See, among many other examples: Malcolm Feely, *The Process is Punishment* (Russell Sage, 1979); Hazel Genn, *Hard Bargaining: Out of Court Settlement in Personal Injury Actions*. Oxford University Press, 1987); Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness Among Working-class Americans* (University of Chicago Press, 1990); Richard Ingleby, *Solicitors and Divorce* (Oxford University Press, 1992); William Felstiner and Austin Sarat, *Divorce Lawyers and Their Clients: Power and Meaning in the Legal Process* (Oxford University Press, 1995); Susan Hirsch, *Pronouncing and Preserving: Gender and the Discourses of Disputing in an African American Court* (University of Chicago Press, 1998); and Dave Cowan and Emma Hitchings, ‘Pretty Boring Stuff’: District Judges and Housing Possession Proceedings’ (2007) 16(3) *Social and Legal Studies* 363.

¹⁶⁴ See, for example, Ewick and Silbey, above n 147 and Austin Sarat, ‘The Law is All Over’: Power, Resistance, and the Legal Consciousness of the Welfare Poor’ (1988) 2 *Yale Journal of Law and Humanities* 343.

¹⁶⁵ Franz von Benda-Beckmann, Keebet von Benda-Beckmann and Anne Griffiths (eds), *Spatializing Law: An Anthropological Geography of Law in Society* (Ashgate, 2009).

¹⁶⁶ See for example Nicholas Blomley, *Law, Space and the Geographies of Power* (Guildford, 1994); Nicholas Blomley, David Delaney and Richard Ford (eds), *The Legal Geographies Reader: Law, Power, and Space* (Blackwell, 2001); Antonia Layard, ‘Shopping in the Public Realm: A Law of Place’ (2010) 37(3) *Journal of Law and Society* 412; Keebet von Benda-Beckmann, ‘Anthropological Perspectives on Law and Geography’ (2009) 32(2) *PoLAR: Political and Legal Anthropology Review* 265-278; Austin Sarat, Lawrence Douglas and Martha Merrill (eds), *The Place of Law* (University of Michigan Press, 2003); David Delaney, *The Spatial, The Legal and the Pragmatics of World-Making: Nomospheric Investigations* (Routledge, 2010); and Andreas Philippopoulos-Mihalopoulos, ‘Law’s Spatial Turn: Geography, Justice and a Certain Fear of Space’ (2011) 7(2) *Law, Culture and the Humanities* 1.

¹⁶⁷ Gerald Frug, *City Making: Building Communities Without Building Walls* (Princeton University Press, 2001) and Gerald Frug and David Barron, ‘International Local Government Law’ (2006) 38(1) *Urban Lawyer* 1-62. See also Antonia Layard, ‘Law and Localism: The Case of Multiple Occupancy Housing’ (2012) 32(4) *Legal Studies* 551.

¹⁶⁸ Oren Yiftachel, ‘Critical Theory and ‘Gray Space’: Mobilization of the Colonized’ (2009) 13(2-3) *City* 246 and see references in footnotes above.

constituted by social action, this literature reflects an understanding of ‘law and everyday life’ as the social construction of legality in – as well as away from – the formal sites of law.¹⁶⁹

However, the ‘everyday’ has not escaped critique. The idea that law and the everyday are mutually constituted is problematic because it constructs law and everyday life as separate spheres and different ontological categories.¹⁷⁰ It might be better to say that not only is the boundary between law and the everyday blurry, but that no such boundary may exist in the first place. The notion of the ‘everyday’ has also been criticised for being too abstract, and so liable to occlude or obscure difference. The capaciousness of the ‘everyday’ has a tendency to subsume people’s multifarious activities, positions, histories and experiences into one category. In doing so, Valverde argues that the everyday ‘acts to erase differences – national, temporal, cultural differences – in the service of a generic ... experience that is said to automatically trump and override any documented differences.’¹⁷¹

Yet the tendency to abstraction is paradoxical because the reality of the everyday is the opposite of abstract: everyday life *is* extremely differentiated between people and places. As such, the criticism may lie more in the implication that the ‘everyday’ is concrete or fixed. Sarat and Kearns, for example, come close to suggesting that the everyday can be fixed and concrete when they argue:

[s]tudying law in the practices of everyday life emphasizes particularity and specificity, the “authenticity of dailiness”. To see law in everyday life means going to small towns... We must study families, schools, workplaces, and even academic conferences.¹⁷²

This idea of the ‘everyday’ as concrete, fixed, specific and complete may be reassuring and comforting, even authentic. However, the danger is that valorising the everyday forecloses critical debate and risks collapsing complexity into simplistic ideas of order¹⁷³ and generates an

¹⁶⁹ Lefebvre, above n 140. See further Ewick and Silbey, above n 147; see, more recently, Simon Halliday, Celia Kitzinger and Jenny Kitzinger, ‘Law in Everyday Life and Death: A Socio-Legal Study of Chronic Disorders of Consciousness’ (2015) 35(1) *Legal Studies* 55.

¹⁷⁰ For example, see Valverde, above n 160, 91ff.

¹⁷¹ *Ibid* 90.

¹⁷² *Ibid* 60.

¹⁷³ *Ibid* 244.

‘unreflected upon existence.’¹⁷⁴ Claims to ‘everyday concreteness’ also often turn out to be incorrect (whether these are about our own or others’ everyday). Further, presenting the everyday as something concrete and fixed might endorse the type of abstraction, standardisation and quantification that has proven so violent to the recognition and appreciation of difference in human experience, and which hides issues of structural injustice.¹⁷⁵

In light of these critiques, scholars investigating the ‘everyday’ should be mindful to deploy the concept in a way that makes it possible to uncover – rather than deny or even reinforce – the complexity of the everyday. The critiques are also a reminder that the everyday is not a place or a thing or a separate sphere. Instead, it is an ideology. To argue that we should pay attention to the everyday is make an ideological claim.¹⁷⁶

1.7 Law and the everyday in global contexts

The most recent turn has been towards investigating law and the everyday in global contexts. Eve Darian-Smith defines ‘global contexts’ as contemporary environments characterised by globalisation and neo-liberal governance.¹⁷⁷ Global contexts pose particular challenges to scholars seeking to pin down the relationship between law and the everyday. Globalisation manifests in re-configurations of time and space in which state power and capital can be exercised remotely and over a potentially limitless area.¹⁷⁸ This re-configuration unsettles the core idea of sovereignty and traditional notions of law and jurisdiction. In doing so, it also disrupts the relationship between law and the everyday and destabilises the categories themselves.¹⁷⁹ A more tangible example is how while the lives of many people may remain suffused by law, certain actors – for example, transnational corporations, intergovernmental organisations and even United Nations organs – move freely across and between geographical boundaries and legal jurisdictions, often in a way that is removed or detached or even free of law and everyday life ‘on the ground’. This reality has prompted some scholars to argue that it may now be the absence of law (or

¹⁷⁴ George Marcus, ‘Mass Toxic Torts and the End of Everyday Life’ in Sarat and Kearns, above n 149, 237.

¹⁷⁵ See further Sally Engle Merry, *The Seductions of Quantification: Measuring Human Rights, Gender Violence, and Sex Trafficking* (University of Chicago Press, 2016).

¹⁷⁶ See general *ibid.* See also Valverde, above n 160, 92.

¹⁷⁷ See further Eve Darian-Smith, *Laws and Societies in Global Contexts* (Cambridge University Press, 2013).

¹⁷⁸ See generally Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton University Press, 2006).

¹⁷⁹ Ewick, above n 152, 473.

unconsciousness of law) that may be the dominant feature of law in everyday life.¹⁸⁰ The point is that law is not uniform in time and space and this conflicts with conventional notions of the everyday as being bounded by those parameters.

In response to the changed and changing dynamic between law and the everyday in global contexts, Ewick argues that it is no longer sufficient to accept that law and everyday life are mutually constitutive.¹⁸¹ Instead, what is important is examining and attempting to define the relationship between them. Ewick urges scholars to make visible the work that law and the everyday each do; and to shift from examining ‘law and everyday life’ to ‘law in everyday life’ and ‘everyday life in law’. These reflections are particularly pertinent for international law scholars, many of whom are now grappling with the idea of ‘global law’ and the realignments and reassignments of rights, authority and territory – and the notion of the everyday – that this implicates.¹⁸²

The global and globalised nature of contemporary life requires new methodological approaches to studying law in the everyday.¹⁸³ Legal scholars in this field have for some time relied on investigating normative frameworks, legal phenomena and reactions to law in particular places. This approach has required ‘having a place to go to where things are happening, where there are people to watch, events to follow, interactions to understand.’¹⁸⁴ However, the increasingly transnational nature of law and legal processes in global contexts troubles place-based accounts of law in everyday life. One scholar has argued that discrete place-based accounts of law and legal processes are ‘untenable given the global spread of modernity and its economic relationships along with the rapid transnational diffusion of images, ideas and systems of meaning.’¹⁸⁵ Law is ‘self-consciously spatial in orientation’, defining and being defined by its

¹⁸⁰ Ibid, citing David Engel and Jaruwana Engel, *Tort, Custom, and Karma: Globalization and Legal Consciousness in Thailand* (Stanford University Press, 2010).

¹⁸¹ Ewick, above n 152.

¹⁸² For example, see generally Mark Goodale and Sally Engle Merry, *The Practice of Human Rights: Tracking Law Between the Global and the Local* (Cambridge University Press, 2007) and Darian-Smith, above n 177.

¹⁸³ Among the rich literature on ideas of the ‘global’, Saskia Sassen’s work *Territory, Authority, Rights: From Medieval to Global Assemblages*, above n 178, may have particular interest for international law scholars. See also generally the scholarly journal *Globalizations*.

¹⁸⁴ Sally Engle Merry, ‘Crossing Boundaries: Ethnography in the Twenty-first Century’ (2000) 23(2) *PoLAR: Political and Legal Anthropological Review* 127, 128.

¹⁸⁵ Ibid.

boundaries,¹⁸⁶ but that in global contexts those boundaries are seen to be porous, artificial and shifting.¹⁸⁷ The result is that, increasingly, local/global intersections abound. The local is now much more embedded in and shaped by regional, national and international networks of power and flows of information than it was before. The reverse is also true: just as the global shapes and defines the local, the local also appropriates, influences and shapes the global. In this reciprocity, the 'global' can be characterised as an amalgam of locals.¹⁸⁸

On the one hand these local/global entanglements make more difficult the task of defining the relationship between law and the everyday. On the other hand, however, it seems pressing to undertake that task given that deploying the everyday is as much an ideological move as a normative one, as well as having real and practical implications for the organisation of daily life. Scholars need to ask, what does the everyday mean across different social, geopolitical and economic climates? Whose 'everyday' can we claim to represent in global contexts? How does the notion of the everyday, which largely emerges from western sociological work, translate into the global, non-western, contexts that legal norms (local, national, transnational etc) circulate in?

For investigations of the everyday to serve a critical function in global contexts they should be accompanied 'by a sense of the historicity of one's object and of one's own position – that is, a sense of reflexivity and irony'.¹⁸⁹ Critique of the everyday should also aim to problematise the concept, rather than fix or resolve it, and to uncover 'the necessary conditions for the possibility of certain taken-for-granted entities'.¹⁹⁰ In a similar vein scholars have argued that the historiography of international law has traditionally privileged the view from the west and regularly obscured the violence and oppression associated with the imposition of international law on colonial and neocolonial subjects that has accompanied the expansion of international law in the twentieth century.¹⁹¹ Uncritical and non-reflexive accounts of the 'everyday' by international law scholars risk reinforcing and perpetuating that reality in today's global contexts.

¹⁸⁶ Eve Darian-Smith, 'Ethnographies of Law' in Austin Sarat (ed), *The Social Organization of Law: Introductory Readings* (Oxford University Press, 2004) xii, 559. See also David Engel, 'Law in the Domains of Everyday Life: The Construction of Community and Difference' in Sarat and Kearns, above n 149, 123, 130.

¹⁸⁷ See especially Nicholas Blomley, David Delaney and Richard Ford (eds), *The Legal Geographies Reader*, above n 166, xvii-iii.

¹⁸⁸ See generally Goodale and Engle Merry, above n 182.

¹⁸⁹ Valverde, above n 160, 92.

¹⁹⁰ *Ibid* 91.

¹⁹¹ See, for example, Anne-Charlotte Martineau, 'Overcoming Eurocentrism? Global History and the Oxford Handbook of the History of International Law' (2014) 25(1) *European Journal of International Law* 329-36. See also generally Antony Anghie, *Imperialism, Sovereignty and the Making of International*

1.8 International law and everyday life

The ‘turn’ to global contexts among socio-legal scholars interested in everyday life has been matched by a ‘turn’ to the local and the everyday among international law scholars. Recent studies of international law and everyday life include Annelise Riles’ exploration of the everyday operation of international financial law in Japan,¹⁹² Yishai Blank’s work on the role of cities in the international legal order;¹⁹³ and Eslava’s study of Bogota’s transformation amid the pressures and opportunities of the international development project.¹⁹⁴ While this literature is diverse in the places in which it is set and the international law fields and questions it engages with, it is characterised by three distinctive features.

First, it treats international law as a layered phenomenon. That is, it does not involve an exclusive focus on international law, but rather demonstrates an interest in international law in its dynamic interplay with local and national legal systems operating at different scales.¹⁹⁵ An example of this is Engle Merry’s mapping of human rights norms as they translate from the international plane to local and community groups.¹⁹⁶

Second, it takes a broad view of what constitutes international law. On this view, international law comprises more than treaties and case law and includes a range of sources, materials and actors, such as international organisations, officials, civil society, objects and artefacts. The connection to international law is that these work in the backdrop to, or in ways that elucidate, the scope and significance of international law norms, duties and activities.

The third distinctive feature of work in this field is that it focuses on the different roles international law plays in everyday life. This includes how international law partly constitutes or

Law (Cambridge University Press, 2007) and Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011).

¹⁹² Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (University of Chicago Press, 2011).

¹⁹³ Yishai Blank, ‘The City and the World’ (2006) 44(3) *Columbia Journal of Transnational Law* 875. See also Yishai Blank, ‘Localism in the New Global Legal Order’ (2006) 47(1) *Harvard Journal of International Law* 263.

¹⁹⁴ Luis Eslava, *Local Space, Global Life*, above n 13.

¹⁹⁵ Boaventura De Sousa Santos, *Towards a New Legal Common Sense: Law, Globalisation and Emancipation* (2nd ed, Butterworth, 2002) and Boaventura de Sousa Santos and Cesar Rodriguez-Garavito, *Law and Globalisation From Below: Towards a Cosmopolitan Legality* (Cambridge University Press, 2005).

¹⁹⁶ Goodale and Engle Merry, above n 182.

shapes everyday life (such as through the operation of international development norms) but also how international law is shaped by everyday life and seeks to contribute to the resolution of problems generated by everyday life (such as through the oversight mechanisms of international human rights law). Scholars in the field of international law and everyday life tend to focus their investigations on one or the other of these roles. In this thesis, I examine both roles: that is, how international law both shapes and constitutes home, as a key site for the experience of everyday life, and how it intervenes to redress home problems in everyday life. I do so in order to illustrate the breadth, diversity and consistency of international law's presence and operations in everyday life, taking home of the site of my enquiry and investigation.

1.9 Central thesis arguments and research questions

This thesis brings together two fields whose relationship has so far not been examined: home and international law. Necessarily, then, the research questions I investigate are very preliminary ones: How does international law engage with home? What are the effects of international law's 'homemaking' work? What does home reveal to us about the everyday life of international law? And, what is the potential for an empirical approach to investigating international law in everyday life?

Flowing from these research questions, my central thesis is that international law is *already present* at home, even though we have not sought to look for it there before. This gives rise to the two key arguments I elaborate in the thesis. The first is that international law is involved in profound transformations of home. The effect of international law's 'homemaking' work frequently (but not always) has devastating effects for home. However, and this is the second argument, I suggest that home can be understood as an analytical tool that makes visible particular experiences that cannot be expressed in the language, analytical frameworks and discursive moves of international law. This includes experiences of loss, struggle and suffering but also radical engagement and emancipation. Thus, examining international law in everyday life through the lens of home uncovers important insights about human experience that would otherwise remain hidden or ignored in the scholarship and in wider debates.

1.10 Contribution to scholarship

Following from the key arguments set out above, this thesis makes three distinctive contributions to international law scholarship. First, it draws international law scholars' attention to home. This

is particularly important where the question of home arises in relation to some of the most significant socio-economic issues in contemporary society, from conflict and mass migration to development and urbanisation. Further, the more intensive and extensive presence of international law norms, technologies and operations in local and everyday spaces means that it is timely to investigate the relationship between home and international law.

Second, the thesis intervenes in debates about international law in everyday life. It deepens these debates from the perspective of home. Consistent with the features of the scholarly literature on the everyday that I identified above, the thesis examines interactions between laws operating at different scales in everyday life – from the international, transnational and regional to national and local law and custom – and suggests that international law forms one part of an unfolding global legal order. Home lies at the intersection of the local and the global, as well as being at the centre of everyday life. It thus presents a suitable place to direct enquiries about how international law operates in and shapes everyday life. Further, by considering three different areas of international law in the case studies – namely, development, occupation and human rights – the thesis directs the focus of the literature on international law in everyday life to fields and objects not yet looked at. In each of the case studies I also take a broad view of relevant sources and manifestations of international law, including organisations pronounced under treaties, United Nations mandate holders, and the decisions of national courts considering international law rules. In these ways, the thesis extends the existing scholarly literature on international law in everyday life while furthering the central thesis that international law is present at home.

The third distinctive contribution this thesis make to international law scholarship lies in the way it investigates the potential for taking an empirical approach to international law in everyday life. It does so by exploring the possibilities of qualitative research informed by an empirical approach, a global socio-legal perspective and a critical geographic approach to home. I elaborate these methodological influences in Chapter Two.

1.11 Chapter outline

Following this introduction in Chapter One, Chapter Two turns to methodology and methods. In this chapter I explain my decision to explore what qualitative research could contribute to the field. I then set out the three methodological influences that informed my study. These are, first, an empirical approach to international law in everyday life; second, a global socio-legal perspective; and third, a critical geographic approach to home. In Chapter Two I also explain my

research methods, including the use of case studies, textual analysis, participant observation, interviews, walking and photography. I also address the ethical issues arising from the study as a whole.

Chapters Three, Four and Five are case studies. I also refer to these as ‘home studies’. Chapter Three, the ‘lake home’, explores how the international law of development constitutes experiences of home. The chapter details how a World Bank land titling project at Boeung Kak Lake, in Phnom Penh, Cambodia transformed *home* into *property*, leaving local peoples’ homes vulnerable to speculation, market capture and land grabbing. Indeed, as it happened, the project coincided with a land grab that saw over 3000 lake residents evicted and dispossessed. The lake home study draws out the two key arguments of the thesis. First, it illustrates that international law, in the context of development, intervenes at home and is involved in constituting devastating experiences of home. The World Bank is a chief international financial and development organ that operates under an international legal mandate. Its land titling project at Boeung Kak Lake manifests the dispossessory logic of capitalist land transformation, economic growth and development that is prevalent in the global South and which draws international law, through the agency of the World Bank, into a destructive regime of homemaking. Second, the lake home study indicates how the concept of home can be deployed as a critical tool for analysing the everyday operations of international law in the development context, and that doing so opens up a terrain of experience that is not otherwise visible in international law. For lake residents, the meaning of home at the lake was intimately associated with family, cultural identity and history. The destruction of home severed these attachments and replaced them with the suffering of dispossession. But it also gave rise to resistance and radical engagement among residents who protested against the World Bank to save their homes. These experiences – of attachment and suffering relating to home – are not part of the discussions and obligations of the World Bank nor are they part of international law’s development agenda. Thus the concept of home offers a critical lens which brings to light important human experiences that are otherwise hidden or ignored in international law.

Chapter Four, the ‘desert home’, concerns international law’s involvement in transformations of home in the context of Israel’s occupation of Area C in the West Bank, Palestine. The chapter illustrates how the international law of occupation frames the conditions of occupation and empowers Israel as the occupier to intervene in and control the everyday lives of the occupied population, including their home lives. Israel exploits this power to legitimate the destruction of

Palestinian homes in Area C. As in the previous chapter, the desert home study draws out the key thesis arguments by, first, demonstrating how international law constitutes experiences of home and engages in destructive forms of homemaking, and second, how the concept of home can be deployed as an analytical tool to understand the nature of that homemaking. As to the latter, in Area C international law is involved in producing multiple contrasting subjectivities relating to home – such as legality and illegality, permanence and provisionality, light and dark, construction and destruction, ordinary and exceptional – and structures a situation in which home simultaneously embodies and performs the occupation as well as resists it. Again, these experiences of home do not feature as part of the responsibilities of occupiers nor are home interests protected under the international law of occupation. The concept of home can be used to reveal these and to illuminate the dynamic, productive and problematic ways international law engages with home.

Chapter Five, the ‘city home’, concerns how international human rights law responds to the problem of financialisation in London. The study focuses on the displacement of residents from home at the Heygate Estate, a public housing estate in London, as part of a regeneration scheme. The United Nations Special Rapporteur on the Right to Adequate Housing visited London and condemned the financialisation of housing in the city as a human rights violation, and suggested that regeneration projects like the one at the Heygate epitomised the problem. The Special Rapporteur said that housing is a social and material good and called on the United Kingdom Government to remedy the problem by improving access to affordable housing. Drawing out the two key arguments of this thesis, the city home study illustrates an intervention made by international law, through the agency of the Special Rapporteur, to remedy a problem to do with home. It is argued, however, that while the right to housing poses an important challenge to financialisation and the idea of *home as asset*, it fails to account for the particular experience of home for Heygate residents. When we take home as a conceptual lens to analyse the events at the Heygate, we see that for Heygate residents home was much more than a material good. Home on the estate represented attachments to community and city, individual and collective memory, and identity. The right to housing falls short of capturing these more intangible and affective meanings of home. This is problematic because it means that the value of attachments to home, and the suffering of dispossession from home, go unnoticed in discussions and debates about the right to housing in international human rights law. In making this critique, the city home study does not seek to undermine the right to housing. Rather, it invites consideration of the limits and potential of the right to housing for emancipatory change.

As should now be clear, Chapter Five takes a slightly different approach to the previous two. Whereas in Chapters Three and Four I examined how international law intervenes to constitute particular experiences of home, Chapter Five is concerned with how the discipline intervenes to remedy and redress a problem to do with home. As such, the three case studies offer a contrast between international law's *constitutive* and *remedial* homemaking work.

Together, the case studies support my central thesis that international law is *already present* at home. The differences between the studies strengthens my argument that encounters between international law and home occur in diverse contexts, and that these encounters are not spontaneous or anomalous, but rather that they take place rather routinely, as part of international law's everyday operations. That international law engages in different types of homemaking – constitutive and remedial – also reflects the dynamicism of its presences (and absences) in everyday life.

In chapter Six, I bring together the arguments of the thesis. In doing so, I examine how we might characterise international law's homemaking work at Boeung Kak Lake, in Area C and at the Heygate Estate and suggest why drawing attention to the transformations of home international law is involved in matters. International law's homemaking indicates one of the ways we can understand the discipline as a material practice, as much as a normative and ideological one. Home, and in particular negative experiences of home, can be seen to emerge from interventions made by international law in a range of settings: from a development context to an occupied military zone and an urban regeneration scheme. Thus, the home studies work together not only to illustrate international law's homemaking, but to suggest that the nature of its homemaking is not random or anomalous. Instead, the home studies demonstrate that international law, far from being removed from home, might already be present. In this way, the home studies also reflect instantiations of international law in everyday life, and the mutual constitution of the international and the local. I conclude Chapter Six by reflecting on how the methodology I have presented in this thesis might contribute to discussions in the field about studying the everyday life of international law.

Finally, I use the terms 'global South' and 'global North' throughout this thesis, conscious that they are contested terms. Following Darian-Smith, I take these terms to designate the disparities

of power between wealthy countries in the north and poorer countries in the south.¹⁹⁷ That distinction is artificial and does not geographically correlate to north and south hemispheres – the global South, for example, is not uniformly poor and undemocratic. The north-south distinction does however loosely correspond to states described by international institutional organs such as the World Bank and the International Monetary Fund as ‘high income’, ‘advanced economies’ and ‘low income’, ‘developing countries’, based on measuring wealth and poverty under the United Nations Human Development Index. Thus, the global South perspective might be more accurately used to represent poor and marginalised people who make up, as Partha Chatterjee suggests, ‘most of the world’.¹⁹⁸ While the terms ‘global South’ and ‘global North’ are problematic, they may be less objectionable than other bases of distinction one might choose, such as ‘First World’/‘Third World’, ‘developed’/‘developing’, ‘industrialised’/‘non-industrialised’, or simply rich and poor, which are to varying degrees anachronistic and derogatory.¹⁹⁹ In Chapter Three, I do use the terms ‘developed’ and ‘developing’ in my analysis of the World Bank’s development activities. In this I follow the language preferred by the World Bank. My use of those terms might also help to draw attention to their inherent contradictions and problematise their usage.

1.12 Conclusion

‘To feel one's attachment to a certain region, one's love for a certain group of men, to know that there is always a spot where one's heart feels at peace - these are many certainties for a single human life. And yet this is not enough. But at certain moments everything yearns for that spiritual home.’²⁰⁰

Home is more than a roof and four walls. In this chapter I have suggested that home is a complex, ambiguous and contested idea. I proposed a definition of home based on five key themes of home: home as being, haven, property, homeland and nostalgia. The thread weaving through these is that home, however understood, is one of the chief ways individuals articulate a sense of identity and is a key site for human experience.

¹⁹⁷ Darian-Smith, above n 177, 15.

¹⁹⁸ Partha Chatterjee, *The Politics of the Governed: Reflections on Popular Politics in Most of the World* (Columbia University Press, 2004, 3).

¹⁹⁹ See discussion in Pahuja, above n 191, 261-2.

²⁰⁰ Albert Camus, 'Summer in Algiers' in *Noces (Nuptials)* (Penguin, 1938, 2013) 21.

Despite the centrality of home to everyday life in the world, this thesis proceeds from my awareness as an international lawyer that home is not a nuanced or well-developed concept in the field. With our gaze trained to the international – to the exceptional and extraordinary cases and crises and high-level events – home is not a place where international law scholars usually look. Yet with the turn to the local in the discipline, the importance of addressing questions at the interface between the local and the global has come into focus. Home, positioned at that interface, is thus a suitable subject for analysis. But it is also an analytical tool in itself. In the chapters that follow, I deploy the concept of home not only to demonstrate how international law intervenes in and is present at home, but also how home opens up a terrain of experience – in particular, of attachment and suffering – that is not otherwise visible in international law.

In this thesis I undertake an analysis that connects the global forces and challenges that international law is enmeshed with and the ways international legal ideas and concepts emerge to condition, shape and engage with home: from the global housing and financial crises as these affect home in London to the Palestine-Israel struggle playing out in Area C of the occupied West Bank and the World Bank's interventions at home in Phnom Penh. As William Twining has argued, eclectic and creative legal thinking capable of lacing together not only the local and the global – but all of the levels in between – is required to address contemporary issues of human importance,²⁰¹ issues which are shaped as much by the historical injustices and inequalities that divide the global North and South as they are by the structural issues of injustice and inequality that underpin everyday life in homes, communities, cities and nations worldwide. International legal scholarship of 'the most local and micro and personal' places, sites and spaces, such as the home,²⁰² is increasingly needed to inform and to generate responses to those issues.

²⁰¹ See generally William Twining, *General Jurisprudence: Understanding Law from a Global Perspective* (Cambridge University Press, 2000).

²⁰² Darian-Smith, above n 177, 15.

CHAPTER TWO

Methodology and methods

‘House images move in two directions: They are in us as much as we are in them.’¹

2.1 Introduction

The question of how scholars should study home – whether as a social, political, philosophical, legal or other phenomenon – is not easily answered. Indeed, there is no ready formula for the way in which an investigation of home and international law should proceed. This chapter addresses the latter issue by setting out the methodological issues and choices I encountered in designing and conducting this study. As a preliminary point it may be helpful to recall that the thesis is structured around three case studies. I used the case studies as tools to reveal to me some of the ways international law gets involved in transformations of home and does ‘homemaking’ work. They also provided a basis from which to explore the potential for taking an empirical approach to the everyday life of international law.

In the first part of what follows I discuss the nature of my empirical work and my decision to adopt a qualitative methodology. I set this in the context of current discussions about empirical research in international law scholarship. In the second part I set out how my methodology was informed by three distinct intellectual influences: an empirical approach to international law and everyday life; a global social-legal perspective; and critical geography. In the third part of the chapter I turn to methods, discussing the case studies as well as my use of text analysis, participant observation, formal and semi-structured interviews, walking and photography. I conclude the chapter by addressing the ethical issues arising from the study.

¹ Gaston Bachelard, *The Poetics of Space* (Maria Jolas trans, Beacon, 1962, 1992 ed), xxxiii.

2.2 Empirical research in international law

In Chapter One I argued that home is not a well-developed concept in international law and that one of the aims of this study is to draw international law scholars' attention to it. Empirical work provided me with a novel basis from which to begin analysing and developing theory about international law and home from a perspective grounded in the everyday and the local.² The specific purposes of my empirical work were twofold: first, to investigate the ways international law engages with home and does 'homemaking' work in particular local contexts; and second, to discover how a grounded concept of home might be understood as analytical tool that makes visible experiences that cannot be captured or expressed in international law. My empirical work revolved around the three case studies drawn from fieldwork conducted in Phnom Penh, Cambodia; the West Bank, Palestine; and London, the United Kingdom. These studies are the focus of Chapters Three, Four and Five.

It has been said that empirical work – that is, research involving the systematic use of qualitative or quantitative methods – is a 'new direction'³ and a 'striking trend' in contemporary international law scholarship.⁴ As evidence of the 'turn' to the empirical, Shaffer and Ginsburg point out that in 2010 the American Society of International Law for the first time in its history included a panel on 'empirical approaches to international law' at its annual meeting.⁵ According to those authors, a 'new generation' of 'multidisciplinary' and 'multimethod' empirical studies is elaborating 'how international law works in different contexts.'⁶ This work is not aimed at building abstract theory but rather is concerned with investigating the 'conditions in which international law is formed and has effects' through its dynamic, recurrent and interactive operations and processes in the social world.⁷

Yet arguably this turn to the empirical is not entirely new. International law scholars have long deployed case studies to analyse and critique the effectiveness of international law with a view to

² Colin Robson and Kieran McCartan, *Real World Research* (4th ed, Wiley, 2016).

³ Gregory Shaffer and Tom Ginsburg, 'The Empirical Turn in International Legal Scholarship' (2012) 106(1) *American Journal of International Law* 1.

⁴ Jakob Holtermann and Mikael Rask Madsen, 'Toleration, Synthesis or Replacement? The 'Empirical Turn' and its Consequences for the Science of International Law' (2016) 29 *Leiden Journal of International Law* 1001.

⁵ American Society of International Law Annual Meeting, 25 March 2010, panel moderated by Tonya Putnam.

⁶ Shaffer and Ginsburg, above n 3, 1.

⁷ *Ibid.*

improving it,⁸ while anthropologists and socio-legal scholars have for some time used empirical techniques to examine international legal phenomena.⁹ Nonetheless, what can be said is that there has been remarkably little scholarly reflection on international legal method since Lassa Oppenheim's call in 1908 to 'bring the task and the method of our science into discussion.'¹⁰ What has been said about the topic in international law scholarship in the intervening decades reveals a worrying gap between legal approaches and social science approaches to methods. For example, while a 1999 *Symposium on Method in International Law* in the *American Journal of International Law* represented a significant step in promoting dialogue on method among scholars, the collection did not contain any contributions addressing method in a social science sense.¹¹ Instead, method was understood in this work as involving analytical and theoretical claims: 'the application of a conceptual apparatus or framework – a theory of international law – to the concrete problems faced in the international community'.¹² It was also said to involve debates about the 'sources' of international law: for example, whether scholars should rely upon primary or secondary sources, treaty law, case law or the customary practice of states in their analysis.¹³

However, as Shaffer and Ginsburg suggest, there are signs that international law scholars are shifting to view methods as social scientists do – that is, as tools to assist in revealing and exploring how and under what conditions international law operates in practice. This shift is not exclusive to the United States: in 2015, a special issue of the European-based *Leiden Journal of International Law* was dedicated to 'International Law and its Methodologies'.¹⁴ The editors suggested that while 'questions of methodology tend to stay on the margins on the field', 'the practice of international legal research is under pressure to (re)-articulate its methods and its stance towards methodology.'¹⁵ The contributions in this special issue bring together current

⁸ For example (among many others that could be cited), Christine Chinkin, 'The Legality of NATO's Action in the Former Republic of Yugoslavia (FRY) under International Law' (1999) 49(4) *International and Comparative Law Quarterly* 910.

⁹ See reflection on this in Sally Engle Merry, 'Anthropology of International Law' (2006) 35 *Annual Review of Anthropology* 99.

¹⁰ Lassa Oppenheim, 'The Science of International Law: Its Tasks and Method' (1908) 2 *American Journal of International Law* 313. Appearing in only the second issue of the journal, Oppenheim's is among the earliest scholarly articles in the field and is widely celebrated.

¹¹ *American Journal of International Law*, *Symposium on Method in International Law*, April 1999.

¹² Steven Ratner and Anne-Marie Slaughter, 'Appraising the Methods of International Law: A Prospectus for Readers' (1999) 93 *American Journal of International Law* 291, 292.

¹³ *Ibid.*

¹⁴ See, in particular, Ingo Venzke, 'International Law and its Methodologies: Introducing a New *Leiden Journal of International Law* Series' (2015) 28 *Leiden Journal of International Law* 185.

¹⁵ *Ibid.* 185.

views on empiricism in law and society scholarship, with particular reference to the influence of New Legal Realism in shaping empirical questions in the field of international law.¹⁶ More recently, reflecting on the legacy of Martti Koskeniemi's seminal work *From Apology to Utopia*,¹⁷ D'Aspremont argues that it has compelled international law scholars to be 'more self-reflective about their methodological choices'.¹⁸ Anne Orford's assessment of her use of methods is an excellent, and helpfully granular, example of this heightened consciousness.¹⁹

That the empirical turn in international law scholarship is not new is also reflected in the dynamic, multi-method work by scholars such as Sally Engle Merry,²⁰ Fleur Johns,²¹ Annelise Riles²² and Luis Eslava²³ (which I discuss further at 2.5 below). For these scholars, method is at the heart of their projects and their work lays bare the importance of methodological awareness and reflexivity in international law scholarship. These do, however, remain exceptional. In general, accounts by international law scholars of their methods, and work that reveals the 'mess' of their research, are still rare.²⁴ The discipline, broadly defined, appears unperturbed by this fact. It is also worth noting that, leaving aside exemplary contributions from postcolonial and Third World Approaches to International Law scholars,²⁵ there has been little work on empirical issues written from the perspective of the global South.

¹⁶ See especially Andrew Lang, 'New Legal Realism, Empiricism, and Scientism: The Relative Objectivity of Law and Social Science' (2015) 28 *Leiden Journal of International Law* 231 and also Holtermann and Madsen, above n 5.

¹⁷ Martti Koskeniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press, 2005).

¹⁸ Jean D'Aspremont, 'Martti Koskeniemi, the Mainstream and Self-Reflexivity' (2016) 29 *Leiden Journal of International Law* 625, 631.

¹⁹ Anne Orford, 'On International Legal Method' (2013) 1 *London Review of International Law* 166 and see my comment on page 60 below.

²⁰ Most recently, Sally Engle Merry, *The Seductions of Quantification: Measuring Human Rights, Gender Violence, and Sex Trafficking* (University of Chicago Press, 2016).

²¹ Fleur Johns, Ben Boer, Philip Hirsch, Ben Saul and Natalia Scurrah (eds), *The Mekong: A Socio-Legal Approach to River Basin Development* (Earthscan/Routledge, 2016).

²² Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (University of Chicago Press, 2011).

²³ Luis Eslava, *Local Space, Global Life: The Everyday Operation of International Law and Development* (Cambridge University Press, 2015).

²⁴ See Herbert Kritzer, 'Conclusion: Research is a Messy Business – An Archaeology of the Craft of Sociological Research' in Simon Halliday and Patrick Schmidt (eds), *Conducting Law and Society Research: Reflections on Methods and Practice* (Cambridge University Press, 2009).

²⁵ See in particular Ruth Buchanan, Stewart Motha and Sundhya Pahuja (eds), *Reading Modern Law: Critical Methodologies and Sovereign Formations* (Routledge-Cavendish, 2012). See also Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2007) and Sundhya Pahuja and Luis Eslava, 'Beyond the (Post)Colonial: TWAAIL and the Everyday Life of International Law' (2012) 45(2) *Journal of Law and Politics in Africa, Asia and Latin America* 195.

My aim in this work was not to collect data on people's home lives. Nor was it to produce an anchored or realistic account of everyday life from the perspective of the people I worked with. The case studies I adopted were not in-depth. Instead, I used them to shed light on the ways international law is capable of intervening in local life through the prism of home and the ways in which this can be articulated through socio-legal approaches. The case studies were also a vehicle for reflecting on the working definition of home I adopted for the thesis (which I set out in Chapter One). In this process of analyzing, interpreting, defining and reflecting, the 'objects' of my enquiry emerged: home and international law. I use the insights and ideas I gathered through my empirical work to confront my assumptions about each of these and to attempt to reshape the view of international lawyers accordingly.

In this way, I proceeded with an awareness in my empirical work that home and international law, like all other social objects, do not come to us ready to explain themselves. The social world is not transparent and nor is our understanding of it. Instead our understanding rests on the preconceived notions we have absorbed through being in the world and by the received meanings that pre-exist us, shaped by structures of authority and power.²⁶ Getting at the meaning of social objects like home and international law involves questions of interpretation. My own understanding of international law, for example, cannot be disconnected from the discipline's historical formation through processes of imperialism and colonialism, while my understanding of home must take into account the multiple and ambiguous meanings of this concept as well as the discrepancies between those meanings and what they actually produce. As Said has argued: 'We take home and language for granted; they become nature, and their underlying assumptions recede into dogma and orthodoxy.'²⁷ I tried to address these epistemological problems by adopting a reflexive methodology and a diverse set of methods enabling me to examine the nature of and interaction between home and international law from different perspectives and to interrogate my own understanding of that interaction conscious of the varied social surroundings in which I found myself during my fieldwork.

Finally, I note that this thesis is foregrounded in my own perspective participating in the social world. It is written as an international lawyer going to the local to see what this can reveal about international law's 'everyday' life and to explore the potential for international lawyers to 'dig

²⁶ See further Pierre Bourdieu, Jean-Claude Chamboredon and Jean-Claude Passeron, *The Craft of Sociology: Epistemological Preliminaries* (Aldine De Gruyter, 1991), Introduction and Part 1.

²⁷ Edward Said, 'Reflections on Exile' in *Reflections on Exile, and Other Literary and Cultural Essays* (Harvard University Press, 2000), 147.

down'. Indeed, while this project was about home and international law, in many ways it was also about methodology. It raises questions such as, "What is the everyday?" and, "what does 'going to the local' mean for the study of international law?" This in turn leads to epistemological concerns, such as: What do these questions reveal about the international legal system and forms of international legal knowledge? How do we know what they tell us? And what view of the social world do they open up? So far, these questions have not been adequately addressed by scholars in the field. To the extent that it is possible to do so, this thesis contributes to developing responses to some of them.

2.3 Qualitative research

A qualitative approach methodology was suitable for this study because of the emphasis this places on meaning, perception, criticism and interpretation, and on developing theory that improves our understanding of social phenomena.²⁸ However, as Hammersley notes, qualitative research is 'not a simple phenomenon, nor one that is easily characterized'.²⁹ The criteria scholars use to describe qualitative research vary considerably.³⁰ Bryman, for example, defines a qualitative approach as 'a research strategy that usually emphasizes words rather than quantification in the collection and analysis of data'.³¹ On this view, the main feature of qualitative research is a negative one – that is, the absence of quantification. Yet the presence of words is not distinctive to collecting and analysing qualitative data.³² Denzin and Lincoln describe qualitative research as 'a set of interpretive, material practices' capable of producing 'a series of representations' which can include fieldnotes, interviews, conversations, photographs, observations and artefacts.³³ Sandelowski describes qualitative research as an 'umbrella term' for the many different attitudes towards and strategies for conducting research aimed at discovering 'how human beings understand, experience, interpret and produce the social world'.³⁴ Yet both of these definitions could describe the goal of much social research, not just qualitative research.

²⁸ See Alan Bryman, *Social Research Methods* (5th ed, Oxford University Press, 2008) and Uwe Flick, *An Introduction to Qualitative Research* (5th ed, SAGE, 2014).

²⁹ Martyn Hammersley, *What is Qualitative Research?* (Bloomsbury, 2013) 2.

³⁰ *Ibid* 2.

³¹ Alan Bryman, *Social Research Methods*, above n 28, 366.

³² *Ibid*.

³³ Norman Denzin and Yvonna Lincoln, 'Introduction' in Norman Denzin and Yvonna Lincoln (eds), *The Sage Handbook of Qualitative Research* (4th ed, Sage, 2011) 3.

³⁴ Margarete Sandelowski, 'Qualitative Research' in Michael Lewis-Beck, Alan Bryman and Tim Liao (eds), *The Sage Encyclopedia of Social Science Research Methods* (SAGE, 2004), 893.

While scholars may not agree on one definition of qualitative research, what we can say is that the term 'qualitative' covers a range of approaches. These nonetheless tend to focus on one or a small number of cases or area studies and use fieldwork interviews, participant observation and analysis of historical and other materials, thus enabling researchers to pay close attention to dynamic social contexts. Qualitative work is often discursive in nature, concerned with offering a comprehensive or rounded account of a particular event, institution, location, issue, decision or, in legal research, a piece of legislation. Though qualitative researchers focus on a small number of cases or areas, they generally uncover significant amounts of information from their studies.

The advantages of qualitative work are challenged by the fact that qualitative work tends to be less generalisable and less replicable because it is context specific. However, what is lost in terms of the ability to make causal inferences that can be formulated as equations and statistically tested is made up for by insights that are grounded in specific social contexts and which cannot be adequately captured in numerical or statistical data. Qualitative work may also be thought of as untrustworthy because it channels the normative predispositions and assumptions of the researcher and research participants. However, there are a number of techniques for addressing these deficiencies that involve comparing different data gathered from different sources to test whether they corroborate each other. For example, a researcher might deploy a number of different case studies and/or interview people with different interests and who come from different backgrounds.

The problem of bias in qualitative research might also be countered by combining interviews with empirical observation in which a researcher aims to maintain a consciously reflective stance whilst also taking the opportunity to confront their own presuppositions. This suggestion foreshadows that the purpose of being reflexive is not to address bias but rather to identify and to acknowledge one's own bias and to consider how this affects one's understanding of the data and how others might interpret it.

A few further observations can be made about the characteristics of qualitative research that make it a suitable approach for this thesis. First, qualitative research can be contrasted with quantitative research, which is usually identified by its priority to explain outcomes by 'examining the

frequency by which they are empirically associated with possible causes.³⁵ The focus on frequency – or quantification – delineates this from qualitative approaches that are interested in the ‘quality’, characteristics and nature of phenomena, as the etymology suggests.³⁶ Qualitative research is said to reveal insights missed by the use of quantitative methods alone.³⁷ Indeed, the limitations of quantitative methods in completely capturing the phenomena they seek to measure (not least because there are many ways to measure)³⁸ may lead scholars to combine both quantitative and qualitative methods,³⁹ though it is not always clear in what combination that should be done. An alternative way of linking the two approaches lies in the suggestion that qualitative research is important for generating theory that quantitative work can later test.

Second, qualitative approaches are useful for building knowledge where understanding is less well-developed or is difficult to grasp.⁴⁰ In my study, the absence of empirical research on home in international law scholarship means that abstract descriptions and explanations of the ways international law engages with home are arguably unsupported by evidence and speculative. Related to this point, qualitative research may be particularly apt for studies of everyday life in a postmodern world where social structures and processes are disjointed and everyday life has become the ‘theatre of fragmentation’⁴¹ that must be studied to understand the way things are.⁴²

Finally, qualitative methods are especially well-suited to identifying and seeking to understand the mechanisms through which legal norms and rules affect individuals, states, organisations, places and objects (such as home) etc, while quantitative methods may be a better fit for concrete and specific questions, such as the level of attainment of human rights indicators or the degree of compliance with international arbitration decisions.

³⁵ The difference between qualitative and quantitative approaches should not be overstated. Many projects will use qualitative research in one setting and quantitative methods in another. See further Hammersley, above n 29, 1 and David Silverman, *Doing Qualitative Research* (4th ed, SAGE, 2013) 14.

³⁶ Fred Erickson, ‘A History of Qualitative Inquiry in Social and Educational Research’ in Norman Denzin and Yvonna Lincoln (eds), *The Sage Handbook of Qualitative Research* (4th ed, Sage, 2011) 43.

³⁷ See Engle Merry, above n 20, in particular Chapter One.

³⁸ *Ibid*, chapters 3 to 7, examining limitations to the quantification of gender violence, human trafficking and human rights.

³⁹ See critique of the use of quantitative ‘indicators’ in Engle Merry *ibid*, especially Chapter One.

⁴⁰ See Uwe Flick, Ernst von Kardoff, Ines Steinke (eds), *A Companion to Qualitative Research* (1st ed, SAGE, 2004) and Anselm Strauss and Juliet Corbin, *Basics of Qualitative Research* (2nd ed, SAGE, 1998).

⁴¹ Harvie Ferguson, *Self Identity and Everyday Life* (Routledge, 2009), 157.

⁴² See further Svend Brinkmann, *Qualitative Inquiry in Everyday Life* (SAGE, 2012).

2.4 Empirical approaches to international law in everyday life

As I suggested earlier, my methodology was informed by empirical approaches to international law. The central empirical priorities of my study were to investigate, first, the ways international law engages with home, and second, how the concept of home can be understood as an analytical tool that makes visible a range of experiences that are not expressed in international law. Both of these aspects of my study were framed by the analysis of international legal texts and other secondary texts, as well as non in-depth empirical fieldwork in Phnom Penh, the West Bank and London.

Taking an empirical approach revealed to me some of my own assumptions, and the assumptions of other scholars, about international law. For example the study challenges the perception that international legal processes and contestation are staged exclusively through state and national jurisdictions. In Chapters Three and Four I explore how home interests shape and are shaped by encounters with international legal regimes in contexts as specific and local as a development project in a community outside of Phnom Penh and the military occupation of Area C in the West Bank. Another example is how the study disrupts the idea that international law only acts on, and has consequences for, abstract states and individuals. Instead, it showed that international law is present and productive in other places and spaces, such as the material, affective and imaginary space of home.

As well as unsettling accepted ideas about international law, taking an empirical approach in this study also highlighted some of the limitations of international law when it comes to recognising and conceptualising home. Chapter Three, for example, traces how home is conspicuously absent from the international development agenda, despite the significantly detrimental affects of development for home. In substituting concepts of property and land, resettlement and rehousing for home, international law in the development context undermines the inherent values of home. Meanwhile, Chapter Five uses residents' testimonies at the Heygate Estate in London to reflect on how the international human right to adequate housing offers only a partial view of home and fails to embrace the radical potential of home for expanded agency and emancipation.

As the above examples indicate, international law scholars interested in the everyday life of the discipline are well assisted by empirical research. By encouraging scholars to visit sites, to observe people in their everyday activities, and to physically 'be there', empirical work helps us

to bring to light how international law operates (or does not operate) in local space, in turn challenging preconceived ideas about the discipline. In this way, it also generates a set of new questions about how we understand international law, and likewise how international law understands itself and the types and forms of meaning it constructs.

It remains to be said that because of the range and diversity of places in which my fieldwork occurred, the short duration of my field visits and the different roles my research informants played, this study is not a traditional ethnography. Moreover, my aim in this study was not to intimately understand my participants' home life as a traditional ethnography might have done. Instead, my aim was to test the claim that international law is involved in transformations of home. Everyday life reveals to us something about international law that other sources and other perspectives not drawn from empirical observations cannot. In everyday life studies, the researcher is seen as involved in the object of inquiry, which means that the researcher is first and foremost understood as a participant rather than a spectator in social life and must therefore be present 'on the ground'.⁴³ Everyday life research is also focused on human experience in a broad sense – as an experiential realm (a phenomenological approach) as well as something that is constructed discursively (for example, through law).⁴⁴ Empirical work reveals these dimensions of human experience that might otherwise go unseen in a non-empirical study.

Another feature distinguishing this thesis from classic ethnographic work is that my fieldwork was not exclusively confined to a single locale. I took a 'multi-sited' approach that involved short field visits to three different places.⁴⁵ Arguably this might deprive the study of the type of deep insights that an ethnographic project might garner from sustained periods of contact with social agents and phenomena.⁴⁷ However, my aim was for breadth rather than depth. I decided to use three case studies to more rigorously test the claim that international law is present at home and that its homemaking work is not anomalous, random or spontaneous, but rather that it happens consistently, in a variety of different settings and as a result of the presence and operations of a number of different international legal norms, duties and actors. It might also be argued that the

⁴³ See discussion in Michel Maffesoli, 'The Sociology of Everyday Life (Epistemological Elements)' (1989) 37 *Current Sociology* 1.

⁴⁴ Ibid.

⁴⁵ See forerunner works by George Marcus, 'Ethnography In/Of the World System: The Emergence of Multi-sited Ethnography' (1995) 24 *Annual Review of Anthropology* 95 and George Marcus, *Ethnography Through Thick and Thin* (Princeton University Press, 1998). See also reflections in Ghassan Hage, 'A Not So Multi-Sited Ethnography of a Not So Imagined Community' (2005) (5) *Anthropological Theory* 463.

⁴⁷ See, for example, Silverman, above n 35, 49.

diverse nature of my case studies means that they are not comparable. However, this was not a comparative case study. The diversity of my case studies was a strength because that diversity allowed me to explore whether and how, even in such contrasting settings, international law engages in homemaking work across national boundaries and in different contexts. The result is a textured, dynamic and versatile study, the hypothesis and results of which can be taken up and tested in other cases and situations.

A number of other international law scholars turning to the local and the everyday have found empirical approaches well-suited to their research enquiries. In Chapter One I briefly canvassed the emerging body of work that we can now call ‘international law in everyday life’. In designing my own study I was particularly influenced by the postcolonial scholarship falling within this field that examines the interaction between global legal norms and domestic systems, often through empirical studies. This includes work by both anthropologists and socio-legal scholars, such as Sally Engle Merry’s work on the ‘translation’ of human rights norms from the global arena to local settings,⁴⁸ in relation to gender violence in Hawai’i⁴⁹ and Hong Kong⁵⁰ and childrens’ rights in Tanzania.⁵¹ Other examples are Luis Eslava’s study of Bogota’s urban transformation shaped by international law’s development agenda⁵² and Eve Darian-Smith’s account of the socio-legal implications of physically linking Britain and mainland Europe through the Channel tunnel.⁵³

By positioning their enquiries at the local/global interface, these scholars richly illustrate the diverse and dynamic ways international law instantiates in and shapes local life and travels between different spatial, temporal, social, cultural, linguistic and other planes. They also reflect the value of examining international law’s everyday life through investigations set in multiple geographical places and the insights that can be drawn from making connections between those

⁴⁸ Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago Press, 2006). See also Sally Engle Merry, 'Transnational Human Rights and Local Activism: Mapping the Middle' (2006) 108(1) *American Anthropologist* 38 and Mark Goodale and Sally Engle Merry, *The Practice of Human Rights: Tracking Law between the Global and the Local* (Cambridge University Press, 2007).

⁴⁹ Sally Engle Merry, 'Rights Talk and the Experience of Law: Implementing Women’s Human Rights to Protection from Violence' (2003) 25(2) *Human Rights Quarterly* (343).

⁵⁰ Sally Engle Merry and Rachel Stern, 'The Female Inheritance Movement in Hong Kong: Theorizing the Local/Global Interface' (2005) 46(3) *Current Anthropology* 387.

⁵¹ Sally Engle Merry and Summer Wood, 'Quantification and the Paradox of Measurement: Translating Childrens’ Rights in Tanzania' (2015) 56(2) *Current Anthropology* 205.

⁵² Eslava, above n 23.

⁵³ Eve Darian-Smith, *Bridging Divides: The Channel Tunnel and English Legal Identity in the New Europe* (University of California Press, 1999).

places. Finally, Merry's work in particular questions epistemological claims to the local and its 'oppositional twin' the global.⁵⁴ According to Merry these terms go beyond spatial referents and evoke a wider array of meanings related to class, gender, education and transnational consciousness that are relevant to understanding the movement and translation of international legal ideas and concepts.⁵⁵

Other examples of empirical approaches to international law in everyday life include work by Annelise Riles, an international lawyer and anthropologist, exploring the everyday operations of global financial law in Japan,⁵⁶ and Yishai Blank, examining the role of cities in the emerging global legal order.⁵⁷ In many ways Orford's work on the responsibility to protect doctrine – for which she combined archival research and interviews with various other fieldwork activities – reflects the textured possibilities of taking an empirical approach to investigating the conditions in which international law is produced and its effects in everyday life (in Orford's case, with regard to a perceived duty for states to intervene in humanitarian crises).⁵⁸ I also took inspiration from Eslava's recent study of Istanbul in which he explores the presence and traces of international law in the city.⁵⁹ His study is based on a short field trip and a series of photographic observations.⁶⁰ This is another example of how the empirical approach can take a variety of forms and be applied to many different research designs and settings and that while some of the studies on international law in everyday life are ethnographic, others are not.⁶¹ Eslava's work also

⁵⁴ Merry, 'Transnational Human Rights', above n 48, 39-40.

⁵⁵ Ibid.

⁵⁶ Riles, above n 22.

⁵⁷ Yishai Blank, 'The City and the World' (2006) 44(3) *Columbia Journal of Transnational Law* 875. See also Yishai Blank, 'Localism in the New Global Legal Order' (2006) 47(1) *Harvard Journal of International Law* 263.

⁵⁸ Orford, above n 19.

⁵⁹ Eslava, above n 23.

⁶⁰ Ibid.

⁶¹ Ethnography can be broadly understood as encompassing a set of methods that emphasise close up, on the ground observation, in real time and space, placing a researcher near to or within a phenomenon so as to notice and detect how people and practices act and operate as they do. See further Silverman, above n 35, 49; Martyn Hammersley and Paul Atkinson, *Ethnography: Principles in Practice* (3rd ed, Routledge, 2007) 1-20; and Loic Wacquant, 'Ethnografeast: A Progress Report on the Promise and Practice of Ethnography' (2003) 4(1) *Ethnography* 5. However, ethnography does not lend itself to a fixed, ready-made or 'one size fits all' set of data gathering strategies. Various ethnographic subgenres have been developed across many different disciplinary orientations, each with their own distinctive methodological and thematic impulses and emphases, such as microethnography, virtual ethnography, critical realist ethnography, narrative ethnography and focused ethnography. See further Christine Hine, *Virtual Ethnography* (SAGE, 2000); Paul Edwards, Joe O'Mahoney and Steve Vincent, *Studying Organizations Using Critical Realism: A Practical Guide* (Oxford University Press, 2014); and Hubert Knoblauch, 'Focused Ethnography' (2005) 3(6) *Qualitative Social Research* 44.

indicates that studies based on short site visits can produce textured insights about the everyday life of international law.

Reflecting on this body of work, it can be said that taking an empirical approach to investigating international law's everyday life involves examining the sites, procedures, artefacts and forms of international law operating at the 'ordinary', day-to-day level and asking questions about how and in what ways international law shapes and is shaped by what goes on in the everyday.⁶² This includes critical examination of the 'local', the 'global' and the 'everyday' as concepts that are freighted with meaning, beyond the spatial, which must be considered when accounting for the interaction between international law and domestic systems. Investigating international law's everyday life also means drifting away from the study of the discipline's usual sites and places, such as courts, conventions and 'crises'.⁶³ Indeed, scholars in this emerging school suggest that the focus should instead be on 'the array of small sites in which international law operates',⁶⁴ places which 'are not necessarily – or even usually – 'international' in name, or imagined to be so in terms of their vision, outlook, size or scale.'⁶⁵ Studies of international law's everyday life could take into account a range of practices, procedures and objects that seem unrelated to the international,⁶⁶ processes and places that are not necessarily, or ever, 'legal', but which may in fact be 'understood hermeneutically as expressions, embodiments and enactments of international law'.⁶⁷ Examples might include a city that hosts an international sporting event, a local council that signs the European Charter of Local Self-Government,⁶⁸ or 'simply innocuous technical or commercial things'⁶⁹ such as a water meter: in the *Phiri* case, it was a water meter that gave rise to a dispute about the right to water under international law before South Africa's Constitutional

⁶² Eve Darian-Smith, *Laws and Societies in Global Contexts* (Cambridge University Press, 2013) 15.

⁶³ See further Hilary Charlesworth, 'International Law: A Discipline of Crisis' (2002) 65(3) *Modern Law Review* 377.

⁶⁴ Engle Merry, above n 9, 111.

⁶⁵ Eslava and Pahuja, above n 25, 29.

⁶⁶ Eslava, above n 23.

⁶⁷ Sundhya Pahuja and Luis Eslava, 'Between Resistance and Reform: TWAIL and the Universality of International Law' (2011) 3(1) *Trade Law and Development* 123, 127.

⁶⁸ Council of Europe, Treaty No. 122, *European Charter of Local Self-Government*, 15 October 1985, Strasbourg <<http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/122>>.

⁶⁹ Eslava and Pahuja, above n 25, 11.

Court.⁷⁰ As Sundhya Pahuja and Eslava argue, it is in the ‘small places, where international work is actually – materially – done’.⁷¹

With an ‘ant’s eye view’,⁷² empirical approaches are well-suited to investigating those ‘small sites’ of international law. They also encourage scholars to look closely at the fine-grain of the everyday and invites them to embrace an array of objects, materials, experiences, conversations and sites that do not usually fall within the survey of traditional academic study.⁷³ As Susan Bibler Coutin argues, empirical work ‘provides insights into phenomenon that are not, on the surface, legal.’⁷⁴ The work of international law scholars taking an empirical approach to the everyday has begun to uncover how the discipline is disguised in any manner of small operations and detailed processes, mundane regimes and daily rituals.⁷⁵ Perhaps the most significant contribution this work makes, however, lies in how it can be used to link the processes and spaces in which international law manifests ‘to the ways in which the current global order is unfolding in the everyday lives of people across the world.’⁷⁶

My discussion in this part of the chapter has shown how scholars employ empirical approaches to illustrate an ‘everyday’ life of international law comprising the material reality of individual lives unfolding outside of the formal sites of international law, and in which law at a variety of levels (local, customary, national, regional, transnational and international) is present in, and constitutive of, everyday life. I have also gestured at the range and diversity of international law sites, places, processes and groups that empirical work can attend to and the multiple, non-traditional ways in which international law scholars can undertake this work. The task for scholars working in this field is not only to visit international law’s ‘local’ sites and small places and to reveal dimensions of international law’s everyday life that would otherwise remain hidden

⁷⁰ *Lindiwe Mazibuko & Others v City of Johannesburg & Others* (CCT 39/09), [2009] ZACC 28; 2010 (3) BCLR 239 (CC); 2010 (4) SA 1 (CC) (8 October 2009). See further examples of international law ‘objects’ in Jessie Hohmann and Daniel Joyce (eds), *International Law’s Objects: Emergence, Encounter and Erasure through Object and Image* (Oxford University Press, 2017).

⁷¹ *Ibid* 30.

⁷² June Starr and Mark Goodale, *Practicing Ethnography in Law: New Dialogues, Enduring Methods* (Palgrave Macmillan, 2002) 11.

⁷³ See further Hammersley and Atkinson, above n 61, 121-40.

⁷⁴ Susan Bibler Coutin, *Legalizing Moves: Salvadoran Immigrants’ Struggle for U.S. Residency* (University of Michigan Press 2003) 10.

⁷⁵ On the international in disguise see Luis Eslava, ‘Istanbul Vignettes: Observing the Everyday Operation of International Law’ (2014) (2)1 *London Review of International Law* 3, 40. See also Hohmann and Joyce, above n 70.

⁷⁶ Darian-Smith, above n 62, 29. While not all of the scholarship on international law in everyday life that I have mentioned does this (or at least not explicitly), a fine example is Eslava, above n 23.

(though this is a valuable exercise), but also to justify why such investigations are worthwhile – in particular, by showing how this unsettles assumptions and perceptions of what international law is and how and where it does its work.

Further, I would argue that more can be done in terms of methodology to characterise the underpinning agenda and the set of meanings international law scholars invoke when they talk about ‘everyday life’ as well as to articulate the implications of doing so for international law scholarship. For example, does ‘going to the local’ tell us things about the discipline we did not already know? And how might the study of home – a quintessential ‘local’ place – cause us to think differently about international law? To help address these queries, I adopted two further intellectual influences: a global socio-legal perspective and a critical geographic approach to home. I discuss these in what follows.

2.5 A global socio-legal perspective

In Chapter One, I mapped how the turn to the ‘everyday’ among international law scholars has been matched by a turn to the ‘global’ among socio-legal scholars. These ‘turns’, which are both normative and methodological in orientation, can be seen as part of broader efforts to develop and justify an agenda for taking a ‘global perspective’ in the study of law. William Twining’s work is a good place to begin contemplating what this might mean for legal scholars, including international law scholars. For a start, Twining has written extensively on the implications of globalisation for understanding law.⁷⁷ He argues that most so-called globalisation takes place at sub-global levels and that a cosmopolitan discipline of law should take into account all levels of legal ordering and social relations. Adopting a ‘global perspective’ in studying and theorising about law means that ‘our attention needs to be focused on all levels of relations and ordering, not just the obvious trilogy of global, regional, and nation state, important as these may be.’⁷⁸ He notes that scholars often move straight from the local or national level to the global, leaving out intermediate levels, such as the regional.⁷⁹

⁷⁷ Most recently, William Twining, *General Jurisprudence* (Cambridge University Press, 2009); see also *Globalisation and Legal Theory* (Cambridge University Press, 2000) and *The Great Juristic Bazaar* (Dartmouth, 2002). Compare Boaventura de Sousa Santos and Cesar Rodriguez-Garavito, *Law and Globalisation From Below: Towards a Cosmopolitan Legality* (Cambridge University Press, 2005) and Terence Halliday and Gregory Shaffer (eds), *Transnational Legal Orders* (Cambridge University Press 2015).

⁷⁸ Twining, *General Jurisprudence*, *ibid* 15.

⁷⁹ Notably, Twining critiques Boaventura De Sousa Santos for addressing only four levels (global, regional, national and local) and frequently counterpointing the global and the local: *General Jurisprudence*, *ibid* 14.

A global perspective of the sort Twining describes may be valuable for thinking in terms of total pictures in order to set a context for more particular studies. However, it may be just as valuable for illustrating the obstacles in the way of such an enterprise, such as ‘the multiplicity of levels of human relations and ordering, the problems of individuating normative and legal orders, the complexity and the variety of the phenomena that are the subject matters of our discipline’.⁸⁰ Seen in this way, a global perspective may help ‘to map the extent of our collective ignorance of other traditions.’⁸¹ Put differently, a global perspective might draw our attention to that which challenges (distorts or exposes) forms of legal knowledge, and offers insights that might enrich legal interpretation, analysis and development.

Following on from Twining’s work,⁸² Eve Darian-Smith has given the most recent and sustained account of the epistemology that underpins the turn to the global among socio-legal scholars.⁸³ Darian-Smith’s work is a useful reference point for my study because, like Twining, she argues for a wider optic in the study of law that encompasses all scales of legal interaction and operation. Darian-Smith notes that while problems and issues increasingly unfold on a global scale, we continue to live on a local scale and to think and teach socio-legal studies on the scale of the national. To address global problems in a meaningful way – from the housing crisis to climate change and terrorism – socio-legal scholarship must reorient towards a global as well as a local perspective. This perspective ‘destabilises our modern and linear understanding of what law is, where law appears, and how law works ... recognizing that domestic law as it plays out within states is, and always has been, constitutively linked to issues of global economic, political, and cultural power.’⁸⁴ For international law scholars, this is a reminder that international law, too, emerges from and is shaped by the social and material realities of the world, and is part of, and does not exist separately from, a complex, layered and unfolding global legal order which includes interactions and operations occurring at regional, national, local and intimate levels, and everywhere in between.

See Boaventura de Sousa Santos, *Towards a New Legal Common Sense: Law, Globalisation and Emancipation* (2nd ed, Butterworth, 2002). Compare Eslava, above n 23.

⁸⁰ Twining, General Jurisprudence, above n 77, 18.

⁸¹ Ibid 18.

⁸² See in particular Eve Darian-Smith, ‘Locating a Global Perspective’ (2013) 4(4) *Transnational Legal Theory* 524-26, responding to William Twining’s Montesquieu Lecture, *Globalisation and Legal Scholarship* (Wolf Legal Publishers, 2011).

⁸³ Darian-Smith, above n 62.

⁸⁴ Ibid 378.

Thus both Twining and Darian-Smith urge an understanding of globalisation as a way of seeing how laws operating at different levels interact with other normative orders and social forces. This echoes de Sousa Santos' view that globalisation amounts to a vast 'social field' in which the interests of dominant groups and ideologies – including law – collide with those of subordinate and counter-hegemonic groups on a global scale.⁸⁵ As the global governance scholar Mary Kaldor argues, globalisation is a process in which 'people's lives are profoundly shaped by events taking place far away from where they live over which they have no control'.⁸⁶ Philip McCarty has argued that this sort of global perspective has the power to show us important connections between places and events 'we could not have otherwise seen or imagined', and even when these seem 'disconnected and separated by time, space or even our own categories of thought'.⁸⁷ He continues:

When we look we find that the local is connected to the global, past to the present, north to south, rational to irrational, legal to illegal, function to dysfunction, and intended consequences to unintended consequences.⁸⁸

Darian-Smith brings together these ideas in what she calls a 'global socio-legal perspective'. This is a 'more expansive' approach that moves beyond a state-centric or state-framed interpretation of law.⁸⁹ 'All law, even at local community levels, should be read through a lens that takes into account the increasing forces of globalizing cultural, political, and economic interactions.'⁹⁰ This perspective is alive to the global, sociological and pluralist complexity of law and attempts to counter the resolutely monist, positivist and statist orthodox framework of law.⁹¹ In this sense, it echoes De Sousa Santos' view that legal problems cannot be understood or meaningfully responded to without an understanding of 'inter-legality'.⁹² This is the idea that positive law – 'law on the books' – is 'continually inflected and deflected by local laws and norms (whether based on legal traditions, cultures, or practices), by international alliances and conventions, and

⁸⁵ See generally, among other work, Boaventura de Sousa Santos, 'Globalizations' (2006) 23(2-3) *Theory, Culture and Society* 393.

⁸⁶ Mary Kaldor, *Human Security: Reflections on Globalization and Intervention* (Polity, 2007) 74.

⁸⁷ Philip McCarty (ed), *Integrated Perspectives in Global Studies* (Cognella, 2012) 3.

⁸⁸ Ibid.

⁸⁹ Darian-Smith, above n 62, 4.

⁹⁰ Ibid 5.

⁹¹ Ibid 12ff.

⁹² In particular, Boaventura de Sousa Santos, *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition* (Routledge, 1995).

by the forces of globalisation in all their dimensions.’⁹³ The appeal, then, is to the multiplicity of legal orders and the legal traditions of local communities,⁹⁴ and the idea that there is never a choice between ‘global’ or ‘local’ in analysing legal problems: they are a mixture of both.

We might add to this that the analysis of legal problems and responses to them is less about a choice between the global or the local – an idea Twining alluded to – but about investigating the circumstances of their relationship. Analysis of the interaction between the local and the global will disclose tension and complexity at every level. Ignoring that tension or complexity means that we cannot argue ‘for’ or ‘against’ either local values or global interest nor advance any other reasonable position. The plural legal world, and the legal problems it presents, must be engaged with through a pluralist and sociological approach to law in which local legal problems are seen in global contexts, and global problems are seen in local contexts. Otherwise, the goals and values we hope to advance might be lost or evaded.

Drawing together my discussion from the previous pages, four ideas seem particularly pertinent for international law scholars ‘turning’ to the everyday. The first is that international law should be understood as one part of an unfolding global legal order that comprises laws operating at all levels. Just as national legal systems are not ‘outside’ the ebbs and flows of global forces, events and instabilities, so too is international law inextricably entwined with what is happening at the local, national, regional, transnational and global level, and the spaces in between. We will see this in Chapter Four of this thesis, where I explore how everyday home life in Area C in the occupied West Bank, Palestine, is a legal meshwork woven from the threads of Israel’s national law, domestic military law, international humanitarian and human rights law, and the law of the pre-1948 British mandate era.

The second point, and this follows from the first, is that international law should be seen as a refraction of the complexities of the material and social world. International law enters into – and emerges from – a variety of different contexts – domestic, local, national, regional, global etc – and has wide-reaching consequences. By contrast, understanding international law through the lens of unreconstructed positivism (as it routinely is) ignores that pluralistic complexity. The result is a dogmatic and idealistic theorisation and practice of international law, a law of the ‘above and beyond’, removed from the grittiness of everyday life – a tendency I discussed in

⁹³ Desmond Manderson, ‘A Review of Eve Darian-Smith, *Laws and Societies in Global Contexts – Contemporary Approaches*’ (2014) 8(1) *Law and Humanities* 77, 79.

⁹⁴ Darian-Smith, above n 62, 40-50.

Chapter One.⁹⁵ Darian-Smith's move away from state-centric law to highlight sites of legality above and below the state mirrors the move among international law scholars away from the usual sites of international legal analysis (treaties, cases, crises) to the smaller, everyday sites and places (cities and towns, objects and artefacts) in which international law norms and operations circulate.⁹⁶ In Chapter Five, I examine the limits of the right to housing at the city level, in the context of urban regeneration and the redevelopment of a London public housing estate.

This leads to the third point that international lawyers must approach legal problems alive to the complex, layered reality of law. Legal problems are never solely 'local' or 'global'. While there are some issues – land grabbing, for example – which are clearly shaped by global forces and instabilities and the legal regimes that relate to them, these will rarely be exclusive of national and local laws, customs, traditions and practices. In this way, a global socio-legal perspective gives us a textured view of how 'our plots unravel'⁹⁷ at the interface of different legal regimes – local and global, national and regional, rather than one or the other. In Chapter Three I look at the case of Boeung Kak Lake in which a World Bank land titling project in Phnom Penh, Cambodia, coincided with a land grab that uprooted thousands from their homes. The case shows how the politics of land dealing among local elites and foreign investors is enmeshed with the international agenda for development and growth, and clashes with the traditions, customs and beliefs of local people. It also illustrates how ignoring the plural and sociological, global and local, dimensions of legal problems can have devastating consequences. In this case, the World Bank's willingness to blame local corruption and maladministration for the land grab at Boeung Kak Lake elides the role of international law in facilitating land grabbing and the dispossession that results.

A fourth point is that taking a global socio-legal perspective to legal problems not only reveals connections between laws operating at different levels. It can also assist scholars to (re)articulate the nature of those connections. For international law scholars, a global socio-legal perspective might uncover how international legal norms and operations are involved in an active, iterative and material, as well as imaginative and affective, regime of world-making, including the making of everyday spaces and practices such as home and homelife. And the reverse is also true: by

⁹⁵ See in particular discussion of Hilary Charlesworth, 'International Law: A Discipline of Crisis', above n 63.

⁹⁶ For example see discussion in Sundhya and Eslava, above n 25. See also Hohmann and Daniel Joyce, above n 70.

⁹⁷ Patricia Ewick, 'Embracing Eclecticism' in Austin Sarat (ed), *Studies in Law, Politics and Society* (Emerald, 2008) 41, 15.

bringing attention to the small places in which international law operates, a global socio-legal perspective might illuminate how the everyday interjects in and constitutes the international. This sort of ‘global imaginary’ drawn through a process of revealing and (re)articulating unsettles ideas about the nature, appearance, place and practice of international law. In this way, taking a global socio-legal perspective might open up new logics of understanding and require new constructions of people, practices and goods – and homes – in the international legal arena.⁹⁸

In the chapters that follow, we will see how taking global perspective means framing international law’s ‘homemaking’ work within a web of other legal, social and other forces and analysing the interaction between these as well as the circumstances and consequences of their relationship. Home, far from being mundane or irrelevant to law and politics in the international sphere, is situated at the interface of the local and global. While taking an empirical approach and a global socio-legal perspective addressed those aspects of my study relating to the relationship between international law and home, I looked to critical geography to assist with questions about home. I turn to this next.

2.6 A critical geographic approach to home

The third intellectual influence that informs my methodology is critical geography. In their seminal book *Home*, geographers Alison Blunt and Robyn Dowling define critical geographies of home as comprising three overlapping components: first, home as ‘simultaneously material and imaginative’; home as a locus of ‘power and identity’; and home as ‘multi-scalar’, that is, existing across different spatial and temporal scales.⁹⁹ Bringing these components together, a critical geographic approach to home allows scholars to move beyond representations of home as ‘a binary of exclusionary or idealized space’ and instead to show the ambiguity of home as a ‘spatialized’ and ‘politicized’ space.¹⁰⁰

Taking a critical geographic approach to home implies seeing home in a particular way and asking particular questions about home. First, it means unsettling and problematising assumptions about home as a familiar, mundane, comfortable and safe space. Critical geographic work on home reveals that home is complex and fluid and open to a variety of experiences, and that the

⁹⁸ See further Susan Bibler Coutin, Bill Maurer and Barbara Yngvesson, ‘In the Mirror: The Legitimation Work of Globalization’ (2002) 27(4) *Law & Social Inquiry* 801-43.

⁹⁹ Alison Blunt and Robyn Dowling, *Home* (Routledge, 2006), 22.

¹⁰⁰ Katherine Brickell, ‘“Mapping” and “Doing” Critical Geographies of Home’ (2011) *Progress in Human Geography* 1, 3 (emphasis in original).

binary oppositions that underpin a purely optimistic view of home (such as public/private, safe/unsafe, work/home, inside/outside, female/male) can no longer be defended.¹⁰¹ This reflects the shift in home scholarship from the ‘home as haven’ thesis to more nuanced accounts that reflect the reality of home as a place of contradictory experiences: of intimacy and violence, belonging and alienation, desire and fear.¹⁰² As Doreen Massey has argued, home has ‘always in one way or another been open; constructed out of movement, communication, social relations which always stretched beyond it.’¹⁰³ Likewise Daniel Miller describes home as ‘a turbulent sea of negotiation rather than simply some haven for the self’.¹⁰⁴ Seeing home as complex and multifaceted, no longer an exclusive private domain, and as a site in which personal relations transect with public and political forces, advanced the priority in my study of showing that home is not remote from the politics and processes of international law but rather is subject to the interpellation and disciplines of it.

Second, taking a critical geographic approach to home directs attention to how *negative* experiences of home emerge from disruptions to home.¹⁰⁵ ‘Disruptions’ can be understood as interventions made by wider social, political, economic and other forces that construct, deconstruct and reconstruct home in frequently (but not always) devastating ways. Katherine Brickell calls for scholars to ‘map’ negative experiences of home and in doing so identify and understand how home is shaped by disruptions.¹⁰⁶ The task in my study was to identify ways in which international law ‘disrupts’ or intervenes at home and to frame this as part of international law’s active, material and iterative process of homemaking.

¹⁰¹ Among others, see Moira Munro and Ruth Madigan, ‘Privacy in the Private Sphere’ (1993) 8(1) *Housing Studies* 29; Iris Marion Young, ‘House and Home: Feminist Variations on a Theme’ in *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton University Press, 1997); Sophie Bowlby, Susan Gregory and Linda McKie, ‘“Doing Home”: Patriarchy, Caring and Space’ (1997) 20(3) *Women’s Studies International Forum* 343; Tony Chapman and Jenny Hockey (eds), *Ideal Homes? Social Change and Domestic Life* (Routledge, London, 1999); Shelley Mallett, ‘Understanding Home: A Critical Review of the Literature’ (2004) 52(1) *The Sociological Review* 65; Alison Blunt and Robyn Dowling, *Home*, above n 105; Alison Blunt, ‘Cultural Geographies of Migration: Mobility, Transnationality and Diaspora’ (2007) 31(5) *Progress in Human Geography* 684

¹⁰² See Alison Blunt and Robyn Varley, ‘Geographies of Home: Introduction’ (2004) 11 *Cultural Geographies* 3, 3.

¹⁰³ Doreen Massey, ‘A Place Called Home’ (1992) 17 *New Formations* 14.

¹⁰⁴ Daniel Miller, ‘Behind Closed Doors’ in Daniel Miller (ed), *Home Possessions: Material Culture Behind Closed Doors* (Oxford University Press, 2001) 4.

¹⁰⁵ See, for example, John Porteous and Sandra Smith, *Domicide: The Global Destruction of Home* (McGill-Queens University Press, 2001) 106 ff.

¹⁰⁶ Brickell, above n 100, 4 ff.

Third, taking critical geographic approach to home recognises that disruptions to home do not always, or only, produce negative experiences. Feminist scholars have shown us that revealing negative experiences of home is vitally important in unsettling the idea of ‘home as haven’ and the oppression this hides from view. Yet in doing so it seems important not overlook other transformations that may result from disruptions to home. As Brickell’s research reflects, struggle, suffering and oppression related to home are frequently accompanied by experiences of resistance, radical engagement and possibilities for emancipation.¹⁰⁷ In this study I tried to be attentive to both positive and negative experiences of home emerging from international law’s interventions at home. Chapter Three thus relates both the destruction of home at Boeung Kak Lake as well as residents’ resistance to that destruction through activism and other collaborative projects that have strengthened and affirmed the community. Chapter Five concerns the displacement of residents from the Heygate Estate in London but it also draws attention to the residents’ celebration of home at the Heygate in their testimonies which debunk the maligned reputation of the estate. Similarly, while Chapters Three and Four of this study trace how international law constitutes experiences of dispossession, Chapter Five concerns international law in a remedial role, stepping in to redress a home problem. This sort of attention to both positive and negative experiences of home is important for capturing the complex and at times contradictory nature of international law’s homemaking (and home-unmaking) work.

In the previous pages I have presented an integrated methodology for my study of home and international law. The three intellectual influences informing that methodology – an empirical approach to international law in everyday life, a global socio-legal perspective and critical geography – work together and separately to pursue my research questions. I have explained the theoretical underpinning of these influences in relation to broader scholarly debates as well as their analytical and empirical function and value in relation to my specific study. In doing so, I hope to offer a methodological framework that other international law scholars interested in the everyday might adopt and adapt. As international law scholars turn to the ‘everyday’ – making an explicitly spatial move in the register of their enquiries – it follows that critical geography might inform such a move, concerned as this tradition is with mapping spaces and particularly disruptions of space. Similarly, the turn to the everyday is naturally allied with empirical approaches that train the gaze to the fine grain of local life and also with a global socio-legal perspective, which ensures that all levels of legal and social ordering – not just the ‘local’ or the

¹⁰⁷ See generally *ibid.*

‘global’, with all the risk of generalisation and obscuring difference these raise – are taken into account in the analysis and redress of the problems thrown up by everyday life.

By designing the methodology in this way, my study uncovers several things. First, it becomes possible to see how home is transformed, often (but not always) in negative ways, through local, national and international legal norms (such as the duties of an occupier and the right to housing), as well as through the operation of international legal technologies and processes (such as land titling, the creation of occupied zones, and the provision of shelter). Second, the study shows how home, far from being distant and irrelevant to the operation of the international legal order, becomes mixed up in it through a variety of normative and administrative encounters, practices and operations that reflect international law’s turn to the everyday (for example, through the international regulation of large-scale land acquisition and monitoring of national housing policy). In the result, home emerge both as an artifact of international law and as a source that shapes and informs international legal knowledge and practice. Third, by examining not only how international law does homemaking work, but what the consequences of this are for home, the study shows that the concept of home can be understood as an analytical tool that opens up a terrain of experience (such as loss, suffering and struggle, but also resistance and engagement) and a set of meanings (such as being, belonging, memory, homeland and nostalgia) that cannot be captured or expressed international law.

2.7 Methods

Methods are the means by which methodology is operationalised. The choice of methodology will inevitably limit the choice of methods. The qualitative empirical methodology I chose made the case study method a suitable way of testing out the potential for investigating the local in the international. In this second part of the chapter I outline my use of case studies and my use of other methods such as textual analysis, participant observation, interviews, walking and photography within the case studies.

Case studies

This thesis was informed by three case studies. The ‘lake home’, ‘desert home’ and ‘city home’ studies form the basis of chapters three, four and five. Each home study is set in a different location and begins with a different problem for home and international law. The case studies were informed by fieldwork in Phnom Penh, Cambodia; the West Bank, Palestine; and London, the United Kingdom, undertaken between 2012 and 2016. Fieldwork in Phnom Penh was

conducted for four weeks between June and July 2012, and five weeks between August and September 2014. Fieldwork in the West Bank was conducted for three weeks between July and August 2012 and two weeks in August 2013. Between 2012 and 2016 I was resident in London where I visited the Heygate Estate on 2 November 2012, 14 June 2013, 16 May 2014, 6 October 2014, 2 August 2015 and 2 October 2015. As a London resident, I also closely followed the city's housing debate.

In Cambodia, I was hosted by the Housing Rights Task Force (HRTF), a Khmer legal NGO. I was introduced to the HRTF by the NGO Bridges Across Borders Cambodia (BABC), which also works closely with Boeung Kak Lake community members. I had first met BABC director, Natalie Bugalski, in 2008 in Australia while I was working as a lawyer. I followed the Boeung Kak Lake case over the years. When I began to prepare for fieldwork Bugalski introduced me to HRTF, which is the only legal NGO working with the Boeung Kak Lake community. HRTF's experience and expertise on the legal aspects of the Boeung Kak Lake case, and its willingness to share this with me, assisted me in understanding the history and politics, as well as the legal issues, surrounding the case. HRTF also provided me with introductions to Boeung Kak Lake residents and to other research informants working on the Boeung Kak Lake case. HRTF kindly allowed me to attend their offices while I was in Phnom Penh to discuss their work with them. They also arranged for a translator and an HRTF lawyer to accompany me on my visits to Boeung Kak Lake. Having been introduced to residents by the HRTF I was then able to arrange to meet with them at the Boeung Kak Lake community centre independently. In Phnom Penh I also used 'snowballing' techniques to get in touch with other people and organisations working on the Boeung Kak Lake situation. This included independent researchers; advocates from Inclusive Cambodia, LICADHO, the Urban Initiative and East West Management Institute; human rights activists and politicians Theary Seng, Ou Virak and Mu Sochua; and one staff member at the Phnom Penh office of the World Bank.

In the West Bank, I was hosted by my uncle Professor Oren Yiftachel, a geographer at the University of Ben Gurion, with whom I was able to travel in Area C to meet with residents and through whom I was introduced to other research informants, including researchers and lawyers at Adalah, an Arab-Israeli NGO, and B'Tselem, an Israeli NGO, the activist Nuri al-Oqbi, and the checkpoint monitoring organisation MACHSOMWATCH. I was also very grateful to conduct a workshop on the topic of home with masters degree students at the University of Ben Gurion as part of their critical geography course.

In London, the Heygate Estate was already in an advanced state of demolition when I arrived in the city to start my doctoral work. However, until mid 2013 I was able to walk on what had become a construction site, though some of the last residents had not yet left the estate, and I could identify where some of the original buildings had stood. After the site was closed off, I was limited to walking and observing from the perimeter. Given this, for London case study I relied more on archival data than data gathered through site visits. I drew from campaign and project material from ‘Heygate was Home’,¹⁰⁸ ‘Southwark Notes’¹⁰⁹ and the ‘35% Campaign’.¹¹⁰

The case studies provided the central focus for, and location of, my research methods. The basic idea of using case studies as a research method (whether one case or a small number of cases) is that the case will be ‘studied in detail, using whatever methods seem appropriate’¹¹¹ or are possible.¹¹² Though there will often be a variety of specific purposes and research questions, the general objective of using case studies is ‘to develop as full an understanding of that case as possible.’¹¹³ My decision to study these three case studies was guided by my interest in examining the ways international law engages with home. My case studies are not a ‘sample’ of international law’s homemaking. Instead, together they work to expand and generalise a theory of international law’s homemaking (similar to what Yin calls ‘analytic generalisation’¹¹⁴). It is also important to note that the use of the term ‘case study’ is ambiguous in empirical research.¹¹⁵ In my study, by ‘case study’ (or ‘home study’) I am referring to the *setting* – for example, home at Boeung Kak Lake, in Area C or the Heygate Estate – rather than a particular sample or sample size.¹¹⁶

There are several reasons why I chose to deploy the particular case studies that I did and not others. First, and perhaps most obvious, is that each of the case studies involves a home problem. At Boeung Kak Lake, thousands of residents have been evicted and their homes demolished after

¹⁰⁸ Heygate was Home, <<http://heygatewashome.org/>>.

¹⁰⁹ Southwark Notes, <<https://southwarknotes.wordpress.com/heygate-estate/>>.

¹¹⁰ 35% Campaign, <<http://35percent.org/>>.

¹¹¹ Keith Punch, *Introduction to Social Research: Qualitative and Quantitative Approaches* (SAGE, 1998) 150.

¹¹² See further Robert Stake, ‘Case Studies’ in Norman Denzin and Yvonna Lincoln (eds), *Handbook of Qualitative Research* (2nd ed, SAGE, 2000) 438. See also Robert Stake, *The Art of Case Study Research* (SAGE, 2000) and *Multiple Case Study Analysis* (Guildford, 2006).

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ See for example discussion in Giampietro Gobo, *Doing Ethnography* (SAGE, 2008), 155-6.

¹¹⁶ Ibid.

the World Bank's land titling project coincided with a land grab. In Area C, Palestinian homes and home life exist under the oppressive conditions of Israel's occupation. In London, the residents of the Heygate Estate have been decanted from their homes as part of a regeneration scheme, leaving a community dispersed and most unable to afford to return.

The second reason why I chose these case studies is because the presence of international law can be readily identified in each. At Boeung Kak Lake, the World Bank initiated and managed the land titling project. The World Bank is one of the key financial and development organs of the United Nations. In Area C of the West Bank, the international law of occupation (which nests within international humanitarian law) governs Israel's control over the territory. In London, the former United Nations Special Rapporteur on the Human Right to Adequate Housing, Raquel Rolnik, conducted a mission to the city in 2013. In her follow-up report, Rolnik argued that regeneration projects (of the type that occurred at the Heygate) reflect the 'financialisation' of housing and argued that this undermines the right to housing.¹¹⁷ The current Special Rapporteur, Leilani Farha, has recently taken Rolnik's work a step further.¹¹⁸

While locating international law in each of these case studies was not difficult, the relationship and interaction between international law and home was not always obvious. Connections needed to be made where they had not been made before. This could not have been done had I not physically visited the sites, because doing so brought my attention to aspects of international law's presence, operations and effects that are not necessarily visible without being there and/or which are not reported or discussed in secondary texts. For example, the extent of intervention to the landscape surrounding homes in Area C and the particular physical and psychological effects this has on residents' homelife; the everyday experience of regeneration in Elephant Castle; and the conditions of home at the Damnak Trayeong housing relocation site, 20 kilometres from Boeung Kak Lake, among other examples. It would also not have been possible to understand and write about home in its affective and imaginative dimensions in this study had I not seen and felt and experienced this myself, through my observations, my conversations with residents and informants, and through walking in each site.

¹¹⁷ UN Human Rights Council, *Mission to the United Kingdom of Great Britain and Northern Ireland – Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination in this Context*, Raquel Rolnik, UN Doc A/HRC/25/54/Add.2, 30 December 2013.

¹¹⁸ UN Human Rights Council, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination in this Context*, Leilani Farha, UN Doc A/HRC/34/51, 24 February 2017.

The third reason I chose these case studies is practical. With contacts at both Boeung Kak Lake and in Area C, I was able to organise the fieldwork activities and to gain access to fieldwork sites in a timeframe that was feasible for a PhD. As I was based in London, I had good access to the Heygate and by living in the city I was immersed in its housing debate. To some extent, the practical hurdles of time and cost in the context of doing three case studies (rather than, for example, a smaller number of cases) directed my choice of case studies: fieldwork locations and sites needed to be easily reached and it was important to consider in advance whether I would be able to gather sufficient data in the limited time available. My pre-fieldwork research and preparation, including discussions with potential informants, assisted with this.

A further reason why I chose to deploy these three case studies is that it was important to look at home in several different places, rather than just one place. What I sought in this study was breadth, rather than depth. By using three case studies, drawn from three different places, I could test the hypothesis that international law has much to do with home and that encounters between international law and home are not anomalous, random and spontaneous, but rather that home might be seen as one of international law's 'local places' – indeed, a place that the international might always have been present in. This hypothesis could not be tested by using only one case study nor by using multiple, similar cases studies.

Following from the fact that my case studies are set in different locations, this study can be thought of as 'multi-sited'.¹¹⁹ Taking a multi-sited approach was useful and suitable for my study because it created opportunities for me to detect, view and comprehend the many ideas, traces and markers that together comprise the complex linkages which Starr and Goodale identify as the 'world system' and which constitute what was formerly understood as 'the local system'.¹²⁰ The reality of those complex linkages indicates that law in everyday life can no longer be understood by staying in one place or site alone. They show also that it is possible, and important, to study law in multiple locations – different places – and from different aspects – the intimate, the local, the global, and the spaces in between – as well as to examine the relationships that bind (and separate) law in different places. In my study, taking a multi-sited, case study approach allowed me to trace the presences and operations of law as it manifests in different places and at different scales in relation to home, and to identify points of intersection between these.

¹¹⁹ See references at above n 45.

¹²⁰ Starr and Goodale, above n 72, 11.

My decision to use the case studies at Boeung Kak Lake, Area C and at the Heygate Estate was not without challenges. One of the practical challenges was deciding how to define the fieldwork site. For example, the desert home case study begun by looking at the whole of the West Bank. However, this area was too large to gather data in the time available, and it also presented complexities that I would not have been able to capture in the space of a PhD. At the same time, it became apparent to me that it was important to bring to light the particularly egregious situation for home in Area C. Because Area C raised urgent and specific questions about home, as well as about the role of the international law, I refined my focus to this area for the case study. Similarly, London presents many possibilities for studying the impact of the financialisation of housing on home in the city. I considered, for example, looking at the role of international financial capital in reshaping London's landscape. However, that would have required a much larger investigation than was feasible in the design of this study. It seemed more advantageous to focus on a specific site. I chose the Heygate Estate because it was at the centre of a regeneration project and represented many of the issues the Special Rapporteur highlighted in her report about financialisation and the right to housing. The Heygate also offered a wealth of interesting data in the public domain (in particular, the residents' testimonies) that has not been cited or used by researchers.¹²¹ Another challenge related to conducting fieldwork in hostile environments (especially at Boeung Kak Lake and in Area C). This made having trusted contacts and informants and systems for monitoring my fieldwork (such as regular communication with my supervisors) particularly important.

I also sought to ensure that while the case studies I used were each different, there was some compatibility between them. Boeung Kak Lake, Area C and the Heygate Estate each have a particular, well-defined location, culture and community, and each engages with a specific area of international law. Bringing these three case studies together seemed to me to offer a well-rounded study of home and international law from which it could be argued that international law is in the business of homemaking, while also being attentive to the complexities and contradictions of homemaking, and to both the presences and absences of international law in relation to home.

¹²¹ See relatedly, Susan Pell, 'Radicalizing the Archive: An Ethnographic Reading of an Activist Archive' (2015) 80 *Archivaria: Journal of the Association of Canadian Archivists* 33.

Textual analysis

The research for this study was foregrounded by analysis of international legal texts and documents relating to each of the three case studies. Textual analysis helped me to identify what international legal norms, ideas, technologies and operations were involved in disruptions to home in each of the home study settings. Key examples of text I used – and which will be familiar to international law scholars – include the *International Covenant on Economic, Social and Political Rights*,¹²² the *International Covenant on Civil and Political Rights*,¹²³ the *Geneva Conventions*¹²⁴ and the *Hague Regulations*.¹²⁵ I also relied on a number of field-specific texts that related to each of the case studies. For example, in the lake home study, I consulted many publicly available World Bank policy documents. In the desert home study, I examined a range of laws relating to land and property in Palestine, such as the British Mandate era rules on expropriation,¹²⁶ as well as international law sources on the situation in the Occupied Palestinian Territories.¹²⁷ For the London study, I drew from the reports of United Nations mandate holders, such as the Special Rapporteur on the Right to Adequate Housing.¹²⁸

In these texts I examined whether, where and when (if at all) ‘home’, and concepts relating to home such as housing, land, property and territory, are referred to. I used a different technique for analysing the text of the Heygate residents’ testimonies. I outline this below. In my analyses, I proceeded with an awareness that meaning does not reside in a single term – such as home – as

¹²² UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3.

¹²³ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

¹²⁴ In particular, the Fourth Geneva Convention: *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, 75 UNTS 287.

¹²⁵ International Conferences (The Hague), *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, 18 October 1907.

¹²⁶ For example, the *Defense (Emergency) Regulations 1945*.

¹²⁷ UN Human Rights Council, *Report of the Independent International Factfinding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian People Throughout the Occupied Palestinian Territory, Including East Jerusalem*, 7 February 2013, A/HRC/22/63.

¹²⁸ For example, among others, UN Human Rights Council, *Mission to the United Kingdom of Great Britain and Northern Ireland – Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context*, Raquel Rolnik, UN Doc A/HRC/25/54/Add.2, 30 December 2013.

that term appeared (or in many instances, did not appear) in the texts. Instead, I found that it was important to see how the elements of these texts together took narrative form and to read them as a whole. Where ‘home’ (or meanings associated with home, such as homeland and belonging) was absent from the texts, I reflected on why this might be and the implications of this. For example, the World Bank rarely uses the word ‘home’ but does discuss concepts and procedures related to home, such as ‘property’, ‘resettlement’ and ‘displacement’. In this case, my aim was to avoid interpreting these terms in a way that replaced them with an alternative or extra-textual reality, but rather for my analysis to remain *inside* the text, seeking to establish the reality the text itself creates and to analyse the effects of this.¹²⁹

One challenging aspect of my analysis of legal texts was the fact that each of the case studies involved various overlapping legal systems. This required untangling and understanding where everything ‘fit’ and how the legal texts worked together. For example, in Area C I was working with the international law of occupation, the Israeli system of military orders in the occupied territory, as well as Israeli national law, British mandate era law, and local law and custom.

Textual analysis was the main method used for the London case study. For this study I analysed 19 testimonies of former Heygate residents, which had been collected by the Southwark Notes Archive Group throughout 2010. In their testimonies, residents reflected on their home life on the Heygate Estate. Residents were identified in the interviews either by their first name or full name and by the dates they had lived at the Heygate. The interviews are publicly available online in a digital archive located at www.heygatewashome.org. Since the purpose of the city home case study was to comment on the limits of the right to housing in expressing or capturing the experience of losing home in the context of the financialisation of housing, the residents’ testimonies were a very valuable resource. In light of this I felt it was unnecessary for me to interview residents myself. Considering the time available within the constraints of a PhD, and the fact that I was doing three case studies, this was also a practical decision: I could not have gathered data of a quantity and quality comparable to the testimonies.

¹²⁹ David Silverman, *Interpreting Qualitative Data: Methods For Analysing Talk, Text and Interaction* (4th ed, SAGE, 2011) 167.

In the city home case study, I used textual analysis to assess how Heygate residents conceptualised home on the estate in their testimonies.¹³⁰ This was particularly important where I sought to compare what home meant for residents with the understanding of home in the international law right to housing. Based on my reading of residents' reflections, and drawing from the concept of home I elaborated in chapter one (home as a repository of meanings integral to the articulation of identity) I devised three categories into which residents' reflections broadly fell:

- (1) Remembrance and other notions of individual and collective memory, including the importance of time passing, as a way of framing meanings of home;
- (2) The positioning of the habitual, the subjective and the imaginary over the material to articulate a sense of identity in relation to home; and
- (3) Fears and anxieties about home arising from the regeneration and relating to feelings of belonging and not belonging.

This framework for analysis provided a basis from which to contrast residents' understanding of home with the conceptualisation of home under the right to housing. I have included my textual /analysis of the Heygate residents' testimonies in Annex 1.

There were a number of drawbacks in using the resident' testimonies in this study. First, I had no involvement in how the testimonies were designed, collected and recorded and the selection of residents, and what questions were (or were not) asked during the collection of the testimonies. As such, I was unable to ask follow-up questions and could gain no understanding of residents' tone, mood or sentiment as they gave or wrote their testimonies. However, to the extent that it was possible I addressed these problems by recognising the value of the data for what it was and limiting my analysis to ensure that it remained inside the text. In their testimonies residents expressly described what home on the estate meant to them. This made it possible to build an idea of home without stretching the meaning of the text or replacing it with an alternative meaning. For example, one resident reflected that '[b]ecause of moving away from home, we no longer have a cohesive social structure'. This reflection says much about the key importance of home to individual and communal identity and wellbeing. Finally, despite the drawbacks, I felt strongly that the data in the resident testimonies should be used: as far as I am aware, the data has not been

¹³⁰ Drawing inspiration from Dallas Rogers, 'The Poetics of Cartography and Habitation: Home as a Repository of Meaning' (2013) 30(3) *Housing, Theory and Society* 262-80.

cited or sourced or used in any way other than on the Heygate Was Home website. I have also made my research available to the Southwark Notes Archive Group.

Participant observation

Research informed by an empirical approach is usually distinguished by the use of participant observation as a central fieldwork strategy. Participant observation ‘connects the researcher to the most basic of human experiences’ through participation in a particular context.¹³¹ Hammersley and Atkinson argue that participant observation can entail participating ‘in people’s daily lives... watching what happens, listening to what is said, and/or asking questions through informal and formal interviews, collecting documents and artefacts.’¹³² In my study, the fieldwork was conducted through short site visits in different years. This arrangement allowed me to monitor longer-term changes and developments and also to have time to reflect on what I had seen between visits. For example, between the time of my first visit to Phnom Penh in 2012 and my second visit in 2014, many Boeung Kak Lake residents had been relocated to the Damnak Trayeong housing site, which I was then able to visit. This experience provided further insight to the way the World Bank land titling project had transformed the residents’ homes and homelife.

During my fieldwork I occupied a several different positions and roles. These carry with them a range of advantages and disadvantages.¹³³ At Boeung Kak Lake I was hosted by the HRTF as a visiting researcher. In this capacity I joined HRTF lawyers in visits to Boeung Kak Lake and in meetings with residents. This experience enabled me to meet a number of residents and to gain insight to the legal aspects of the situation from experts in Cambodian law, which is otherwise difficult to grasp by an ‘outsider’. I also made visits to Boeung Kak Lake independent of the HRTF. I met with residents at their community centre. The community centre is where residents organise and discuss the ongoing events at the lake. As such visiting the community centre assisted gave me a better understanding of the case. Sharing meals and spending time at the community centre, and returning most days, also meant I built up some familiarity with residents and learned more about their experience. The advantage of working with the HRTF was gaining access to the community and legal expertise. In contrast, I felt that visiting the community

¹³¹ Jennifer Platt, ‘Participant Observation’ in Michael Lewis-Beck, Alan Bryman and Tim Liao, *The SAGE Encyclopedia of Social Science Research Methods* (SAGE, 2004) 75.

¹³² Hammersley and Atkinson, above n 61, 3. See further definitions and examples of participant observation in Paul Willis, ‘Notes on Method’ in Stuart Hall, Dorothy Hobson, Andrew Lowe and Paul Willis, *Culture, Media, Language* (Hutchinson, 1980) 94 and Platt, above n 131, 76-7.

¹³³ On the role of the ethnographic researcher in the field, see Hammersley and Atkinson, above n 61, chapter 4 ‘Field Relations, 63-96.

independently of the HRTF opened up possibilities for more informal interactions with residents, which in turn led to different insights.

In Area C, I drew from informal conversations with my informants (such as lawyers at Adalah, researchers at B'Tselem, and volunteers at Machsomwatch) to gain a picture of the complex legal arrangements in the territory. I also relied on these informants for introductions to residents in Area C. Gaining access to residents in Area C was heavily restricted by the security situation. I met with residents accompanied by Oren Yiftachel and with Machsomwatch volunteers and had informal discussions with at least five residents. For example, at the checkpoints, we were able to ask residents where they were going and how the checkpoints affected their access to and from their homes.

In London, my fieldwork comprised visits to the Heygate construction site. Much of the estate had been demolished but some residential buildings remained. Access to parts of the site on foot was possible until 2013 when the entire site was fenced in and the last of the residents was decanted. My visits to the site gave me a sense of the physicality of the Heygate (both prior to and after its demolition) and a better understanding of both the geographic and social centrality of the estate in Elephant and Castle. This experience of physically being on the estate and later walking around the construction site, as well as walking in the surrounding neighbourhood of Elephant and Castle, helped me to contextualise residents' reflections on home in their testimonies. It was also important to make multiple site visits so that I could trace the ways in which the regeneration physically took shape over time. This included how the construction itself – through the use of temporary fencing, walls and roadblocks in particular – transformed access to and views of the former Heygate Estate, and in many ways helped to disappear the estate from landscape and memory.



Figure 1: 'Just being around', Boeung Kak Lake community centre, July 2012

Interviews

Interviewing – structured and semi-structured – played a part in my overall data collection. I conducted interviews for the Boeung Kak Lake and Area C case studies only. As discussed above, for the London case study I made use of the existing testimonial data. Qualitative research embraces interviewing as a method on a spectrum from formal, highly structured interviews to informal conversations.¹³⁴ While interviewing is frequently employed within participant observation strategies, it has been argued that 'talk' (that is, interviews) and 'action' (such as participation and observation) are opposed and that one may yield more 'authentic' data than the other,¹³⁵ though what amounts to 'authenticity' will always be contested and subjectively defined. Atkinson and Coffey argue that interviewing and participant observation can instead be understood as forms of social encounter that both involve co-production of data rather than extraction of data.¹³⁶

¹³⁴ See generally Silverman, above n 129. See, more specifically, Burgess, Robert, 'Interviews as Conversations' in Robert Burgess, *In the Field: An Introduction to Field Research* (Unwin Hyman, 1984) and more recently, Beth Leech, 'Asking Questions: Techniques for Semistructured Interviews' (2002) 35(2) *Political Science and Politics* 665.

¹³⁵ For example, see Paul Atkinson and Amanda Coffey, *Making Sense of Qualitative Data* (SAGE, 1996). See also Silverman *ibid*.

¹³⁶ *Ibid*.

In Phnom Penh I conducted semi-structured interviews with the director of the HRTF; an HTRF lawyer; a World Bank analyst; an urban planner; a community house builder; an activist (who was also a former resident); and three residents. I chose these people because they each had particular and different experiences of working with the Boeung Kak Lake community or, in the case of residents, were members of that community. All except one of these interviews were conducted in a formal setting, in the office of the interviewee (the interview with the community house builder was held in a café because they do not have an office). In Area C I interviewed two lawyers at Adalah, one activist, one researcher, and one resident. These interviews were conducted in various places: in the lawyers' offices and in the homes of the activist, researcher and resident.

My aim in these interviews was to build a sense of the Boeung Kak Lake case and the situation in Area C from different perspectives. For example, I asked questions concerning the legal and human rights aspects when interviewing lawyers from HRTF and Adalah. I asked general questions and followed up with more specific questions where I felt this was useful. I had prepared some general questions in advance (such as asking the interviewee to explain their involvement in the case) but did not follow a script. I followed up with questions based on the type of response I was getting, often thinking 'on my feet' to arrive at the next question. As such, the 'formality' of these interviews came more from the setting than from a rigid question and answer structure.

I recorded these semi-structured interviews on a Dictaphone with the permission of the interviewee. I later transcribed the interviews. My analysis of the interviews involved close, repeated listening to the recordings. I notice recurring features, themes and emphases between the interviews, as well as absences, gaps, differences and inconsistencies. The recordings and transcripts were also useful in building up a layered picture of events and seeing the same events from different perspectives.¹³⁷ For example, while my interviews with HRTF lawyers mainly involved discussing the evictions at the lake, the World Bank analyst refused to acknowledge the evictions and instead steered the conversation to the Bank's work in Cambodia generally.

Apart from these few semi-structured interviews, more of my time in the field involved 'unstructured' and 'open-ended' interviews with residents at Boeung Kak Lake and in Area C.

¹³⁷ See further Silverman, above n 129, 203-7.

This style is less ‘interview’ than conversation or discussion. Silverman, for example, argues that in unstructured interviews the researcher acts more as a facilitator of a discussion than as a questioner.¹³⁸ ‘Active listening’ on the part of the researcher is also key to allowing the ‘interviewee the freedom to talk and ascribe meanings’ while keeping the aims of the project as a whole in mind.¹³⁹ In these unstructured interviews I asked residents questions about their homes and home life, such as who lives in the home and how long they had been there. I also asked about particular events and circumstances – for example, about the land titling project at Boeung Kak Lake and about the conditions of occupation in Area C – which may (or may not) have affected their homes and home life. My very general questions often led to interviewees offering details and stories beyond what I might have thought to ask about. For example, one family in Area C told me about how difficult it is for Palestinians to get permits for home building and renovation in Area C. The family’s application for a permit to build an extension to their home in order to accommodate their son and new daughter-in-law was refused by the Israeli authorities multiple times. Even though the head of the family was a prominent member of the local Palestinian community, and a lawyer – the family hoped this might have helped their case – they were forced to build illegally. They now live with the daily risk of having their entire house demolished by the authorities for breach of the building rules.

While I occasionally followed up on some interviewee’s answers (for example, clarifying a date or a place or seeking more detail), overall I allowed interviewees space and time to talk.¹⁴⁰ This was important considering the sensitive nature of home for my participants – many had experienced or were at risk of eviction and displacement. The unstructured, open-ended approach to interviewing allowed participants to describe their homes and home life, recall events at home, and to give their perspective on home and the problems they faced in relation to their homes. From this, I could begin to draw links between home and international law – its presences (and absences), the nature and effects of its interventions – and also begin to compare different conceptualisations of home. For example, while residents often recalled home in terms of memories and loss, international law talks in terms of property, land and housing.

¹³⁸ Ibid 110.

¹³⁹ Ibid. See also Tim Rapley, ‘Interviews’ in Clive Seale, Giampietro Gobo, Jaber Gubrium and David Silverman (eds), *Qualitative Research Practice* (SAGE, 2004) 22.

¹⁴⁰ Ibid 25. Compare, however, “‘Doing Rapport’ and the Ethics of “Faking Friendship”” in Maxine Birch, Tina Miller, Melanie Mauthner and Julie Jessop (eds), *Ethics in Qualitative Research* (2nd ed, SAGE, 2012), 108-122.

The open and unstructured nature of my conversations with residents also allowed them to use more expressive language and discursive narrative structures to describe their subjective meanings of home. Relevant to this is Byrne's suggestion that unstructured, open-ended interviews are attractive to researchers interested in exploring experiencing that they feel might have been suppressed or ignored.¹⁴¹ This resonates with my interest in the concept of home as being an unfamiliar concept in international law and the idea that the meaning and experience of home may be elided or denied in the language, analytical framework and discursive moves of the discipline. In this way, unstructured interviews helped to bring to light perspectives on home that a more structured format might not and which are otherwise missing in international law.

At both Boeung Kak Lake and in Area C most of my interviews were conducted in this unstructured and open-ended way. The HRTF was a vital gatekeeper, introducing me to Boeung Kak Lake residents who I could meet with and talk to.¹⁴² Because I regularly visited Boeung Kak Lake, and in particular spent time at the community centre, I was able to see and speak to the same people on multiple occasions. In Area C, I relied on my contacts to make arrangements for travelling in Area C and to provide introductions to residents. This resulted in some snowballing and further opportunities to talk and meet with residents and other research informants. For example, lawyers at Adalah put me in touch with other researchers while Machsomwatch volunteers acted as guides in Area C and introduced me to residents.¹⁴³ Through this process of meeting and conversation I became an active participant in the interviews and the interview material was collaboratively produced.¹⁴⁴

One thing I learnt from using interviews as a research method (whether structured or unstructured) is that there is never one story. Interviewees have different perspectives, experiences and sources of information; 'facts' are disputed and there are gaps and blind spots in people's knowledge. Also, interviews invariably involve a mixture of both factual and conceptual content that may need to be disentangled.¹⁴⁵ These factors raise problems for the reliability and

¹⁴¹ Bridget Byrne, 'Qualitative Interviewing' in Clive Seale (ed), *Researching Society and Culture* (2nd ed, SAGE, 2004) 182.

¹⁴² On access, see Raymond Lee, *Doing Research on Sensitive Topics* (SAGE, 1993), 119 ff, and see further Tina Miller and Linda Bell, 'Consenting to What? Issues of Access, Gate-keeping and Informed Consent' in Birch et al, above n 140.

¹⁴³ See www.machsomwatch.org.

¹⁴⁴ Silverman, above n 129, 112.

¹⁴⁵ Steinar Kvale, *Doing Interviews* (Sage, 2007) 71-72.

validity of data.¹⁴⁶ Where possible I checked the information I was given against other accounts and/or repeated things back to interviewee for their confirmation. However, while I was concerned for validity and accuracy, I was also interested in variation and difference. This was particularly evident at Boeung Kak Lake. Residents' experience of eviction varied considerably (for example, as to when the eviction happened, what official reasons were given, and the nature of the eviction, such as whether the home was demolished and whether residents were harmed, arrested or otherwise subject to legal proceedings). In my analysis of my conversation with residents I found that this sort of variation affected the way residents spoke about their homes and homelife.

Issues to do with power asymmetry also arose in my interview encounters.¹⁴⁷ Unstructured, informal interviews involve active negotiation between researcher and interviewee in which data is co-produced, rather than information simply being extracted from the interviewee.¹⁴⁸ This means that the data generated is subject to particular power dynamics that may be held, at different points, by either the researcher or the interviewee. Those dynamics may emerge from, for example, the way an interview is conducted or how the agenda is set, or through more implicit differences in power between researcher and informant. I felt this acutely in the unstructured conversations I had in (or beside) homes in Area C where residents are living in oppressed conditions under a military regime. My experience of positionality was different at Boeung Kak Lake. There, many of my interviewees were relatively well-resourced and educated, and were confident activists, which often meant they led the interviews by setting the agenda, steering the conversations, and often going beyond the interview situation to assist me, such as when one resident offered to take me on a walk across Boeung Kak Lake and shared with me photographs and documents attesting to her experience of eviction.

¹⁴⁶ On reliability and validity of interview data, see *ibid* 120-23. See also Uwe Flick, *Managing Quality in Qualitative Research* (SAGE, 2007).

¹⁴⁷ See, for example, Lee, above n 142, 107-11 and Steinar Kvale, *Doing Interviews* (Sage, 2007), 14-5.

¹⁴⁸ See generally James Holstein and Jaber Gubrium, *The Active Interview* (SAGE, 1996) and see also Steinar Kvale *ibid*, especially at 13-4.



Figure 2: Boeung Kak Lake women preparing campaign material, July 2012

One way I addressed power asymmetries in interviews was by adopting a narrative approach.¹⁴⁹ Elliot Mishler explains that interviews can be understood as narratives that emphasise temporal and social meanings and often involve asking for stories. The interviewer can then ask questions about specific episodes and build coherent overall stories. Hammersley reflects that this sort of interview will be ‘relatively unstructured in character, and often carried out in contexts where interviewees feel relaxed, with the aim of allowing them to speak at length in their own terms.’¹⁵⁰ This builds on the unstructured, open-ended interviewing technique I discussed earlier. The narrative approach was useful in my Boeung Kak Lake and Area C interviews because these involved complicated and layered sets of facts, episodes and experiences. Further, because storytelling is a near universal language, I noticed that structuring my interviews in the narrative style made participants feel more capable of assisting with my research. Telling one’s own story

¹⁴⁹ See Flick, above n 28, 99-106. See also Elliot Mishler, *Research Interviewing – Context and Interview* (Harvard University Press, 1986). However, see discussion in James Holstein and Jaber Gubrium, *The Active Interview*, *ibid*, about whether interviews give access to ‘experiences’ and ‘feelings’ or to ‘narratives’. See also support for the narrative method in Engle Merry, above n 20, especially in Chapter One.

¹⁵⁰ Hammersley, above n 29, 54.

can also be a self-affirming experience. For the most part, my participants seemed very pleased to be able to take part.¹⁵¹

Language barriers at both Boeung Kak Lake and Area C meant that I relied on translators, though occasionally I was able to speak to participants in English. I was aware that in translation, nuance and accuracy could be lost. However, if I were only to engage with participants in English the case studies would not have yielded enough useful data. Importantly, they would have been limited to English speakers, and so reproduced the social hierarchies and inequalities that exist at both Boeung Kak Lake and in Area C between those who speak English and those who do not. Finally, because home is an essentially ‘intangible phenomenon’,¹⁵² conversations about home tend to be conceptually vivid and sometimes idiomatic. This may be most accurately and fluently conveyed in a participants’ own language.

Walking

I used walking as a mode of transport in the field whenever this was possible. By walking I mean strolling, wandering, meandering and lingering as well as purposeful striding, map-following and guided walks. These are just some of the many different forms of walking – to these we could add the contemplative walks of Peripatetic philosophy, the walker-poet and walker-art, the flaneur, and the explorer.¹⁵³ Walking, as I discovered, is also a haptic experience; it can involve all the senses in perceiving an environment: the smell of the street, the dust on the road, the heat of the sun on one’s back, the sound of the call to prayer. I walked so that I might see more keenly the detail of international law’s homemaking. That walking unfolds at a human pace, in real time and on a small scale, might recommend it as a mode of travel for international law scholars interested in the everyday life of the discipline. As a prelude to explaining why and how I used walking as a research strategy in this study, it is worth looking briefly here at how writers, philosophers and other scholars have thought about walking and the particular insights and experiences walking

¹⁵¹ On interviewing as a positive experience for participants see Kvale, above n 145, 14.

¹⁵² Kim Dovey, ‘Home and Homelessness’ in Irwin Altman and Carol Werner, *Home Environments* (Plenum, 1985), 33-64.

¹⁵³ For example, see William Wordsworth, *Descriptive Sketches: Taken During a Pedestrian Tour in the Italian, Grison, Swiss, and Savoyard Alps* (Joseph Johnson St Paul’s Church Yard 1793); Jean-Jacques Rousseau, *Reveries of the Solitary Walker* (Penguin Books, 1979); Walter Benjamin, *The Arcades Project* (Belknap Press, 1999); and Jane Rendell, ‘West End Rambling: Gender and Architectural Space in London 1800–1830’ (1998) 17(2) *Leisure Studies* 108, among others.

might offer. These are tentative steps towards what walking as a research method might look like.¹⁵⁴

At its most basic, walking is a way of making sense of and learning about places and spaces. As Misha Myers' work shows, this includes home and home environments.¹⁵⁵ Walking enables reflection on the mutual constitution of bodies and landscapes¹⁵⁶ - and perhaps, too, the mutual constitution of law and the everyday. Frédéric Gros writes in *A Philosophy of Walking* that 'walking is the best way to go more slowly than any other method that has ever been found.'¹⁵⁷ As such, when one is on foot, moving slowly, one tends to notice more and stop to look, and question, what otherwise gets passed by. Walking, and the way we move our bodies, affects our thoughts and vice versa. As one author has put it, walking at our own pace creates 'an unadulterated feedback loop between the rhythm of our bodies and our mental state that we cannot experience as easily when we're jogging at the gym, steering a car, biking, or during any other kind of locomotion. When we stroll, the pace of our feet naturally vacillates with our moods and the cadence of our inner speech; at the same time, we can actively change the pace of our thoughts by deliberately walking more briskly or by slowing down.'¹⁵⁸

Walking can also be a way of finding meaning in and even re-enchanting environments. In a similar way, Guy Debord argued that the *dérive* – which he defined as an unplanned journey through a landscape, usually urban, in which the walker allows the subtle aesthetic contours of the surrounding environment to direct their path – is necessary because of the increasingly monotonous and predictable experience of everyday life in advanced capitalist society. The *dérive* grants moments of chance and opportunities for encountering new experiences:

The sudden change of ambiance in a street within the space of a few meters; the evident division of a city into zones of distinct psychic atmospheres; the path of least resistance that is automatically followed in aimless strolls (and which has no relation to the physical contour of the terrain); the appealing or repelling character of certain places — these

¹⁵⁴ A full appreciation of the potential of walking as a research method is for a longer work.

¹⁵⁵ See Misha Myers, 'Walking Again Lively: Towards an Ambulant and Conversive Methodology of Performance and Research' (2004) 6(2) *Mobilities* 183. Myers used walking to promote reflection on notions of home and belonging among refugees.

¹⁵⁶ See Michel de Certeau, *The Practice of Everyday Life* (University of California Press, 1984). See also generally Jane Jacobs, *The Death and Life of Great American Cities* (Random House, 1961, 2002), in which pedestrian activity is linked to neighbourhood character.

¹⁵⁷ Frédéric Gros, *A Philosophy of Walking* (John Howe trans, Verso, 2015) 2.

¹⁵⁸ Ferris Jabr, 'How Walking Helps Us Think', *The New Yorker*, 3 September 2014.

phenomena all seem to be neglected. In any case they are never envisaged as depending on causes that can be uncovered by careful analysis and turned to account.¹⁵⁹

Debord's understanding of the *dérive* reflects that walking is as much a political activity or practice as a physical experience. In this sense, walking may become a form of resistance to, protest against or simply an escape from transformations of landscape that have disruptive, unjust and oppressive consequences. Walking makes those transformations visible. The wayfarer carves a path through the scarred landscape: their walk may be defiant, or mournful. Walking intensifies awareness in the walker and provides a way of holding on to or recovering the landscape that has been transformed. For the Palestinian author Raja Shehadeh, walking in the West Bank hills is a political as well as a private, deeply emotional, practice. Shehadeh has documented eight *sarhat* or walks undertaken between 1978 and 2007.¹⁶⁰ As he explains,

A man going on a *sarha* wanders aimlessly, not restricted by time and place, going where his spirit takes him to nourish his soul and rejuvenate himself. But not any excursion would qualify as a *sarha*. Going on a *sarha* implies letting go.¹⁶¹

The politics of walking are not, or not always, aimed at reaching a wider audience. To walk is to liberate oneself from the confines of the territory or conditions – political or otherwise – in which one lives, for a walk is by nature a *laissez-aller* exploration: expansive and unrestrained. Walking is a method for unfolding stories and has the potential to unsettle current realities and bring others into question. It is thus a suitable mode for disturbing assumptions about places like home – a place long thought untouched by the political yet where the reality is strikingly otherwise. David Pinder agrees that this disruptive potential of walking is so especially in the context of regulated, fortified and surveilled places, as in Shehadeh's walks in the West Bank, and my own walks for each of my case studies.¹⁶² Walking is thus a political, poetic, philosophical and reflexive practice, as well as a physical one.

¹⁵⁹ Guy Debord, 'Introduction à une critique de la géographie urbaine' *Les Lèvres Nues* #6 (September 1955) in *Situationist International Anthology* (Ken Knabb ed, trans, Bureau of Public Secrets, US, 2007 ed).

¹⁶⁰ Raja Shehadeh, *Palestinian Walks: Notes on a Vanishing Landscape* (Profile, 2007) xvi. *Sarhat* is the plural of *sarha*.

¹⁶¹ *Ibid* 2.

¹⁶² David Pinder, 'Errant Paths: The Poetics and Politics of Walking' (2011) 29(4) *Environment and Planning D* 672-692.

The association between walking and the experience of everyday life is stressed in the work of past and contemporary scholars. In *The Practice of Everyday Life*, Michel de Certeau argued that walking is ‘a science of the relationship that links everyday pursuits to particular circumstances.’¹⁶³ For de Certeau, to walk is to participate in daily life and to engage in a deep and conscious yet still meditative way with the environment that determines who we are and how meaning is made. De Certeau and Rebecca Solnit, each in their own time, have also emphasised the centrality of walking to the everyday experience of citizenship and belonging. For de Certeau, walking is a form of spatial practice that subtly shapes social life and thus our in place in and our belonging to it. Walking ‘enunciates’ spaces and is a creative yet elusive and resistive practice.¹⁶⁴ For Solnit, walking is ‘only the beginning of citizenship, but through it the citizen knows his or her city and fellow citizens and truly inhabits the city rather than a small privatized part thereof.’¹⁶⁵ As such, by walking one simultaneously takes part in and uncovers the spatial practices that determine the conditions of everyday life, including our home lives, but which usually remain obscured. This includes the spatial practices of law, whose disciplines and interpellations operate on and emerge from everyday life, shaping and burnishing the landscape, the street, the city and the home.

Walking also offers a type of freedom that aids reflexivity and original thought. These qualities are invaluable to the researcher. As Gros writes:

An author who composes while walking, on the other hand, is free from such bonds; his thought is not the slave of other volumes, not swollen with verifications, nor weighted with the thought of others. It contains no explanation owed to anyone: just thought, judgement, decision. It is thought born of a movement, an impulse.¹⁶⁶

In recent years there has been a recrudescence of the philosophy and practice of walking. Contemporary writers on walking (walker-writers themselves) such as Solnit, Robert Macfarlane, Gros, Shehadeh and W. G. Sebald have become best sellers, inspiring many amateurs to take to the oldways, narrow-ways, hollow-ways, tracks, trods, songlines and desirelines across the

¹⁶³ Michel de Certeau, *The Practice of Everyday Life*, above n 156, ix.

¹⁶⁴ Ibid.

¹⁶⁵ Rebecca Solnit, *Wanderlust: A History of Walking* (Penguin, 2001) 176.

¹⁶⁶ Gros, above n 157, 20.

world.¹⁶⁷ The journey works of these writers narrated through their walks hail from an older generation of walker-thinkers such as Frederich Nietzsche and Charles Baudelaire, the latter of whose journeys remained inside his bedroom, and writer-poets such as William Wordsworth and Virginia Woolf, for whom walking became the ultimate journey.¹⁶⁸ There is also a growing academic literature on walking, amid the ‘mobilities turn’ in scholarship.¹⁶⁹ Walking has been associated with ethnography,¹⁷⁰ as an art practice¹⁷¹ and as a critical and aesthetic practice.¹⁷² For Pinder, walking as a form of urban exploration has political significance.¹⁷³ In relation to home, Myers has used walking as a technique to study how refugees understand a sense of home and belonging in their new neighbourhoods.¹⁷⁴ And in legal practice, walking might already be a method, even if not acknowledged as such, for example in the way judges conduct site walks as part of their decision-making process.

This discussion reflects some of the reasons why I used walking as a research strategy in this study. However, walking as a research strategy has limitations, as well as opportunities. For example, I discovered that walking in Phnom Penh was not always easy in a city not designed for pedestrians and frequently brought to a halt by monsoonal rains. The streets are potholed and cars and rickety bicycles and *tuktuks* and *motoduks* rule the roads right up to shop fronts, making attempts to walk a dangerous, zigzagging and vigilant endeavor. At Boeung Kak Lake, the lakebed is dry, difficult to cross, and made dangerous by subsidence and open sewerage. However, by walking I was able to access parts of the lake and the city that I might not otherwise have been able to had I used less nimble modes of transport. In Area C, my walks were bounded by the geographical, administrative and political limitations of the West Bank and the system of walls, fences, borders, checkpoints, exclusive roads, dykes and firing zones that comprise Israel’s architecture of occupation. Figure 3, taken on a walk in Area C, depicts an Israeli border post

¹⁶⁷ Solnit, above n 165; Robert Macfarlane, *The Old Ways: Journeys on Foot* (Penguin, 2013); Gros *ibid*; Shehadeh, above n 160; Winfried Georg Sebald, *The Emigrants* (Vintage, 2002).

¹⁶⁸ Virginia Woolf filled her pockets with stones and walked into the River Ouse nearby her home to drown herself. Woolf frequently walked the hills and dales of her native Yorkshire. See also Wordsworth, above n 165.

¹⁶⁹ For example, see *Mobilities* journal, especially Kevin Hannam, Mimi Sheller and John Urry, ‘Editorial: Mobilities, Immobilities and Moorings’ (2006) 1(1) *Mobilities* 1-22.

¹⁷⁰ Jo Lee and Tim Ingold, ‘Fieldwork on Foot: Perceiving, Routing, Socialising’ in Simon Coleman and Peter Collins (eds), *Locating the Field: Space, Place and Context in Anthropology* (Berg, 2006) 67–85; Tim Ingold and Jo Lee Vergunst, *Ways of Walking: Ethnography and Practice on Foot* (Ashgate, 2008).

¹⁷¹ Solnit, above n 165; Francesco Careri, *Walkscapes: Walking as an Aesthetic Practice* (Editorial Gustavo Gili, 2002).

¹⁷² Keith Bassett, ‘Walking as an Aesthetic Practice and a Critical Tool: Some Psychogeographic Experiments’ (2004) 28(3) *Journal of Geography in Higher Education* 397.

¹⁷³ Pinder, above n 162.

¹⁷⁴ Myers, above n 155.

marking the limits of Palestinian territory. Many of the border posts in Area C are privately operated. They tend to look the same: concrete hulks, looming and minatory with huge Israeli flags ablaze. What changes is their location. Each year, the posts inch forward deeper into Palestinian land. As a non-Arab person, I was able to enter and move around Area C. Palestinian residents of Area C do not have that freedom and many require permits even to enter their own homes.



Figure 3: The architecture of occupation, Area C, West Bank, October 2013

At the Heygate, I was able to walk around the estate, already part demolished, until the site was fenced off. Today the walker is trespasser, limited to skirting the boundaries of the site hoarded with advertisements for new homes. When I could no longer visit the Heygate, my paths took me into the surrounding neighbourhood of Elephant and Castle. Through these walks I watched the physical shape of the neighbourhood change within the four years of my research, how waypaths through the area opened and closed to pedestrians over that time. While walking may sometimes have the advantage of allowing one to ‘come up close’ to what often remains out of view, frequent physical and environmental risks and dangers limit the utility and reach of walking as a research strategy. On the other hand, I found that the difficulties and risks of walking, and the fact

that walks can take place outside of where walking is usually, or ever, done, also has the effect of sharpening attention to detail and giving rise to spontaneous insight.

While my walks gave some structure to my fieldwork, and connected disparate places, mostly they were unplanned. I chose the routes. I rarely returned by the same route. Even when faced by restrictions – roads, fences, re-routings, customs, expectations, rules, laws and fears – in walking there is still to be had a certain type of freedom. ‘By walking, you escape from the very idea of identity, the temptation to be someone, to have a name and a history.’¹⁷⁵ My purpose in walking was to get a sense of things and, as Woolf put it, ‘to have space to spread my mind out’.¹⁷⁶ My purpose was not to map paths to which I might return and follow again, and use to test or replicate results. Generalisability was not a factor in my use of walking as a research strategy. The fact that environments, vistas, landscapes and perspectives change from walk to walk – and that rarely can the exact same walk, route or experience be replicated or repeated – reveals something in itself.

Finally, the nature of thought and perception that walking induces – spontaneous discovery, seeing differently, liberation from established ideas – compliments the methodological orientation I took in this thesis which, as I explained earlier in this chapter, emphasizes unsettling received meanings about international law and home and confronting my own presuppositions about both with the insights I discovered in the field. Walking and thinking go hand in hand; and walking as a research method is especially well-suited to investigating subjects or topics where knowledge is not well-developed, as in the relationship between international law and home. As Jabr writes: ‘Because we don’t have to devote much conscious effort to the act of walking, our attention is free to wander—to overlay the world before us with a parade of images from the mind’s theatre.’¹⁷⁷

Photographs

My use of photographs in this study has two purposes. It should be said first, however, that neither of these purposes is for the photographs to explain anything in and of themselves. Instead, one of the purposes of the photographs is to contribute to the discussion by setting a mood or placing an accent on a motif or experience, or resonating with a particular sensibility that is

¹⁷⁵ Gros, above n 157, 6-7.

¹⁷⁶ Virginia Woolf, *The Diary of Virginia Woolf* (Anne Olivier Bell ed, Harcourt Brace, 1980) volume 3, 5 September 1926.

¹⁷⁷ Jabr, above n 158.

addressed in the ensuing discourse.¹⁷⁸ The photographs supplement the text and help to put ‘faces’ on the textual narrative.¹⁷⁹

The photographs I use in this study are my own. During fieldwork I carried my camera with me almost all of the time. I used photography as an aid to memory and to complement my field notes, but also to visually convey the themes and meanings of home I explore in the thesis. I sought verbal consent to take photographs of people and homes from participants themselves and to use them in this thesis. These discussions were first conducted in English and then I relied on translators at Boeung Kak Lake and in Area C to ensure that participants understood my motivation and use of the photographs and to allow participants to respond.

Taking photographs in the fieldwork environments I was working in was not without problems and dangers. Photography is prohibited by the Israeli army in some places within Area C. At the Heygate, the construction site was patrolled by guards and ringed by CCTV cameras, meaning that I was being photographed as I photographed. By contrast, at Boeung Kak Lake residents were very keen to have their homes (or what remained of their homes) photographed. I understood from them that they thought this might help their campaign. I was able to pass on my photographs to them using password protected file transfer via the HRTF.

In the field I played the role of both researcher and photographer. Being a photographer caused me to look, see and experience the field differently. Having a camera in my hands, and thinking about home in the field through the lens, made me more attentive to the material experience of home: the physical appearance of home, the position and setting of the home in the environment, the building materials, the layout, and interior and exterior decoration. However as a photographer, I also occupied a position of power in relation to my research participants. I was largely in control of the selection, framing, placement and interpretation of my photos, and I (usually) had the freedom to take photographs where my research participants may not have been able to do the same. The gap between researcher/photographer and research participants was

¹⁷⁸ This is similar to what Douglas Harper calls ‘photo elicitation’, where photos are used to ‘evoke deeper elements of human consciousness than do words’: Douglas Harper, ‘Talking About Pictures: A Case for Photo Elicitation’ (2002) 17(1) *Visual Studies* 13. For an example of another scholar taking this approach, see David King, *The Common Place: The Ordinary Experience of Housing* (Ashgate, 2005). On the aesthetic and political use of photography, see in particular John Berger, *About Looking* (Bloomsbury, 2009), Susan Sontag, *On Photography* (Picador, 1977, 2001), and Roland Barthes, *Camera Lucida: Reflections on Photography* (Vintage, 1980, 2000).

¹⁷⁹ Brinkmann, above n 42, 130.

made vividly apparent to me during one encounter in Area C. I visited a resident whose home was circled by a triple thickness of barbed wire and a deep ditch, designed to separate and seal off the home from a neighbouring settlement. I could not reach the resident; we had to communicate across the breach. I took photographs with the barbed wire in between us. Nonetheless, while the difference between our positions was obvious, the fact of being a researcher/photographer opened up a conversation between us and an opportunity to show solidarity. In other situations, taking photographs also helped me to connect with research participants, many who wanted their photos taken. This process helped to alleviate some of the problems of power asymmetry. I was able to immediately share the photos and seek feedback and responses from participants using a digital playback screen.

It was difficult to choose which photos to use from the vast album I collected during fieldwork. I spent much time processing (but not digitally editing) the photos and cataloguing them by date and place. As my written arguments took shape I returned to the photos and assessed how I might use the photographs to illustrate my arguments or alternatively to draw attention to or emphasise some of the themes and issues I was discussing. It is on this basis that I have chosen to include the particular photos that feature in the chapters of the thesis. While none of my participants refused to be photographed or refused consent for a photograph to be used, I excluded from my selection photographs which, in my view, served no more than to identify participants (such as a portrait of a resident or residents).

The different research strategies I have discussed above – case studies, text analysis, participant observation, interviews, walking and photography – and the data generated from these, allowed me to draw links between international law and home. From this I could begin to understand and develop theory around international law's homemaking work.

2.8 Ethical issues

In this final part of this chapter I examine the ethical issues arising from the study as a whole. Ethical issues arise in almost all aspects of qualitative research.¹⁸⁰ In particular, the potential for harm to researchers and research participants is high where the research involves human interactions. Ethical standards have been developed to protect researchers and research participants. I applied for ethics clearance through the London School of Economics prior to

¹⁸⁰ See, for example, the range of research fields and ethical issues examined in Birch et al, above n 142, 61.

going on fieldwork. This involved completing a risk assessment survey in consultation with my supervisors. Although I was approved to conduct the fieldwork, I recognise that ethics decisions remain the responsibility of the researcher regardless of the views of ethics committees and institutional ethics policies.¹⁸¹ I also understand that risks in the field can arise spontaneously, despite thorough planning and organisation. The ethical issues I identified in my study related to working on a sensitive research topic; the risks of working in unstable and hostile field environments; and risks relating to participant consent, confidentiality and safety.

First, home is a sensitive research topic.¹⁸² This is at least in part because people rely on homes for vital everyday functions such as shelter. But it is also because home is often associated with important affective and emotional experiences meanings, such as being, identity and belonging. I was aware that in discussing home with my research participants I may have evoked memories of painful experiences for them (such as being evicted and displaced), giving rise to the risk of psychological harm. I tried to ameliorate this risk was by explaining my study to participants; by gaining their consent to be interviewed (I discuss this further below); by adopting an empathetic manner and thoughtful choice of words; by being patient and gently supportive (while being careful not to assume a role other than as researcher); and by seeking confirmation and clarification of what was being said. I found that my position as an ‘outsider’, rather than making participants less willing to speak with me, in fact made participants more willing, since they saw me as either neutral or, at most, as someone who might be able to assist by relating their stories to a wider audience.¹⁸³ Finally, my interviews and conversations with participants were conducted in places of their choice and were usually done in the company of friends and relatives.¹⁸⁴ Four residents at Boeung Kak Lake and three Area C residents invited me to visit them at home. Here they seemed very comfortable to talk to me and their responses were usually more personal than when I spoke to other people in public spaces (such as the Boeung Kak Lake community centre).

Second, the field environments I worked in were hostile. This gave rise to various risks of physical harm. At Boeung Kak Lake, disputes between residents and local authorities in relation

¹⁸¹ See further Miller and Bell, above n 142.

¹⁸² See Lee, above n 142. See also on ‘sensitivity’, Kvale, above n 147, 13.

¹⁸³ Of the many works considering insider/outsider perspectives in qualitative research, see in particular David Bridges, ‘The Ethics of Outsider Research’ (2001) 35 *Journal of Philosophy of Education* 371 for a sensitive account of the criticisms made by or on behalf of disempowered participants against outsider research and an argument for how outsider research can contribute to better understanding of research participants and communities.

¹⁸⁴ Lee stresses the importance of environment in doing research on sensitive topics: see Lee, above n 142, 111-14.

to the evictions are ongoing. Area C in the West Bank is an occupied zone and is heavily militarised. In both places the environment itself present physical risks, such as exposure to extreme temperature (Area C) and monsoon conditions (Boeung Kak Lake). The risks of conducting fieldwork in these environments, and particularly in the West Bank, cannot be understated. I addressed these risks as far as possible by being accompanied by trusted hosts at all times in Phnom Penh and in Area C, and by adhering to restrictions on movement, including at the Heygate Estate which was a construction site during most of my fieldwork visits.

Third, participant consent and anonymity are key to participant safety.¹⁸⁵ Boeung Kak Lake and Area C residents face daily threats to their homes and home life. There was a risk that their participation in my research could have had negative consequences for them, for example if this came to the attention of authorities or officials. At Boeung Kak Lake I was aware that a number of residents had been arbitrarily arrested and beaten because of their attempts to organise and resist evictions. In Area C, residents risk losing ID cards and permits for breaching the rules of the military government and even for making complaints, such as when their requests for a building permit are denied. As such, it was important that I explained my research to participants and what their involvement might be in the course of gaining informed consent.¹⁸⁶

Gaining informed consent, however, is not straightforward.¹⁸⁷ For example the extent to which research participants could be ‘informed’ and therefore offer consent was limited by the fact that I was speaking to them in English. For many participants English was not their native language. I relied on translators to ensure that we understood one another as far as possible. Furthermore, even with informed consent, there remain risks to participants, as mentioned above. I kept the identity of participants anonymous in my fieldnotes and writing except where participants gave express consent to be identified.

2.9 Conclusion

The methodology I adopted and the variety of methods I used in this study helped me to reflect on how international law is present in and operates in everyday life in relation to home. Combining an empirical approach, a global socio-legal perspective, and a critical geography of home, my

¹⁸⁵ See generally Lee *ibid*, in particular at 29-30.

¹⁸⁶ See, for example, Kvale, above n 147, 27. See further on debates surrounding ‘informed’ consent, see Miller and Bell, above n 142.

¹⁸⁷ See especially Barry Thorne, “‘You Still Takin Notes?’ Fieldwork and Problems of Informed Consent’ (1980) 27(3) *Social Problems* 284.

methodology anchored my attention to the ways international law forms one part of an unfolding global legal order, entailing the interactions between law at all levels (intimate, local, national, subnational, transnational, global), and how home emerges from those interactions. I used methods as a craftsman might use tools to creatively engage with my data, rather than as a rigid methodologist following pre-defined steps.¹⁸⁸ I return again to the point that this study wasn't about sampling, repetitive questioning and the use of other more systematic methods. Instead, I deployed the three case studies to reveal the operation of the international in the local through the prism of home. My study involved going into the field as an international lawyer to discover the richness we can find there. It was guided by the idea that everyday life reveals to us something about international law that other sources and other perspectives that do not involve the experience of being 'on the ground' cannot. The methodological orientation of the thesis thus also uncovered and challenged a number of assumptions about international law that I brought to the study as an international lawyer – instances of what Bourdieu calls non-consciousness.¹⁸⁹ The methods I deployed allowed me to engage in reflexivity where I discovered meanings that were counter to my assumptions.

To that end, this study was in part a scoping exercise as to the potential for international lawyers to investigate the international in the local and the everyday. By doing fieldwork I could immerse myself in the everyday life of the local (the sights, sounds, smell and feel of places). I remained at the same time conscious of the limitations of my fieldwork in terms of my ability to actually experience the local: the short-term nature of my field visits, and the gap in understanding between myself as the researcher and the lives of my participants and other inhabitants, offset my proximity to the local. However, these factors did not restrict or undermine how my experience in the field prompted me to think, to enquire and to reflect in ways that challenged my perceptions and presuppositions about international law, in particular where it is found and how it operates. In turn, the process of thinking and reflecting offered valuable insights into how international law engages with home and does 'homemaking' work. These insights could not have been gained without an empirical study.

¹⁸⁸ See Bourdieu et al, above n 26, and Kritzer, above n 24. See also Brinkmann, above n 42, 7.

¹⁸⁹ Bourdieu et al *ibid*.

CHAPTER THREE

Lake home

‘Even a bird needs a nest.’¹

3.1 Introduction

Since the end of the war Boeung Kak Lake residents have lived in stilt homes set in the shallows. The stilts steady homes through monsoon floods and the fury of summer storms. In the dry season, stilt homes shelter cows and chickens, ducks and dogs, and host the many-headed *naga* snake too. One hot afternoon, walking in Phnom Penh’s ‘100 Houses’ district, my guide – a young Cambodian architecture student – told me that in Khmer mythology the *naga* twists its nest among the stilts, bringing good luck to the family dwelling above and protection from misfortune. As I was to later see for myself during fieldwork at Boeung Kak Lake, he explained that stilt homes are built by hand and often house many generations under one roof. The ground below is reached by ladders that poke up through gaps in the floorboards while spiny arrangements of planks, ramps and gangways connect homes to the street (Figure 4).²

Boeung Kak Lake is one of Phnom Penh’s seven lakes and a natural asset that has historically ensured the capital’s dominance as a gateway to Southeast Asia through the Mekong River trade route.³ In the early 1990s refugees returning from camps on the Thai border following the Vietnamese withdrawal from Cambodia began to build homes on the lakeshore. The lake lies north of the city in the Doun Penh canton, a short *tuktuk* ride from the central business district.⁴ The ninety-hectare lake is vital to Phnom Penh’s complex drainage system, functioning as a

¹ A Khmer folk tale says that even while a bird has wings to fly, it still needs a nest to keep itself above floodwaters.

² Walk in Phnom Penh with Khmer Architecture Tours, 10 August 2014.

³ On the history of Phnom Penh, see Martin Osborne, *Phnom Penh: A Cultural and Literary History* (Signal, 2008).

⁴ *Tuktuks* are cycle rickshaws.

unique closed hydrological circuit that captures rainfall, insulating the city from annual tides.⁵ Residents have relied on the lake for harvesting fish, snails and water vegetables,⁶ and as the lungs of Phnom Penh, the lake has been a retreat for city-dwellers from Cambodia's oppressive sticky seasons.⁷

The lake attracted international attention after a land grab in 2008. The lake and its nine surrounding villages were sold by the ruling Cambodian People's Party (CPP) to a private investor.⁸ At least 4000 families have been uprooted from their lake homes since 2009 and the evictions are continuing. The land grab coincided with a World Bank land titling project which operated at the lake between 2002 and 2009. The Bank promised that land titling, backed up by a system of property rights, would improve security for local people and stimulate investment in land. The Bank later admitted that the land grab at Boeung Kak Lake was a regrettable but unintended consequence of its project there. Protests against the Bank by local residents and activists are ongoing. Meanwhile, the Bank has emerged as a champion of new efforts to regulate large-scale land acquisition – a move critics say is likely to promote, rather than prevent, land grabbing.⁹

Land grabbing is a major development problem. There is a growing literature in geography, political ecology, rural sociology, development and anthropology, among other fields, seeking to understand the scope, character and magnitude of land grabbing, the role of domestic and transnational capital processes in land deals, and the impact of land grabbing on land use change and land-property relations.¹⁰ However, to date international law scholars have largely overlooked this debate, not least because international law has been positioned as incidental to land grabbing

⁵ Bridges Across Borders Cambodia, 'Boeung Kak Area Drainage and Flooding Assessment', 2008; Cambodia Development Watch, 'Boeung Kak Lake Lease Agreement Discussion Paper', 2007.

⁶ Municipality of Phnom Penh, 'City Development Strategy', <http://www.caexpo.com/special/Magic_City/Cambodia/jbjh.pdf>. See also Cambodian Society of Architects, 'Master Plan of Phnom Penh By 2020', <<http://www.csacambodia.org/>>.

⁷ Lease Agreement, above n 5, 5.

⁸ In this chapter I refer alternatively to the 'CCP' and the 'Government'.

⁹ Saturnino Borras, Jennifer Franco and Chunyu Wang, 'The Challenge of Global Governance of Land Grabbing: Changing International Agricultural Context and Competing Political View and Strategies' (2013) 10(1) *Globalizations* 161 and Saturnino Borras and Jennifer Franco, 'From Threat to Opportunity? Problems with the Idea of a 'Code of Conduct' for Land-Grabbing' (2010) 13(2) *Yale Journal of Human Rights and Development* 507.

¹⁰ See, among others, Matias Margulis, Nora McKeon and Saturnino Borras, *Land Grabbing and Global Governance* (Routledge, 2016); Marc Edelman, Carlos Oya and Saturnino Borras, *Global Land Grabs: History, Theory and Method* (Routledge, 2016) and Saturnino Borras and others, *The New Enclosures: Critical Perspectives on Corporate Land Deals* (Routledge, 2013).

rather than, as I argue, a driver of it.¹¹ The link between land grabbing, home and dispossession has also not been specifically explored.

In this chapter I take the events at Boeung Kak Lake as a case study to investigate some of the ways that international law engages with home in the context of development. I make three main arguments. The first is that the Bank's land titling project transformed home at the lake into property with devastating effects for residents. It has been widely observed that by converting land (and the homes located on it) into property capable of sale or exchange on the market, land titling creates opportunities for speculation and land grabbing. *Home as property* becomes a vessel for accumulation and a means to re-organize social and economic relations through the transfer of wealth from the poor to the more secure.¹² Thus far from improving local people's security and welfare at home, I argue that the Bank's activities at Boeung Kak Lake increased the risk of dispossession.

The second argument I make is that the Bank's support for land titling and land deals (also referred to as large-scale land acquisition) makes international law complicit in a dispossessory path of economic growth and development. As an international organisation established by treaty, the Bank operates within a framework and mandate set by international law and is ultimately an international legal artifact.¹³ The Bank's activities at Boeung Kak Lake thus elucidate the scope and significance of international law norms, duties and practices for home in the context of development. In particular, the Boeung Kak Lake case draws attention to how international law,

¹¹ To some extent reflecting the view of structural realists in which state power and state interests determine international outcomes and to which international law has no independent causal impact: see for example Jack Goldsmith and Eric Posner, *The Limits of International Law* (Oxford University Press, 2007) and Richard Steinberg and Jonathan Zasloff, 'Power and International Law' (2006) 100(1) *American Journal of International Law* 64. Rational choice and constructivist theories of international law, by contrast, consider the important role of international law and its institutions in exercising normative authority and shaping states' and others' perceptions of and responses to problems and interests. In this frame, see work by political scientists and political economists on the role of law in the land grabbing context: Liz Alden Wily, 'The Law and Land Grabbing: Friend or Foe?' (2014) 7(2) *Law and Development Review* 207 and Yorck Diergarten and Tim Krieger, 'Large-Scale Land Acquisitions, Commitment Problems and International Law' (2015) 8(1) *Law and Development Review* 217. See also De Schutter, below n 55 and n 145.

¹² See Timothy Mitchell, 'The Properties of Markets: Informal Housing and Capitalism's Mystery', Cultural Political Economy Working Paper Series, Working Paper No. 2, Institute for Advanced Studies in Social and Management Sciences, University of Lancaster, 2006.

¹³ The World Bank Group is a specialised agency of the United Nations and an independent international organisation comprising five members (the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency and the International Centre for Settlement of Investment Disputes) established through Articles of Agreement. See, for example, *Articles of Agreement of the International Development Association*, 26 January 1960, 439 UNTS 249. In this chapter I alternatively refer to the World Bank as 'the Bank'.

through the agency of the Bank, is instrumental in transactions that insert land into new global circuits of capital and which stimulate land grabbing. The consequences for home are often, not but always, negative.

The third argument builds on the previous two. This is that home can be understood as an analytical tool that reveals a terrain of experience which cannot be captured or expressed in international law. When we look at the events at Boeung Kak Lake through the lens of home, experiences of loss, violence and struggle, as well as resistance and radical engagement, become visible. This perspective helps to qualify the nature of international law's homemaking work in the development context.¹⁴ The perspective from home is also particularly important where, in the modern world, not only is land at risk of capture for economic gain, but so too are the personal life-worlds that our homes represent.¹⁵

To develop these arguments in this chapter, in the first part I examine how the Bank's land titling project affected home at Boeung Kak Lake. This includes looking at the connection between land titling, land grabbing and home. In the second part of the chapter I turn to the role of the Bank in the wider global land grab through its push to regulate large-scale land acquisition. I consider the key international instruments on land acquisition and assess their impact on home. I conclude the chapter by reflecting on international law's homemaking work at Boeung Kak Lake and the use of home as an analytical tool.

¹⁴ An approach supported by critical geographers of home. See, for example, Katherine Brickell, "Mapping" and "Doing" Critical Geographies of Home' (2011) *Progress in Human Geography* 1.

¹⁵ On life-worlds, see Jurgen Habermas (T McCarthy trs), *The Theory of Communicative Action: Reason and The Rationalization of Society (Vol 1)* (Polity Press, 2004).



Figure 4: Stilt home at Boeung Kak Lake

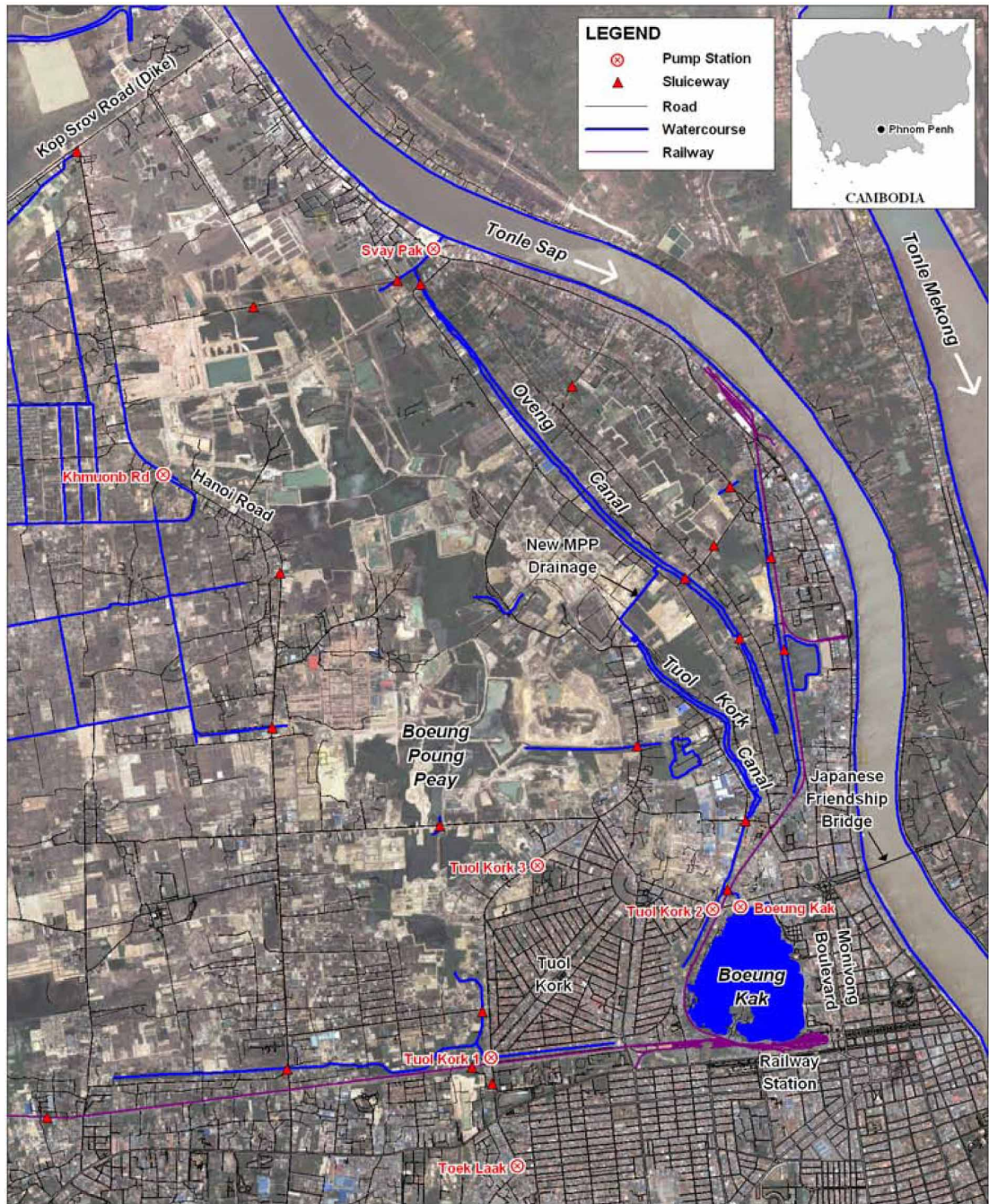


Figure 5: Boeung Kak Lake locality map (image: Drainage and Flooding Assessment, above n 5)

3.2 Home and the World Bank at the lake

On maps of the city, Boeung Kak Lake is marked as a large blue tear (Figure 5). However, my fieldwork observations confirmed that the reality is quite different. Since the land grab and the dredging of the lake, the lakebed is a dry, dusty and arid expanse of sand which one can walk

straight across, as I did on numerous visits during fieldwork (Figure 6). Under Cambodia's *Land Law 2001*, lakes are classified as state public property because they have a 'natural origin' and serve a public purpose.¹⁶ For the refugees who settled Boeung Kak Lake at the end of the civil war in the early 1990s, home at the lake represented a symbolic return to country and the foundations of a new beginning.

International-led efforts to reconstruct the country after the war largely involved support to open Cambodia up to foreign trade, investment and tourism.¹⁷ By the turn of the millennium, Phnom Penh was prospering from this new exposure. Boeung Kak Lake residents enjoyed the trickle-down effect: homes and guesthouses were built and the lake became a popular alternative destination for backpackers and other travelers seeking a more authentic experience to the garishness of Phnom Penh, which had gained a reputation for sex tourism, gambling and drug traffic. There was work for fishermen and local businesses and for *motodup* drivers ferrying locals and tourists in and out of the city.¹⁸ Boeung Kak Lake, with its water and open space, became a lively residential and commercial area, a green oasis on the lip of the city.¹⁹ The lakeshore and its nine surrounding villages were home to over 4000 families.²⁰ Many residents I spoke to during my visits to the lake reflected on these times, the security and hope for the future they enjoyed then.

The prosperity of the lake area inevitably made it a target for investor interest. The Government was already in talks with private developers about plans for the lake when in 2002 the Sras Chok commune – which includes Boeung Kak Lake and its nine surrounding villages – was selected as one of fourteen sites across Cambodia for a World Bank development project. The project, formally called the 'Land Management and Administration Programme' (LMAP), was founded on the twin goals of improving land tenure security for local people and promoting investment in land in Cambodia.²¹ The Bank, announcing LMAP in a press release, explained the link between land titling, tenure security and investment:

¹⁶ *Land Law 2001*, Article 58.

¹⁷ See generally Margaret Slocomb, *An Economic History of Cambodia in the Twentieth Century* (National University of Singapore Press, 2010).

¹⁸ *Motodups* are motorcycle taxis.

¹⁹ Lease Agreement, above n 5, 1.

²⁰ The lease agreement refers to 4250 affected households, *ibid*.

²¹ 'Cambodia Land Management and Administration Project: Project Appraisal Document', Report Number PID9768, World Bank, 5, 7 ('PAD').

Around one million households in both rural and urban areas will receive land titles under the project. The beneficiaries of land titles will enjoy the benefits associated with the titles, including increased tenure security, access to credit, and the opportunities to increase investments and productivity. Many of the expected beneficiaries are poor and vulnerable. Providing them with secure titles would sharply reduce the risks of dispossession that they now face.²²



Figure 6: The dry lake bed

LMAP operated at Boeung Kak Lake from 2002 until 2009 at a total cost of US\$33.9 million.²³ LMAP was in part designed to complement Cambodia's new property rights regime, the *Land Law 2001*, which the Bank had sponsored and helped to draft. The *Land Law 2001* improved, updated and streamlined Cambodia's older land law regime, which was a bricolage of laws tacked together from remnants of the French colonial period. Since all land records had been destroyed by the Khmer Rouge and anyone skilled in land and property administration had been killed or exiled, the Bank also provided technical assistance to the Government to establish a

²² 'World Bank Approves Credit for Land Management and Administration Project in Cambodia', World Bank, Press Release, 26 February 2002.

²³ PAD, above n 21.

central cadastral office and a land registration system, as well as expertise training for government officials.

For more than half a century the Bank has played a key role in shaping the policies of countries in receipt of its funds and resources. Its influence on international law during that time – in both overt and in more subtle and pervasive ways – cannot be underestimated. The Bank, as one of the 15 Bretton Woods institutions,²⁴ was envisaged alongside the United Nations as the ‘twin pillars’ of the new international order emerging at the end of World War Two to support peace and prosperity.²⁵ The Bank’s initial purpose was to fund European reconstruction.²⁶ A secondary duty was to ‘develop the resources and productive capacity of the world, with special attention to less developed countries.’²⁷ Pahuja argues that the inclusion of ‘developing country’ interests in Bank’s initial mandate was a critical moment in understanding how the logic of development has come to pervade international law, and the way in which interventionism covertly defines international law.²⁸ In recent decades the Bank’s primary purpose has shifted to reconstruction and development in the global South.

LMAP was not the Bank’s first foray in Cambodia. Cambodia first joined the Bank in 1970 during the period of laissez faire economic policy of the Khmer Republic (1970-75).²⁹ Liberalisation was reversed under the Khmer Rouge (1975-79) and the Democratic Republic of Kampuchea (1979-89) with intensive nationalisation, deindustrialisation and the erasure of private capital.³⁰ The Bank re-entered Cambodia around 1993 at the end of the civil war, taking on an active role in reconstruction efforts. The Bank’s goals for fostering economic growth in Cambodia, set out its 1993 ‘Emergency Rehabilitation Project’, aligned with the 1991 Paris Peace

²⁴ The Bretton Woods institutions differ from the six principal United Nations organs established by the United Nations Charter: the Security Council; the General Assembly; the Trusteeship Council; the Economic and Social Council; the International Court of Justice; and the Secretariat. See United Nations, *Main Organs* <<http://www.un.org/en/sections/about-un/main-organs/index.html>>.

²⁵ Statement of HD White, Evidence to US House Committee on Banking and Currency, Bretton Woods Agreements Acts: Hearings on HR 2211, 79th Congress, Washington DC, 1st Session 106 (1945). See also discussion in Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011), 13.

²⁶ See discussion and notes in Pahuja, *ibid* 15-7.

²⁷ ‘Opening remarks of Lord Keynes at the First Meeting of the Second Commission of the Bank for Reconstruction and Development, US Department of State’, Proceedings and Documents of the United Nations Monetary and Fiscal Conference: Bretton Woods, New Hampshire, July 1-2, 1944: Volume 1, US Government Printing Office, 1948, doc. 47,84, in Pahuja, *ibid* 17.

²⁸ Pahuja, *ibid* 15-17, 18.

²⁹ Cambodia joined the World Bank as a member state on 22 July 1970. See <<http://www.worldbank.org/en/about/leadership/members>>.

³⁰ See Slocomb, above n 17, chs 3-5.

Accords.³¹ The Accords, apart from concluding a peace deal between warring factions, were designed to steer Cambodia along a path of transition to a liberal market economy.³²

The Bank's re-entry into Cambodia also came soon after the country's hailed first free elections, held under the aegis of the United Nations Transitional Authority in Cambodia (UNTAC). UNTAC, which exercised administrative control in Cambodia between 1992 and 1993, was one of the largest and most complex operations in UN history.³³ However it was not an unqualified success. UNTAC has been criticised for failing to disarm the Khmer Rouge, leaving large swathes of the country under militia control and giving rise to the continuing threat of a new Khmer Rouge initiative.³⁴

The Bank found itself operating in this complicated and fractious post-conflict environment, and with an almost non-existent institutional infrastructure. Arguably as a consequence of this, the Bank turned its attention to initiating what it described as 'a new pattern of development in private hands'.³⁵ Throughout the 1990s the Bank provided financial support in key sectors such as transport, agriculture, health and commodities. It became the largest and most influential player among the many international organisations that set up in Cambodia in the post-conflict period and whose long-term presence has been blamed for the country's continuing aid dependence.³⁶

3.3 The World Bank and land titling

The aim of LMAP was to roll out mass land titling in the Boeung Kak Lake area. The Bank's rationale was twofold. First, it said that lack of land titling in Cambodia directly related to the high incidence of land conflict.³⁷ Uncertainty about the boundaries of land resulting from unclear land policy and land classification had led to competing claims between individuals, the Government and investors. Second, lack of land title and ambiguity about land rights was

³¹ United Nations, *Agreement on a Comprehensive Political Settlement of the Cambodia Conflict 1991*, 23 October 1991 ('Paris Peace Accords').

³² See Trevor Findlay, *Cambodia: The Legacy and Lessons of UNTAC* (Oxford University Press, 1994).

³³ See Findlay *ibid.*

³⁴ Michael Carney and Lian Choo Tan, 'Whither Cambodia? Beyond the Election', Indochina Unit, Institute of Southeast Asian Studies, 1993.

³⁵ 'Memorandum and Recommendation of the President of the International Development Association to the Executive Directors on a Proposed Credit of SUR 45.2 Million to the Kingdom of Cambodia For An Emergency Rehabilitation Project', World Bank, 4 October 1993.

³⁶ See especially Sophal Ear, *Aid Dependence in Cambodia: How Foreign Assistance Undermines Democracy* (Columbia University Press, 2013).

³⁷ PAD, above n 21.

hindering economic growth in Cambodia by reducing incentives to invest.³⁸ According to the Bank, '[l]ack of a land law is one of the main complaints of foreign investors in Cambodia.'³⁹ Systematic land titling in Cambodia would 'reduce the amount of land under state control',⁴⁰ 'stimulate the development of more efficient land markets' and allocate land to its 'best use.'⁴¹

The Bank has long promoted land titling as key to its pro-market approach to development and economic growth in developing countries.⁴² This is reflected in its shift in housing policy from a 'site and service' approach in the 1960s and 1970s to market provision of housing through land titling supported by state-backed property rights with the rise of agricultural and urban capitalism.⁴³ In its flagship 1993 report, *Housing: Enabling Markets to Work*, the Bank argued that establishing property rights was key to ensuring the effective operation of land markets.⁴⁴ In its 1997 *World Development Report*, it emphasized the importance of state-backed property rights systems and local land markets as 'institutional enablers' of economic growth.⁴⁵

In the past two decades, the Bank has conducted dozens of land titling projects identical to LMAP, combining mass land titling with new land law and property law systems and the stimulation of land markets.⁴⁶ The Bank's adoption of land titling as its key approach in developing countries appears to be heavily influenced by the work of Hernando de Soto on land formalization.⁴⁷ De Soto's theory that land titling is the solution to Third World poverty has

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid 4-5.

⁴¹ Ibid.

⁴² See, for example, World Bank, *Land Reform Policy Paper* (1975). See also Ray Bromley, *The Urban Informal Sector: Critical Perspectives on Employment and Housing Policies* (Pergamon, 1979) and Edward Ramsamy, *The World Bank and Urban Development: From Projects to Policy* (Routledge, 2006), ch 4.

⁴³ See generally Admos Chimhowu and Phil Woodhouse, 'Customary vs Private Property Rights? Dynamics and Trajectories of Vernacular Land Markets in Sub-Saharan Africa' (2006) 6(3) *Journal of Agrarian Change* 346–71 and Daniel Bromley, 'Formalising Property Relations in the Developing World: The Wrong Prescription for the Wrong Malady' (2008) 26(1) *Land Use Policy* 20.

⁴⁴ 'Housing: Enabling Markets to Work', World Bank, 30 April 1993, <<http://documents.worldbank.org/curated/en/1993/04/1561159/housing-enabling-markets-work>>.

⁴⁵ 'World Development Report 1997: The State in a Changing World', World Bank, 1997, <<http://documents.worldbank.org/curated/en/1997/06/17396260/world-development-report-1997-state-changing-world>>. See also Anne Orford and Jennifer Beard, 'Making the State Safe for the Market: The World Bank's Development Report 1997 (1998) 28 *Melbourne University Law Review* 8.

⁴⁶ Between 1984 and 2016, the World Bank lists 620 projects worldwide as 'land administration and management' projects. See <http://www.worldbank.org/projects/search?lang=en&searchTerm=&themecode_exact=83>.

⁴⁷ See Hernando De Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (Basic, 2000) and *The Other Path: The Invisible Revolution in the Third World* (Harper & Row, 1989).

almost singlehandedly reshaped land administration in many low-income countries.⁴⁸ According to de Soto, the poor occupy land valued at ‘forty times all the foreign aid received throughout the world since 1945’.⁴⁹ This ‘dead capital’ is held in ‘defective form’.⁵⁰ Poverty will be reduced when the poor convert their land into collateral for loans through land title.⁵¹ Similar claims underline the Bank’s goals for LMAP, which I set out above. The Cambodian Government shares the Bank’s faith in capitalist land transformation. In its 2014-2018 National Strategic Development Plan, the Government said that ‘[d]espite sensitive issues around land, there is still a lot of possibility to convert land into capital for high value addition.’⁵²

However, land titling is not uncontroversial.⁵³ In large part, criticisms of land titling relate to the power asymmetry that has historically premised, and continues to characterise, transactions in land. First, scholars contest the idea that land title gives smallholders (which includes the land poor) bargaining power to resist the advance of investors.⁵⁴ The reality is frequently the opposite. Land targeted for investment is often located in poor agricultural areas where smallholders struggle with debt and face competition from industrial manufacturing, making it more difficult to make ends meet. In these circumstances, smallholders may be forced into distress sales, losing both home and livelihood.⁵⁵ Moreover, land titling makes transactions in land swifter and more transparent, making it easier for buyers and investors to affect quick sales. As such, while land titling projects often promise redistributive ends, in fact land titling may facilitate re-concentration of wealth and power over land.⁵⁶ As Polanyi observed, the creation of markets in land despoils nature *and* livelihoods.⁵⁷

Second, smallholders are unlikely to use their title to negotiate better deals or to extract concessions in deals with investors in the way de Soto envisages. Negotiation rarely happens and

⁴⁸ See further Leah Trzcinski and Frank Upham, ‘Creating Law from the Ground Up: Land Law in Post-Conflict Cambodia’ (2014) 1(1) *Asian Journal of Law and Society* 55.

⁴⁹ De Soto, *The Mystery of Capital*, above n 47, 5.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² Royal Government of Cambodia, ‘An Approach Paper for National Strategic Development Plan 2014-2018, NSDP 2014-2028’, General Directorate of Planning, 2012, 2.29.

⁵³ See especially Timothy Mitchell, above n 12.

⁵⁴ See Diergarten, above n 11, and Bromley, above n 43.

⁵⁵ Olivier De Schutter, ‘How Not to Think of Land-Grabbing: Three Critiques of Large-Scale Investments in Farmland’ (2011) 38(2) *Journal of Peasant Studies* 249, 270.

⁵⁶ See Borrás, above n 9, and Saturnino Borrás and Jennifer Franco, ‘Contemporary Discourses and Contestations around Pro-Poor Land Policies and Land Governance’ (2010) 10(1) *Journal of Agrarian Change* 1.

⁵⁷ See Nancy Fraser, ‘Can Society Be Commodities All the Way Down? Post-Polanyian Reflections on Capitalist Crisis’ (2012) 43(4) *Economy and Society* 541.

where it does smallholders have little voice in comparison to investors. With less experience in negotiation and with fewer resources to bring to the table, smallholders are also in a far weaker bargaining position. Reaching deals between smallholders and investors should in any case be the last and least desirable option because this may permanently close off the option of smallholding, alienating current and future generations of smallholders from returning to their homes, land, culture and history.⁵⁸ For smallholders the ‘best use’ of their land may be for it to remain as it is (a home, a meeting place, a workplace) rather than as an asset or form of credit.⁵⁹

Third, smallholders are also unlikely to use land title to defend challenges by investors in court. Generally smallholders will not be able to afford court fees nor the risk of costs in the event of a decision against them. By contrast, investors can usually afford legal representation and therefore have a higher chance of success in court, even where the smallholder has a land title. Further, the investors who stand to benefit from land titling drives are inevitably large and experienced market players. They will usually know how to use legal proceedings to their advantage and benefit from institutional knowledge and repeat experiences. Corruption, bribery and the promise of kickbacks may also play a role in decision-making in favour of investors.

A final criticism is that capitalist accounts such as de Soto’s place unrecorded and irregular forms of socio-economic life (for example, self-sufficient and bartering smallholders) outside of the market. However, they are in fact neither inside nor outside. As Mitchell argues, they instead form a frontier or a border, neither exterior nor interior to the market.⁶⁰ Smallholders are partly outside because their assets cannot be priced by the market but also partly inside because the forms taken by capitalism or the market (for example, the forms of rent that are the principle means for the elite to reproduce its wealth) ‘are the outcome of a long and continuing encounter and interaction with this so-called outside.’⁶¹ As such, the transfer of wealth from the ‘outside’ to the ‘inside’ creates wealth, but not in the way envisaged by de Soto. Instead, land titling and the use of property as collateral creates opportunities for speculation, for concentrating wealth and for accumulating rents. In the process of transforming home into property through land titling, the homes of smallholders and other poor residents become not only a vessel for accumulation, but also a means through which social and economic relationships are re-organized. Control over the

⁵⁸ See generally Borras, above n 9.

⁵⁹ See further Mark Grimsditch and Nick Henderson, 'Untitled - Tenure Insecurity and Inequality in the Cambodian Land Sector', Bridges Across Borders Southeast Asia, Centre on Housing Rights and Eviction and Jesuit Refugee Service, 2009.

⁶⁰ Mitchell, above n 12, 26-7.

⁶¹ Ibid 27.

linked chain of home-property-land can be used to suppress, exclude and ultimately expel the poor.

These criticisms indicate that the promotion of land titling rests on a number of assumptions about the capability of smallholders to be ‘active market players’; the existence of functioning institutions modeled on those in the West; and services to assist smallholders to ‘maximise’ their ‘assets’.⁶² But in many parts of the global South this does not reflect conditions on the ground.⁶³ Smallholders will not always have the skills or resources to capitalise on land title in the entrepreneurial ways imagined by De Soto. Indeed, de Soto’s vision for wealth creation by transforming ‘dead capital’ into ‘live capital’ through land titling does not produce capital but transfers and re-organizes capital from the poor to the more secure.⁶⁴ As Earle puts it, the success of land titling rests on the fantasy that ‘one small piece of a complex cultural and legal fabric can be simply transplanted to a different social and political reality.’⁶⁵ Thus despite the promotion of land titling projects such as LMAP as a way of increasing welfare security for local people, financial inclusion and improving quality of life, the effect for poor residents may be the opposite.⁶⁶ Land titling transforms *homes* into *property* that can be sold or exchanged, generating new vulnerabilities for home through the risks of speculation, aggressive debt, market capture and, ultimately, dispossession.

The World Bank’s support for land titling also reveals the extent to which international law, through the agency of development organs, is enmeshed in assumptions about the virtues of property rights and in practices that present property rights as natural incidents of capitalist production and exchange.⁶⁷ The naturalisation of property rights in international law’s development agenda conceals as equitable and rational relations that are inherently oppressive and exploitative, and legal forms that preclude just distribution.⁶⁸ This is especially clear when

⁶² Lucy Earle, ‘Stepping Out of the Twilight? Assessing the Governance Implications of Land Titling and Regularization Programmes’ (2014) 38(2) *International Journal of Urban and Regional Research* 628.

⁶³ I use the terms ‘global South’ and ‘global North’ in this paper, conscious that they are contested terms. See Partha Chatterjee, *The Politics of the Governed: Reflections on Popular Politics in Most of the World* (Columbia University Press, 2004) and Sundhya Pahuja, *Decolonising International Law*, above n 25.

⁶⁴ Mitchell, above n 12, 26.

⁶⁵ *Ibid* 630.

⁶⁶ See Susanne Soederberg, *Debtfare States and the Poverty Industry: Money, Discipline and the Surplus Population* (Routledge, 2014).

⁶⁷ Compare, broadly, Joseph Stiglitz, *Globalization and Its Discontents* (Penguin, 2003).

⁶⁸ See further Susan Marks (ed), *International Law on the Left: Re-Examining Marxist Legacies* (Cambridge, 2008) throughout.

the asymmetries of property are considered in terms of who can and cannot access or sustain a home.

3.4 Home and land titling at Boeung Kak Lake

From my discussions during fieldwork with residents at Boeung Kak Lake, it was clear that many had welcomed the opportunity to apply for land title under LMAP.⁶⁹ Few residents had formal legal ownership of their homes. This is unsurprising, considering the ‘uneven geography’ of tenure insecurity that is endemic in Cambodia,⁷⁰ and in particular at Boeung Kak Lake, which had been settled in an ad hoc way by refugees. This is not to say it was impossible for Boeung Kak Lake residents to obtain formal legal ownership prior to the Bank’s arrival. For example one resident, who has lived at Boeung Kak Lake with her husband, five children and three grandchildren for several decades, showed me papers which she described as a land sale contract (Figure 7). The validity of her contract has been disputed by authorities, obstructing her claim over the land and leaving her at risk of eviction. However the majority of lake residents have never applied for land ownership either because it is too expensive or because they are excluded from doing so by authorities. As such, lake residents remain outside of the formal system of legal property rights.

The other reason why Boeung Kak Lake residents have not applied for land ownership is because for a long time they have relied on informal and customary systems of ownership.⁷¹ This includes the custom of passing on the family home through kinship lines as well as the Khmer tradition of ‘family books’. Family books are kept by each family and are used to record the history of every home, such as the names of family members living in the home and visitors to the home, and repairs or works done to the home, among other things.⁷² Other forms of tenure recognition residents identified included how they had been issued with house numbers by the district authority or had been approved for small home improvements. Others had sale contracts relating to their land witnessed by district officials. Lake residents believe that these different forms of tenure recognition establish legal and customary rights to their homes and land. They have also

⁶⁹ Interviews with residents in Sras Chok, Daun Penh, September 2014.

⁷⁰ Robin Biddulph, ‘Tenure Security Interventions in Cambodia: Testing Bebbington’s Approach to Development Geography’ (2011) 93(3) *Human Geography* 223, 224.

⁷¹ On customary land rights generally see Christoph Oldenburg and Andreas Neef, ‘Reversing Land Grabs or Aggravating Tenure Insecurity: Competing Perspectives on Economic Land Concessions and Land Titling in Cambodia’ (2014) 7(1) *Law and Development Review* 49.

⁷² Interviews with residents in Sras Chok, Daun Penh, July 2012 and August 2014.

ensured residents' sense of belonging to a community living at the lake and a shared culture and history. This sort of *ontological* security appeared to be just as, if not more, important than *legal* security of tenure for residents.⁷³

As it happened, no land titles were ever distributed at Boeung Kak Lake. The lake and the surrounding villages were excised from the project area during the first stage of the project. This stage involved mapping and classifying the land. According to the Bank, the aim of this was to formalise the boundaries of the lake area 'in a transparent, rule-based manner' and to identify land available for private ownership.⁷⁴ However, at Boeung Kak Lake, Bank-trained local officials responsible for carrying out this stage of the project classified the land as 'unclear' and 'unknown'. Under the terms of LMAP, land that was 'unclear' or 'unknown' would be excluded from the project area and handed over to the state, in the form of 'state public land'.⁷⁵ Under Cambodia's *Land Law 2001*, state public land is unavailable for private ownership and no claims for land title can be made over it.⁷⁶ Thus, the decision to classify the land in this way meant that lake residents could not apply for land title under the Bank project. In doing so, it also denied any sort of claim, legal or otherwise, residents might have had over their land. Effectively, the decision left residents illegal squatters in their own homes.

Soon after these new land maps, excluding the lake and villages from the project area, were displayed in the local *pagoda*.⁷⁷ Residents were distressed to see not only that they had been cut off from the project and could not apply for land title, but also that their homes were not marked on the maps.⁷⁸ According to the maps, Boeung Kak Lake residents did not exist and had never existed.

Residents said to me that they were never told why the lake and villages had been determined to be 'unclear' or 'unknown' or how this decision had been reached.⁷⁹ However when they approached project officials they were told that they were now living in a 'development zone'. This corroborated what lake residents and informants at the Housing Rights Task Force had told

⁷³ Anthony Giddens, *The Constitution of Society* (Polity, 1984). See also discussion in Moira Munro and Ruth Madigan, 'Privacy in the Private Sphere' (1993) 8(1) *Housing Studies* 29.

⁷⁴ PAD, above n 21, 6.

⁷⁵ Ibid 8.

⁷⁶ Royal Government of Cambodia, *Sub-decree 129 on Rules and Procedures on Reclassification of State Public Properties and Public Entities 2006*, Article 18.

⁷⁷ A *pagoda* is a temple.

⁷⁸ Interviews with residents in Sras Chok, Daun Penh, July 2012.

⁷⁹ Ibid.

me: that the lake and surrounding villages had been ear-marked by the Government for private development some time ago. By classifying the land as ‘unclear’ or ‘unknown’, the land was freed up and could be used for development. Scholars have noted how mapping and classification exercises are used to ‘smooth space’, to ‘conceal unevenness’ and to ‘define fixed boundaries’ with the intent of transforming land for market exploitation.⁸⁰ Indeed, the Government’s intention to use the land in this way was confirmed when it initiated a process under the *Land Law 2001* to convert the land it had seized at the lake from ‘state public land’ into ‘state private land’.⁸¹ Whereas, as I have mentioned, state *public* land cannot be sold or leased, state *private* land cannot be sold but it can be leased to individuals and corporations on long leases such as ‘economic land concessions’ for the purposes of exploitation and development.⁸²

It was the activity and decisions of local officials and Cambodian Government figures carrying out LMAP that left lake residents at risk and facing new vulnerabilities in relation to their homes. However, this does not mean that the Bank was blameless. By initiating the land titling project at Boeung Kak Lake; by equipping and supervising local officials to carry it out; and by retaining overall responsibility, the Bank was instrumental in generating that risk. It also contributed to conditions in which a land grab occurred.

⁸⁰ Biddulph, above n 70.

⁸¹ *Sub-decree 129*, Article 18, above n 76.

⁸² Royal Government of Cambodia, *Sub-Decree 143 on Economic Land Concessions 2005*. See also ‘Map of Cambodia Land Concessions’, LICADHO <http://www.licadhocambodia.org/concession_timelapse/>.

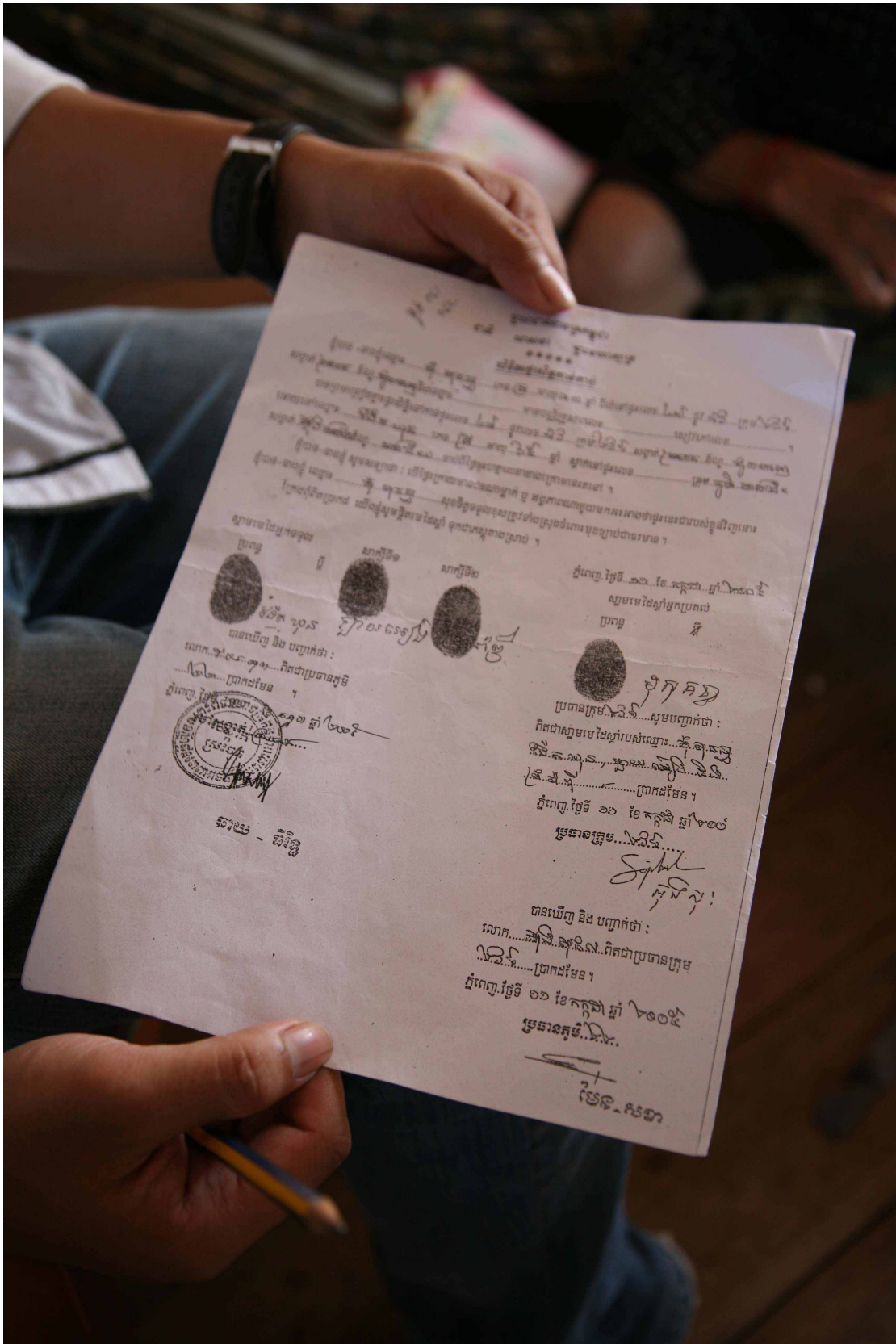


Figure 7: A resident's land sale contract

3.5 Home and the land grab

In January 2008, while LMAP was still effectively operating at the lake, the Municipality of Phnom Penh signed an agreement to lease Boeung Kak Lake and the surrounding nine villages – an area covering 133 hectares - for 99 years to a private company, Shukaku Inc (Shukaku). The value of the deal was US\$79 million. At US\$0.6 per square kilometre, Shukaku paid a fraction of the market value for land at Boeung Kak Lake.⁸³ Shukaku is owned by Lao Meng Khin, a friend of the Prime Minister of Cambodia, Hun Sen, and a senator in the ruling CPP. A handful of Chinese companies also have interests in the lake development. The Erdos Hongjun Investment Corporation, a company registered in Inner Mongolia, has a 49 per cent stake in Shukaku. Guangdong New Golden Foundation is also said to have invested an undisclosed amount in the development.⁸⁴ The lease of the lake was helped by the relaxation of Cambodia's foreign investment rules in 2004. The *Law on Investment of the Kingdom of Cambodia 2004* makes land in Cambodia available to overseas investors, provided that at least 50 per cent of an investing entity is Cambodian owned.⁸⁵

Shukaku's lease is in the form of an economic land concession (ELC).⁸⁶ ELCs are legal vehicles for land-property transfer and land use change. Land concessions are now a reasonably familiar, and popular, form used by governments in the rapidly developing countries of the global South.⁸⁷ The Cambodian Government promotes ELCs as part of its push for investment and development in Cambodia.⁸⁸ Under the *Land Law 2001*, ELCs entitle leaseholders to clear land for industrial, agricultural or other exploitation.⁸⁹

Shukaku moved onto the lake area in August 2008. Construction workers began dredging the lake. Sand was pumped into the lake from the Tonle Sap River, one of Cambodia's major arteries

⁸³ Lease Agreement, above n 5. See also 'Lake Inferior: The Poor Pay For a Property Boom', *The Economist* (29 January 2009), online: The Economist.

⁸⁴ 'Chinese Linked to Filling of Lake', *Phnom Penh Post* (29 January 2010), online: Phnom Penh Post.

⁸⁵ Royal Government of Cambodia, *Law on Amendment to the Law on Investment of the Kingdom of Cambodia 2004*, amending the *Law on Investment in the Kingdom of Cambodia 1994*.

⁸⁶ *Land Law 2001*, Section 8.

⁸⁷ See, for example, Oldenburg and Neef, above n 71.

⁸⁸ See, for example, *Sub-Decree 143*, above n 82, and Royal Government of Cambodia, *National Strategic Development Plan 2009-2013*, 121, and generally *National Strategic Development Plan 2014-2018*.

⁸⁹ *Ibid.* As at May 2016 there were 286 ELCs operative in Cambodia: see records by NGO Open Cambodia at <<https://opendevelopmentcambodia.net/profiles/economic-land-concessions/>>.

connecting to the Mekong, amid protests from residents and NGOs.⁹⁰ Waterlife and fishing businesses were destroyed, while residents' health and tourism suffered as air quality at the lake declined.⁹¹ Men told me how their once-healthy businesses have all but dried up with the lake and many were now scraping for work in Phnom Penh, or not working at all.⁹²

With the loss of the floodplain, monsoon rains now deluge the lake area, surrounding land and districts north of Phnom Penh. Hundreds of homes subsided into the lake (Figure 8). The lakeshore and land nearby are now unstable for building and unsafe for human habitation.⁹³ I walked across the lake one morning to visit one family whose stilt home was still standing (as seen in Figure 8). The parents live in this home with an elderly grandmother and two children. They run a small shop out of the front of the home selling essential goods to neighbours – plastic homeware, cooking gas and bottled water, sweets and children's toys. The father explained to me that his brother had lived in the home next door, but this had subsided into the lake with only a few planks remaining above water level (Figure 9). The family's own home is very unstable, but they do not want to leave.⁹⁴

⁹⁰ 'Investigation Report - Cambodia: Land Management and Administration Project', World Bank Inspection Panel, 2010, xvi ('Inspection Panel Report').

⁹¹ Inspection Panel Report *ibid*.

⁹² Interviews with residents in Sras Chok, Daun Penh, July 2012.

⁹³ See generally Drainage and Flooding Assessment, above n 5.

⁹⁴ Interviews with residents in Sras Chok, Daun Penh, August 2014.



Figure 8: Flooding and subsidence



Figure 9: The remains of a stilt home

In early 2009, the first eviction notices arrived at Boeung Kak Lake.⁹⁵ Shukaku's lease area affected approximately 4,250 families.⁹⁶ The UN Committee on Economic, Social and Cultural Rights defines forced eviction as 'the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to appropriate forms of legal or other protection.'⁹⁷ Residents told me that they were offered three compensation options.⁹⁸ The first option was US\$8500. The second option was a flat at the Damnak Trayeong housing relocation site and US\$500 to assist with the cost of moving.⁹⁹ This sum did little to cover expenses and did not compensate income losses during and after relocation, among other expenses.¹⁰⁰ The third option was onsite rehousing. This required residents to move to the Trapeang Anchanh relocation site for four years while replacement housing was constructed at Boeung Kak Lake. Nothing ever came of the third option, so most residents took the second option and relocated to Damnak Trayeong.

Along with lawyers from the Housing Rights Task Force, I was invited to visit Damnak Trayeong.¹⁰¹ The lawyers were working with residents there to self-organise against the evictions. Damnak Trayeong is one of 54 housing relocation sites scattered on the outskirts of Phnom Penh.¹⁰² The site is approximately 20 kilometres from Boeung Kak Lake, or a very long and expensive *tuktuk* ride that few Boeung Kak Lake residents can afford.¹⁰³ We reached the site in the mid afternoon just before the monsoon hit. Residents toured us through the site; the houses are arranged in a grid of about ten streets square. We walked along some of the streets and stopped to talk inside the homes of several residents whom we had met and had agreed to speak to us.¹⁰⁴ A collection of children, not in school, trailed us. When the sky opened with heavy rain, we gratefully sheltered with a family – parents, child, dog and a caged bird – inside their home (Figures 10 and 11).

⁹⁵ District Governor of Daun Penh District, *Notification No. 180*, August 2009.

⁹⁶ Letter to World Bank Inspection Panel, Centre on Housing Rights and Evictions, 4 September 2009.

⁹⁷ UNESCO, *General Comment No. 7: The Right to Adequate Housing (Art.11.1): Forced Evictions*, UN Doc. E/1998/22 (1997).

⁹⁸ *Notification No. 180*, above n 95.

⁹⁹ See discussion in UNHRC, *Report of the Special Rapporteur on the Situation of Human Rights in Cambodia*, UN Doc. A/HRC/27/70 (2014).

¹⁰⁰ Interviews with former Boeung Kak Lake residents at Damnak Trayeong, September 2014.

¹⁰¹ Damnak Trayeong, 2, 3 and 4 September 2014.

¹⁰² Sahmakum Teang Tnaut, 'Resettling Phnom Penh – 54 and Counting?', 2012, <http://teangtnaut.org/wp-content/uploads/2013/01/20121218_FF21_relocation-sites_vsFINAL1.pdf>.

¹⁰³ Interviews with former Boeung Kak Lake residents at Damnak Trayeong, September 2014.

¹⁰⁴ *Ibid.*



Figure 10: Home at Damnak Trayeong

Housing and living conditions at Damnak Trayeong are extremely poor. Most of the houses are half built (Figure 12). I noticed extensive cracking in poured concrete areas in front of the homes as well as unfinished (and unusable) dig-outs, run-off tunnels and holes for sewerage. There is no functioning sanitation and no clean water sources. Waste is piled in different locations (Figure 13). Some residents have left Damnak Trayeong and are now living with relatives in Phnom Penh city in overcrowded conditions. Others have returned to Boeung Kak Lake to squat on the site of their former homes and even to rebuild, despite the risks of being evicted again and environmental hazards such as subsidence and lack of sanitation. But residents said the risks were worth it because their daily lives revolved around home at the lake: family, school, work and community were physically and culturally connected to home.



Figure 11: Street and homes in Damnak Trayeong



Figure 12: Unfinished housing at Damnak Trayeong

For the Bank, the land grab at Boeung Kak Lake was a regrettable but unintended consequence of the project. In 2010, the World Bank Inspection Panel cleared the organisation of wrongdoing during LMAP.¹⁰⁵ However, the extent to which the land grab was unintended is questionable. Land regularisation projects like LMAP are used to identify ‘idle’ or ‘empty’ land for development (or, at Boeung Kak Lake, ‘unclear’ and ‘unknown’ land) and to make land ‘safe’ for investors by bringing it within a system of legal property rights. Far from being an ‘unintended’ consequence of the Bank project, the transformation of home into property at the lake, and the sale of the land to a private investor in the land grab that followed, is arguably consistent with LMAP’s goal of ‘promoting investment’ in Cambodia. It also highlights that local peoples’ home interests are not considered part of the responsibility of international development organisations like the World Bank and that dispossession from home is accepted as a cost of land regularisation in developing countries.

This view is consistent with the Bank’s recent emergence as a champion of international regulation for large-scale land acquisition, a move which critics say promotes, rather than prevents, land grabbing. In this final part of the chapter, I turn to the role of the Bank in the wider ‘global land grab’ and examine this as part of international law’s homemaking work.

¹⁰⁵ Inspection Panel Report, above n 90.



Figure 13: Waste at Damnak Trayeong

3.6 The global land grab

Phnom Penh's Olympic Stadium was built between 1963 and 1964 by the celebrated Khmer architect Van Molyvann. The Brutalist masterpiece was co-opted by the Khmer Rouge during the 1970s as a military parade ground. Today the stadium remains one of the highest points in the city and is a favourite place for locals to exercise in the cool of the concrete pylons at dusk. Joining them, I stood on the rim of the stadium and looked out across a landscape that is expanding in every direction, pockmarked with the craters of demolition sites, modern apartment towers piercing through narrow spaces alongside *pagodas* and traditional buildings (Figure 14). Since the mid 2000s, Phnom Penh's city policy has been to make the capital competitive with other Southeast Asian cities. This aspiration is reflected in the pace of construction: between my fieldwork visits in 2012 and 2014, Phnom Penh had grown visibly (Figure 15).¹⁰⁶ Opened to foreign markets after the isolation of the Khmer Rouge era, and insulated from the effects of the Asian financial crash in the late 1990s, Phnom Penh today bears the hallmarks of neoliberal urban

¹⁰⁶ Céline Pierdet, 'Private Investors in Phnom Penh (Cambodia) and the Reconfiguration of the City Center in Relation to the Periphery Since the 1990s' (2011) 5(681) *Annales de Géographie* 486-508.

growth in the global South: a building boom, rising land values, competition for space, and land grabbing. The events at Boeung Kak Lake should be seen in this context.

Land grabbing in Cambodia has been described as a ‘prolonged crisis’ and ‘slow-moving calamity’ for the country.¹⁰⁷ Khmer human rights organisation LICADHO estimates that over 2.1 million hectares of land in rural Cambodia has been granted by the Government in land concessions to industrial agriculture firms and private developers since 1993, affecting over 400,000 Cambodians.¹⁰⁸ The former United Nations Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, argues that years of civil war has led to ‘land grabbing on a massive scale’, exacerbating land conflicts and catalysing land ownership patterns that disadvantage the poor.¹⁰⁹

The situation is not unique to Cambodia. Land grabbing is a global problem. While it has so far caught the attention of scholars in geography, political ecology, rural sociology, development and anthropology, among others,¹¹⁰ international law scholars have been slow to enter the debate. In light of this, it is worth spending a moment here sketching out the general idea.

While land grabbing isn’t a new phenomenon, much about its contemporary phase is debated. Scholars variously refer to ‘land grabbing’, ‘land deals’, ‘large-scale land acquisition’, and ‘large-scale investment in land’.¹¹¹ Land grabbing is sometimes the thing to be explained while at other times it is the thing that does the explaining. What scholars do agree on is the idea that land grabbing is a process that generally entails the capturing of control of vast tracts of land and other natural resources through a variety of mechanisms, involving significant transfer of capital and often resulting in shifts in resource use from (for example) farming and forestry to extractive industries, whether for international or domestic purposes. Lorenzo Cotula talks about ‘land control’, that is, ‘how actors are able to hold onto the land and to the institutional and political ramifications of access, claims, and exclusions.’¹¹² The transactions that lie beneath a land grab

¹⁰⁷ Map of Cambodia Land Concessions, above n 82.

¹⁰⁸ Ibid. The figure of the number of persons affected is from 2003 alone; thus the number would be far greater including the years prior to that.

¹⁰⁹ UNHCR, ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari - Addendum - Mission to Cambodia’, UN Doc. E/CN.4/2006/41/Add.3 (2006).

¹¹⁰ See above nn 9-11.

¹¹¹ Ibid and see references below.

¹¹² Lorenzo Cotula, ‘The International Political Economy of the Global Land Rush: A Critical Appraisal of Trends, Scale, Geography and Drivers’ (2012) 39(3-4) *Journal of Peasant Studies* 649, 669.

are frequently characterised by disparities of power and market access as between states, investors, smallholders and the land-poor in targeted areas.¹¹³



Figure 14: At the Olympic Stadium

Land grabbing can also be understood as simultaneously a geographically-specific event and part of a process that brings together different uses of land (production, industry, agriculture, speculation) with a range of local, national, transnational and international practices, including planning rules, property regimes, trade policies and investment law.¹¹⁴ The exact causes and rationales of land grabbing are many and varied but it is said to be a ‘massive’ and ‘growing’ trend, catalysed by multiple, overlapping crises – oil, food and finance.¹¹⁵ The objectives of land grabbing may include genuine attempts to secure land for food and fuel production in the face of risks from unstable commodity markets and scarcity arising from environmental issues such as

¹¹³ See, for example, Saturnino Borras and others, 'The New Enclosures: Critical Perspectives on Corporate Land Deals' (2012) 39(3-4) *Journal of Peasant Studies* 619; Borras and Franco, above n 9; Saskia Sassen, 'Land Grabs Today: Feeding the Disassembling of National Territory' (2013) 10(1) *Globalizations* 25; Nancy Lee Peluso and Christian Lund, 'New Frontiers of Land Control: Introduction' (2011) 38(4) *Journal of Peasant Studies* 667; and Matias Margulis and Tony Porter, 'Governing the Global Land Grab: Multipolarity, Ideas, and Complexity in Transnational Governance' (2013) 10(1) *Globalizations* 65.

¹¹⁴ Borras, 'New Enclosures' *ibid.*

¹¹⁵ *Ibid.*

drought and climate change (sometimes referred to as the ‘food-fuel-feed crisis’¹¹⁶) to speculative acquisition driven by surplus cash withdrawn from precarious enterprises following financial crisis.¹¹⁷

This complicated picture makes it difficult to think about land grabbing as a discrete, once-off event. That is, there may be ‘no one land grab’.¹¹⁸ Land grabbing might be better understood as ‘a series of changing contexts, emergent processes and forces, and contestations that are producing new conditions and facilitating shifts in both de jure and de facto land control.’¹¹⁹ While the ‘grab’ itself is important, it might only mark the beginning of a process: of ‘land emptying’ – gaining access to and clearing the land for later development – or ‘land parking’ – holding the land while its value appreciates before reselling at a profit. A large-scale land deal, then, might be no more than a framework. Concrete deals for leasing land – between private investors, agribusiness corporations and local governments, for example – may or may not emerge, and even when they do they may not result in the actual enclosure of land, the dispossession of previous users and the establishment of new production and labour regimes until many years later.¹²⁰ Land grabbing is an ‘amorphous and complex event’.¹²¹

While land grabbing remains a conceptual challenge, we can gain some sense of its real-world significance through empirical evidence that indicates an accelerated period of dispossession is in motion. Between 2000 and 2016, 26.7 million hectares of land have been transferred to private investors in large-scale land deals.¹²² The vast majority of deals have been made in sub-Saharan Africa (41 per cent), followed by South East Asia (32 per cent), and the Americas and Caribbean (19 per cent).¹²³ This data has led scholars to suggest that land grabbing has ‘spiked’ in the past decade.¹²⁴ However, the evidence needs to be approached with caution: collecting data on land grabbing is complicated by legibility problems and is therefore of uneven quality. Over-simplified claims based on problematic data risks undermining attempts to counter land grabbing,

¹¹⁶ See generally Margulis, McKeon and Borrás, above n 10, and Philip McMichael, ‘Land Grabbing and Security Mercantilism in International Relations’ (2013) 10(1) *Globalizations* 47.

¹¹⁷ See examples in Margulis, McKeon and Borrás *ibid* and Margulis and Porter, above n 113.

¹¹⁸ *Ibid*.

¹¹⁹ *Ibid*. See also Peluso and Lund, above n 113, 667.

¹²⁰ See Cotula, above n 112, and Lorenzo Cotula, *Human Rights, Natural Resource and Investment Law in a Globalised World: Shades of Grey in the Shadow of the Law* (Routledge, 2012).

¹²¹ Wily, above n 11, 209.

¹²² Analytical Report of the Land Matrix II, 11 October 2016. Land Matrix <<http://www.landmatrix.org/en/>>.

¹²³ Land Matrix *ibid*.

¹²⁴ Borrás and others, above n 113, 620.

while the tendency to reduce land grabbing to a quantitative problem distracts from the social relations it transforms.¹²⁵

Critical geographers frame land grabbing as a capitalist colonial practice linked to the creation of new spatialised regimes of control.¹²⁶ Recalling the nineteenth century ‘Scramble for Africa’, the contemporary phase of land transformation has been described as a ‘global land rush’.¹²⁷ On this view, land grabbing today might be seen less as a unique event than ‘a surge within a well-trodden path of expanding and also ever-globalising capitalism’,¹²⁸ a bout of ‘primitive accumulation’ of land and natural resources by elites in both developed and developing country contexts. Land grabbing may be key not only to the transformation of land, but also to change in wider social, political and economic conditions, including the conditions of human habitation.

However, contemporary land grabbing can also be distinguished from patterns of accumulation in the past. For one, land grabbing today involves new actors in new places – it is now just as likely to occur ‘South-South’ as ‘North-South’ – and new expressions of, and locations for, sovereign authority over territory, deterritorialisation of power, shifting jurisdictions and porous borders.¹²⁹ As Saskia Sassen argues, land grabbing ‘widens structural holes in the tissue of national sovereignty’,¹³⁰ because ‘what was once part of national sovereign territory is increasingly repurposed for a foreign firm or government.’¹³¹ The trends and character of contemporary land grabbing might then be read as signals for the disassembly of national territory, the emergence of a new geopolitics characterised by non-national forms of authority over territory, such as foreign investors and World Bank loan conditionalities,¹³² and the ‘active making’ of new partial, specialised, cross-border spaces and arrangements.¹³³

¹²⁵ See generally Marc Edelman, ‘Messy Hectares: Questions about the Epistemology of Land Grabbing Data’ (2013) 40(3) *Journal of Peasant Studies* 485.

¹²⁶ See, for example, Stefano Liberti, *Land Grabbing: Journeys in the New Colonialism* (Verso, 2013) and see also Saturnino Borrás, Cristóbal Kay, Sergio Gómez and John Wilkinson, ‘Land Grabbing and Global Capitalist Accumulation: Key Features in Latin America’ (2012) 33(4) *Canadian Journal of Development Studies* 402.

¹²⁷ Wily, above n 11, 209. See also Nicholas Blomley, ‘Law, Property, and the Geography of Violence: The Frontier, the Survey and the Grid’ (2003) 93(1) *Annals of the Association of American Geographers* 121.

¹²⁸ Wily *ibid.*

¹²⁹ See Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton University Press, 2006).

¹³⁰ Sassen, above n 113, 28-9.

¹³¹ *Ibid.*

¹³² McMichael, above n 116.

¹³³ Saskia Sassen, *Expulsions - Brutality and Complexity in the Global Economy* (Belknap, 2014).



Figure 15: Construction in Phnom Penh

3.7 The World Bank, land transformation and home

Where does the World Bank come into this? The Bank's role in contemporary debates about the global land grab is, I would argue, tied to its historical involvement in land transformation in developing countries over the past three decades. The starting point is the Bank's structural adjustment programs in the early 1980s, which forced development of land for commercial agriculture and industry in exchange for credit. The logic of structural adjustment extended into other forms of conditionality and credit/debt relationships in the 1990s and 2000s, such as 'donee loan agreements'. Typically, donee loan agreements use land and land deals to create new spaces for capital flow. For example, the agreements are often conditional on donee states privatising resources that previously belonged in the public sector, such as house building. Land titling programs, such as LMAP at Boeung Kak Lake, may also be understood through the logic of structural adjustment in terms of stimulating a market for the sale and exchange of land and the creation of new credit/debt relationships.

The effect of structural adjustment, however termed, is not only to transfer credit and generate debt. It dramatically rearranges land for insertion in new circuits of global capital¹³⁴ and commodifies land for market exchange. Thus structural adjustment is not simply a form of banking transaction. It is a disciplining regime that deploys land to tether already weak states to international institutions as well as to foreign national actors (other states, firms and private elites). This in turn shapes the socio-economic conditions in which foreign buyers can access and purchase land with ease.¹³⁵ The effects for home are significant. The problem with the Bank's role in land transformation in developing countries is not only that land is lost for homes and home building, but also that the purpose and meaning of a home is undermined or even destroyed as land-property relations change in line with market economic goals. Home is viewed in terms of its exchange value; that is, the capacity to sell or exchange or to borrow against home as a commodity, as facilitated by property rights. The use value of home as *home*, in the way I have understood it in this thesis, has no weight. In fact, the use of home as *home* may be seen as obstructing other capital-intensive uses of land.

While corruption, maladministration and other local factors are often cited by international institutions such as the Bank as reasons for intervening in developing countries, the continuing vulnerability of those states is convenient for institutions to maintain power through access to land and the creation of markets. As Sassen argues: 'The process of foreign land acquisitions now under way cannot be understood simply as caused by the corruption and weakness of host states.'¹³⁶ Indeed, as we have seen at Boeung Kak Lake, the Bank is intimately involved in facilitating land transformation that creates opportunities for large-scale land acquisition, in turn giving rise to the risk of land grabbing. Land grabbing is not, then, a 'local' problem: it should instead be seen as the product of complex instrumentalities, economic rationalities, and layers of governance operating at different levels – local, national, transnational and international – in which international organisations such as the Bank is enmeshed.

The land grab at the lake was the result of this sort of interplay: between the Bank and the state Government; between the international development agenda and Cambodia's land law and investment law system; and between domestic elites, foreign investors and local residents. International law's homemaking work emerges from and through this web, Homemaking, seen

¹³⁴ Sassen, above n 113, 25, 30.

¹³⁵ Roel Ravanera and Vanessa Gorra, 'Commercial Pressures on Land in Asia: An Overview, IFAD Contribution to ILC Collaborative Research Project on Commercial Pressures on Land' (2011) .

¹³⁶ Sassen, above n 113, 41.

here in the context of development and land grabbing, is thus not a linear process with definite beginning and end points. Nor is it always easy or possible to trace lines of responsibility from the international to the local in relation to home. However, by looking at the Bank's activities at the lake through the lens of home, the extensive reach of the international into local spaces becomes visible. It also indicates that analyses of international law at home must take into account not only international legal concepts, ideas and practices, but also the interaction between these and other, diverse sources of authority, norms and actors operating in different scales.¹³⁷

The Bank's involvement in developing country land transformation over the past few decades provides the background to its current intervention in the global land grabbing debate. In the next part of this chapter I turn to examine the Bank's support for regulating large-scale land acquisition – or land deals – through international soft law instruments; the link to land grabbing; and the risks for home.

3.8 Regulating land deals and the risks for home

With anxieties increasing over the past decade, land grabbing has become a hot topic at the meeting tables of international institutions and multilateral groups such as the G8¹³⁸ and the G20.¹³⁹ It has also prompted a flurry of law-making activity in which the Bank has emerged as a central player in the push to regulate large-scale land acquisition (or land deals). The Bank argues that regulation can transform the risks of land transactions into opportunities for investment.¹⁴⁰ Reflecting the influence of the Bank, its position is now crystallized in the two key international regulatory prescriptions on land deals: the *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources* (PRAI)¹⁴¹ and the *Voluntary Guidelines on the*

¹³⁷ See further Franz von Benda Beckman and Keebet von Benda-Beckmann, 'Space and Legal Pluralism: An Introduction' in Franz von Benda Beckman, Keebet von Benda-Beckmann and Anne Griffiths (eds), *Spatializing Law: An Anthropological Geography of Law in Society* (Ashgate, 2009) 1-29.

¹³⁸ At its 2009 summit the G8 called for the development of an international framework for responsible investment in agriculture: *Responsible Leadership for a Sustainable Future*, Group of Eight, 2009, para 113b.

¹³⁹ G20 leaders at the Cannes 2011 summit and the Los Cabos 2012 summit endorsed and encouraged the implementation of the Voluntary Guidelines and the PRAI (see discussion below). See *Leaders Declaration* (sic), Group of Twenty, 2012, <https://g20.org/wpcontent/uploads/2014/12/G20_Leaders_Declaration_Final_Los_Cabos_0.pdf>.

¹⁴⁰ For an overview of the emergence of these rules, see Saturnino Borrás, Jennifer Franco and Chunyu Wang, above n 9, and Margulis and Porter, above n 113, 65. See also Saturnino Borrás and Jennifer Franco, above n 9.

¹⁴¹ 'Principles for Responsible Agricultural Investment That Respects Rights, Livelihoods and Resources', World Bank, 2010, <http://siteresources.worldbank.org/INTARD/214574111138388661/22453321/Principles_Extended.pdf>.

Responsible Governance of Tenure of Land and other Natural Resources (Voluntary Guidelines).¹⁴² Both the PRAI and the Voluntary Guidelines were developed by a coalition of specialised UN agencies led by the Bank.¹⁴³ As pro-investment instruments, the aim of these instruments is to facilitate land deals and to reduce the risks of land grabbing. The PRAI and the Voluntary Guidelines frame land deals as equations of risk and opportunity. ‘Risk’ is imagined as, for example, a land deal falling through in the absence of property rights or because of resistance from local people. Both instruments envisage that such risks can be transformed into opportunities for investment through ‘best practice’, a ‘proper’ regulatory environment¹⁴⁴ and by consulting ‘affected populations’.¹⁴⁵

Home interests are not apparent on the face of the PRAI and the Voluntary Guidelines. While both instruments take account of food security¹⁴⁶ and environmental impacts,¹⁴⁷ among other concerns, the impact of land deals on home is nowhere mentioned. To the extent that home interests are implied in provisions for lawful eviction, compensation and resettlement,¹⁴⁸ the PRAI and the Voluntary Guidelines conceptualise home as property, which can be replaced or exchanged and which has no intrinsic value of its own. The transformation of *home* into *property* gives rise to the risks I discussed earlier in the chapter, such as speculation, unfair land deals and land grabbing. It also undermines the meaning of home for residents in the association between home and family, community, culture and history, as well as the idea of home as a haven.

Another indication that home interests do not form part of the international development agenda is that neither the PRAI nor the Voluntary Guidelines consider eviction to be a risk. To the contrary, both instruments appear to accept eviction as a possible – perhaps even inevitable – consequence of land deals, and that the effects of eviction (which are not specified) can be redressed through consultation, compensation and resettlement. Considering that the aim of these

¹⁴² ‘Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security’, Committee on World Food Security and the United Nations Food and Agriculture Organisation, 2012. See also Philip Seufert, ‘The FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests’ (2013) 10 *Globalizations* 1.

¹⁴³ They were also informed by the Bank’s own 2009 study of large-scale land acquisition across twenty countries, ‘Large-Scale Acquisition of Land Rights for Agricultural or Natural Resource-based Use’, World Bank, 2009.

¹⁴⁴ PRAI, above n 141, Principle 3.

¹⁴⁵ *Ibid* Principle 4.

¹⁴⁶ *Ibid* Principle 2.

¹⁴⁷ *Ibid* Principle 7. Compare however discussion in *The Practice of Responsible Investment Principles in Larger-Scale Agricultural Investments – Implications for Corporate Performance and Impact on Local Communities*, World Bank discussion paper, 29 April 2014.

¹⁴⁸ For example, Voluntary Guidelines, above n 142, General Principle 3.1(4).

instruments is to free up land for development and to maximise land capital, eviction might even be seen as a desirable move. At the very least, we can say that by providing a framework to regulate land deals which authorises eviction and other forms of deprivation of home, the PRAI and the Voluntary Guidelines arguably promote, rather than prevent, land grabbing and make international law complicit in a dispossessory path of economic growth and development.

It is worth noting that the regulations are not legally enforceable. Because of this, instruments like the PRAI and the Voluntary Guidelines are sometimes referred to as ‘soft’ international law. However, this does not mean that we can ignore them. Soft law is important for several reasons. First, it forms the backdrop for or elucidates the ways in which international law norms, duties and activities are informed, shaped and operate. Second, soft law carries normative force because of its potential to ‘harden’ into formal international legal rules.¹⁴⁹ In light of this, the fact that soft law rules facilitating large-scale land deals can result in speculation, land grabbing and dispossession, and that these rules can influence the interpretation and formation of international law, even if they are currently unenforceable, is worth worrying about.

The pro-investment response to land grabbing, represented by the PRAI and the Voluntary Guidelines, has however been matched by a pro-human rights narrative. The key regulations representing this position are the *Set of Minimum Principles to Address the Human Rights Challenge of Large-scale Land Acquisitions and Leases* (‘Minimum Principles’), developed by Olivier de Schutter, the United Nations Special Rapporteur on the Right to Food,¹⁵⁰ and the *Basic Principles and Guidelines on Development-based Evictions and Displacement* (‘Basic Principles’), proposed by the former Special Rapporteur on Adequate Housing, Miloon

¹⁴⁹ Benedict Kingsbury, ‘Operational Policies of International Institutions as Part of the Law-making Process: The World Bank and Indigenous Peoples’ in Guy Goodwin-Gill and Stefan Talmon, *The Reality of International Law: Essays in Honour of Ian Brownlie* (Oxford University Press, 1999), 323-42. See also Alvaro Santos, ‘The World Bank’s Uses of the “Rule of Law” Promise in Economic Development’ in David Trubek and Alvaro Santos (eds), *The New Law and Economic Development: A Critical Appraisal* (Cambridge University Press, 2006) 253-300.

¹⁵⁰ UNHRC, ‘Report of the Special Rapporteur on the Right to Food, Olivier De Schutter - Addendum - Large-Scale Land Acquisitions and Leases: A Set of Minimum Principles and Measures to Address the Human Rights Challenge’, UN Doc. A/HRC/13/33/Ad.2 (2009).

Kothari.¹⁵¹ The International Land Coalition has also adopted the *Tirana Declaration*, which defines land grabbing as a human rights violation.¹⁵²

These are welcome responses to land grabbing. Yet when we examine them from the perspective of home, the difference between the pro-human rights and the pro-investment regulations appears limited. For example neither the Minimum Principles nor the Basic Principles call for land grabbing to be rolled back. Rather, their aim is to mitigate human rights violations arising from land deals, leaving the practice in place. While this may reduce some of the risks of dispossession arising from land grabbing, it fails to grasp the systemic nature of dispossession built in to and operationalised through laws that regulate land deals. It also legitimates the transformation of home into property through land deals, and ignores or denies the values and interests of home. Further, the Minimum Principles and the Basic Principles allow for eviction in certain circumstances and make provision for resettlement where eviction does occur.¹⁵³ This reflects the view, shared in the PRAI and the Voluntary Guidelines, that eviction – and the dispossession and displacement that follows – is an unavoidable reality of land deals. In these ways, it is arguable that the pro-human rights regulations endorse and facilitate the same dispossessory logic of capitalist land transformation as the pro-investment regulations, and have similarly devastating consequences for home.

The pro-human rights instruments suffer from a further contradiction. On one hand, they authorize and facilitate that transformation of home into property. On the other hand, they provide a modality through which social movements can oppose and resist the dispossessory consequences of that strategy.¹⁵⁴ One way of understanding this contradiction is as an attempt to broker a compromise between groups vulnerable to dispossession and dominant groups whose interests are linked to the exploitation of the spaces being opened up by market-oriented reforms in the unfolding process of neoliberalisation, such as the Bank and investors.¹⁵⁵ Even where such

¹⁵¹ 'Basic Principles and Guidelines on Development-based Evictions and Displacement', Annex I of the Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living', A/HRC/4/18/annex (2007).

¹⁵² *Tirana Declaration*, 26 May 2011, drafted at the international conference on 'Securing Land Access for the Poor in Times of Intensified Natural Resources Competition', 24-26 May 2011.

¹⁵³ Minimum Principles, above n 150, 2.

¹⁵⁴ See further Thomas Pogge, 'Recognized and Violated by International Law: The Human Rights of the Global Poor' (2005) 18(4) *Leiden Journal of International Law* 717.

¹⁵⁵ For example, see Kenneth Nielsen and Alf Nilsen, 'Law Struggles and Hegemonic Processes in Neoliberal India: Gramscian Reflections on Land Acquisition Legislation' (2015) 12(2) *Globalizations* 203.

a compromise results in rights to compensation and resettlement, the fact remains that the regulation yokes international law, through the agency institutions like the Bank, to a regime of dispossession. This contradiction also speaks to the tension in the development context in which the international legal system frequently exacerbates and even reproduces the struggles it sets out to oppose.¹⁵⁶

The pro-investment and pro-human rights regulations on land deals are another way in which international law carries out its homemaking work. As we have seen in this chapter, international law's homemaking work in the development context has destructive effects for home and ignores or even denies the important connections between home and land, community, culture, tradition and history. It also dismisses the potential of home as a place of radical engagement and the role international law might play in activating the emancipatory qualities of home. I turn to this in the final part of the chapter.

3.9 Home, resistance and radical engagement

The 'BK13' – a group of thirteen Boeung Kak Lake women – have become famous for mobilising the lake community in a long-running campaign against the Bank following their eviction (Figure 16). The group has won some small victories: it was in response to its demands that the Bank investigated LMAP,¹⁵⁷ and it has prompted US Congress to call on the Bank to remedy the lake situation.¹⁵⁸ Still, these victories have come at great personal cost to the BK13. All of the women have been arbitrarily detained, most have suffered police beatings, and many have been subjected to multiple evictions as they attempt to protect their homes.

I spent several days with members of the BK13 at their community centre, located on the edge of the lake (Figure 16). Through speaking with the women and spending this time with them, it became clear to me that the World Bank project at Boeung Kak Lake has not only transformed home into property. It has also transformed home at the lake into a place of radical engagement. The BK13's campaign to resist the Bank and the continuing evictions has focused on home and it has used home at the lake as both a physical centre to bring residents together and as a powerful

¹⁵⁶ See generally Antony Anghie and others, *The Third World and International Order: Law, Politics and Globalization* (Martinus Nijhoff, 2003).

¹⁵⁷ Inspection Panel Report, above n 90.

¹⁵⁸ See *2014 Consolidated Appropriations Act*, section 7043(c)(5) and Joint Civil Society Media Statement, 'US Congress Passes Law Demanding Redress for Boeung Kak Community, Pressures World Bank to Take Action' (16 January 2012).

symbol of their struggle. The possibility of organising around home at the lake and building a network among residents has offered many of them some agency in an otherwise extremely disempowering situation. My empirical work at the lake enabled me to see and appreciate this where I might not have done if I had simply followed the BK13's campaign from afar, through for example newspaper reports.

Home as a place of resistance, radical engagement and the potential for expanded agency is widely discussed in the scholarly literature.¹⁵⁹ However, it has not been considered in the context of local struggles against land grabs and it remains outside of debates about international development law.¹⁶⁰ I would argue, however, that the transformation of home at the lake into a place of resistance illustrates another dimension of international law's homemaking work in the development context. My analysis suggests that international law conditions, accompanies and fosters resistance at home and emancipatory experiences of home, even while it is simultaneously involved in moves that undermine, deprive and even destroy home. This tension – between positive and negative homemaking work – reflects the dynamic and multiple ways in which international law operates in the intimate, local space of home. All of this is not to discount, however, that resistance at home may be forced upon inhabitants. Some residents I spoke to at Boeung Kak Lake felt they had no choice but to remain at the lake in order to sustain their livelihood, despite the risks involved in staying, and so were necessarily forced into resisting the evictions. Nonetheless, resistance can still be empowering.¹⁶¹ For Boeung Kak Lake residents – and especially the BK13 – the loss of home at the lake has motivated efforts to organise the community; to create networks of support and solidarity; and it has led to opportunities for self-advancement.¹⁶² It has also brought international attention to the lake and to wider land problems in Cambodia.

Understanding home as a place of resistance and radical engagement also reflects how international law's homemaking work happens through the interplay of actors and operations, laws and customs, manifest at different levels: from the personal, the intimate and the everyday to

¹⁵⁹ See seminal work by bell hooks, 'Homeplace: A Site of Resistance' in *Yearning: Race, Gender, and Cultural Politics* (Southend Press 1990).

¹⁶⁰ By contrast, organized and everyday resistance 'from below' in the land grabbing context has been examined from the perspective of social movements theory and critical agrarian studies: see in particular Ruth Hall and others, 'Resistance, Acquiescence or Incorporation? An Introduction to Land Grabbing and Political Reactions from Below' (2015) 42(3-4) *Journal of Peasant Studies* 467 and articles in that volume.

¹⁶¹ See further Hall *ibid*.

¹⁶² The documentary, *Even A Bird Needs A Nest* (Divali Films 2012), was made about a Boeung Kak Lake resident and activist, tracing their campaign against evictions at the lake. See also above n 1.

the national, international and global. The BK13 campaign has connected local experiences of eviction and dispossession to global debates, decision-making and law-making around land transformation, development, agricultural capitalism and economic growth – and the rearrangements of territory, power and authority related to this. The slogan on the t-shirt of one member of the BK13 – “The whole world is watching” – powerfully draws attention to the connection between the local and the global, and everywhere in between, in the context of debates about home. Moreover, international law’s homemaking opens up a view onto how all laws – local, customary, subnational, national, transnational, international – can be seen as part of an unfolding global legal order.¹⁶³

Finally, the connection between home and international law in the land grabbing context is significant because it disrupts the assumption that the technical and economic activities of development and land deals are separate from the material, affective and imaginary meanings and experiences of home. It also unsettles the binaries of private/public, inside/outside, male/female, home/work that have traditionally kept home on the margins of international legal contestation and debate. Far from being a pre-political, mundane or irrelevant place, home is where personal relations intersect with public and political agendas. The home that emerges from the Bank’s intervention at Boeung Kak Lake is a personal and private realm as well as a public and political place, navigated and negotiated in international space and central to a number of urgent global challenges.

¹⁶³ See further Eve Darian-Smith, *Laws and Societies in Global Contexts* (Cambridge University Press, 2013).



Figure 16: Inside the Boeung Kak Lake community centre

3.10 Conclusion

Contrary to the Bank's promises, the land titling project at Boeung Kak Lake left residents less rather than more secure. By transforming home into property, land titling renders home vulnerable to market capture and land grabbing. Home as property can be bought, sold and exchanged, and used as a vessel for re-concentrating and accumulating wealth among the already advantaged while re-organising social and economic relations to disempower, exclude and suppress the poor. The lake home study indicates one way in which international law is involved in linking home, land titling and land grabbing to create a landscape of dispossession.¹⁶⁴

What is at stake here is more than the physical dispossession of home. For residents at Boeung Kak Lake, the meaning of home extends beyond the wooden stilts of their dwelling places. Instead, home at the lake is associated with family, community, practices of preservation, custom and cultural citizenship. Home is also bound up with the history of conflict in Cambodia: for many residents, home at the lake stands as testimony to their flight during the war and to their

¹⁶⁴ Arnim Scheidel, 'Tactics of Land Capture Through Claims of Poverty Reduction in Cambodia' (2016) 75 *Geoforum* 110.

return as refugees. Thus dispossession from home for Boeung Kak Lake residents sounds in more than the physical loss of home. It is also the loss and destruction of memory, belonging and identity.

The role of the Bank in acts of dispossession at Boeung Kak Lake strengthens my argument in this thesis that home should be a subject for analysis in international law scholarship. As an artifact of international law, the Bank's problematic homemaking and home-unmaking work in the development context warrants close attention. As well as being a subject for analysis, home can also be deployed as an analytical tool in itself. As I argued in Chapter One, the concept of home opens up a terrain of experience not otherwise visible in international law and gives us an account of things that international law does not. When we look through the lens of home at Boeung Kak Lake, we see how international law intervenes at home and constitutes different experiences in relation to home. Residents' experiences of loss, suffering, struggle and radical engagement in relation to their homes at the lake arose out of, or at the very least were mediated by, the Bank's land titling project. These experiences of home do not feature in discussions about the international law of development or about the obligations of international institutions like the Bank conducting development projects. The questions of social belonging that are distinctive to home – entailing not only distribution, but also recognition and participation – are also not part of the international development agenda. The concept of home thus opens up a terrain of experience that is not visible in international law, and provokes questions which international law either ignores or denies or at least lacks the conceptual resources to ask.

Taking home as an analytical tool also exposes conflicts and compromises at the heart of the international development project. For the Bank, the 'best use' of home is as property. Yet for Boeung Kak Lake residents, the best use of home may be *as a home*. For the BK13 and other residents evicted or facing eviction from the lake, home is associated with a range of material, affective and imaginary meanings and experiences that are neither visible nor valued in the international development agenda – such as the preservation of the tradition of family books that kept in the home and the importance of home being near friends, school and places of work. In this way, the concept of home as an analytical tool sheds light on the nature of international law's homemaking and home-unmaking work in the context of development. In particular, it exposes how international law's home-unmaking work entails excluding and suppressing home interests, as at Boeung Kak Lake. Following from this, the concept of home as an analytical tool also

reveals the dispossessory logic of development and the destructive interventionism that has long characterised the idea and practice of development in international law.

Examining the Bank's involvement in efforts to regulate large-scale land acquisition through the lens of home reveals other ways that international law engages in homemaking and home-unmaking work in the development context. Regulating land deals – whether or not the regulation is pro-investment or pro-human rights – facilitates and legitimates transactions in land. In doing so, it consecrates the existing privilege of states and investors to access, occupy and use the land of the poor and to pursue dispossessory paths of economic growth and development. It also destroys homes and creates new spaces and forms of authority in which home and home interests are excluded, suppressed and denied. The Bank's championing of regulation for land deals, alongside its commitment to mass land titling, makes international law complicit in the exploitation of home for economic ends and in the devastating transformations of home that result from land grabbing.

Finally, this chapter reflects one way that home is a space of negotiation subject to the interpellation and disciplines of international law as it circulates in everyday life. The lake home study illustrates how international law's development agenda is manifest in and through an array of legal norms operating at different scales. The land titling project at Boeung Kak Lake fused the Bank's internal rules and operational policies with Cambodian land law and investment law, and with wider international development norms (for example on eviction and resettlement). These in turn intersected with the customary norms and traditions of local residents affected by the land titling project. International law, through the agency of the Bank, gained access to home and reached inside of home through the combination of these different legal norms operating at different scales.¹⁶⁵ Meanwhile, the land grab at Boeung Kak Lake arose out conditions framed and facilitated by Bank's intervention – that is, through the interplay of international, national and local laws, actors and operations. The lake home study demonstrates how international law forms just one layer in the collage of law in everyday life in the context of development, and that home is enfolded within this.

¹⁶⁵ See generally von Benda Beckman and von Benda-Beckmann, above n 137, and see also Eve Darian-Smith, *Laws and Societies in Global Contexts*, above n 163, especially 40-7.

CHAPTER FOUR

Desert home

‘The exile knows that in a secular and contingent world, homes are always provisional. Borders and barriers which enclose us within the safety of familiar territory can also become prisons, and are often defended beyond reason or necessity.’¹

4.1 Introduction: at *bayt amin*

Walking along a road in *bayt amin*, a village in Area C of the Occupied Palestinian Territories, the bitumen breaks away and crumbles into a pool of pebbles before the security gates. Not long ago this road took you down to the lower part of the village. A checkpoint now blocks the way. With nothing but a dead end and few burnt out cars, the place has a cold feeling of abandonment, a no man’s land. Nonetheless, high in the mountains, it makes for a scenic viewing point.

It is late autumn. At the gloaming, light limns the desert in golden skeins. Shoulders of land sprawl out for kilometres veined with trickling tributaries of homes, villages and settlements. The land is saturated in the ethereal pink of sunset before a storm; shafts of light tear grey clouds, and through the rent, glimpses of a soft blue firmament above. For one, deep, breath, the settlement to the west and the village to the east receive an equal amount of light and merge into one undifferentiated image. The spectacle melts away fast as dusk drinks colour out of the sky, revealing details obscured by the mirage.

Fieldwork observations made clear who lives where by the watertanks on rooftops. Black tanks for Palestinian homes. White tanks for settler homes. Settler homes cascade down the dunes in neat concrete rectangles stacked one on top of another, the triangles of their terracotta-tiled roofs touching like fingertips in prayer. They are linked in serried rank by power lines and the yellow

¹ Edward Said, 'Reflections on Exile' in *Reflections on Exile, and Other Literary and Cultural Essays* (Harvard University Press, 2000), 170.

dots of street lamps. Like excavations dug out of ancient sand, settler homes presume a naturalness denied by their unnatural architecture: they are much too regular, too new, too well-planned. Palestinian homes meanwhile spill in ragged skirts over the desert, ramshackle structures built from rusted sheets of iron imbricated like broken fish scales.

bayt amin is located in Area C of the West Bank. The West Bank is carved into three territorial categories or jurisdictional zones – Areas A, B and C. This administrative arrangement was the design of the Oslo Accords, the formal agreements signed by the Israeli Government and the Palestine Liberation Organization in 1993 and 1995 that established the Palestinian Authority and allowed it limited responsibilities for governance.² Area C is under full Israeli military and civil control and is the largest of the occupied Palestinian territories (OPT)³ in terms of area and the extent of Israeli settlement activities. It is also where the destruction of Palestinian homes by Israel is most widespread. Yet as critical places of being, belonging and the radicalism of resistance, the physical and psychological space of the Palestinian home and homeland, and the yearning of Palestinians to return home even as ‘present-absentees’, remain a bulwark against the colonial violence of occupation.⁴

Israel’s occupation of Area C and the wider OPT has now reached fifty years.⁵ The occupation is not only one of the longest but also one of the most legalised regimes of occupation, having produced reams of judicial decisions and attracted much scholarly interest.⁶ Occupation is an artifact of international law. It has been defined as ‘a transitional period following invasion and

² See *Declaration of Principles on Interim Self-Government Arrangements (Oslo Agreement)*, 13 September 1993 (*‘Oslo I’*) and *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II)*, 28 September 1995 (*‘Oslo II’*). See also critical discussion in Edward Said, *From Oslo to Iraq and the Road Map* (Pantheon, 2004).

³ See note below at n 58.

⁴ See further Nadera Shalhoub-Kevorkian and Sarah Ihmoud, ‘Exiled at Home: Writing Return and the Palestinian Home’ (2014) 37(2) *Biography* 377 and Nadera Shalhoub-Kevorkian, ‘Counter-Spaces as Resistance in Conflict Zones: Palestinian Women Recreating a Home’ (2005) 17(3-4) *Journal of Feminist Family Therapy* 109.

⁵ Israel’s taking of Palestinian territory in 1967 marks the beginning of the occupation. In 2005, Israel withdrew its military and settlements from the Gaza Strip. Whether this amounts to an end of the occupation in Gaza is an open question and depends on factual and legal questions relating to ‘effective control’. However, as Orna Ben-Naftali, Aeyal Gross and Keren Michaeli suggest, even if Gaza is not occupied, Israel continues to occupy parts of Palestine, including the West Bank, which is the focus of this chapter: Orna Ben-Naftali, Aeyal Gross and Keren Michaeli, ‘Illegal Occupation: The Framing of the Occupied Palestinian Territory’ (2005) 23(3) *Berkeley Journal of International Law* 551.

⁶ See overview in Virginia Tilley (ed), *Beyond Occupation: Apartheid, Colonialism and International Law in the Occupied Palestinian Territories* (University of Chicago Press, 2012). See also Orna Ben-Naftali, ‘PathoLAWgical Occupation: Normalizing the Exceptional Case of the Occupied Palestinian Territory and Other Legal Pathologies’ in Orna Ben-Naftali (ed), *International Humanitarian Law and International Human Rights Law* (Oxford University Press, 2011) 130, 131.

preceding the cessation of hostilities.’⁷ In his book on the law of occupation, Eyal Benvenisti defines occupation as ‘the effective control of a power (be it one or more states or an international organization, such as the United Nations) over a territory to which that power has no sovereign title, without the volition of the sovereign of that territory’.⁸ Occupation ‘imposes more onerous duties on an Occupying Power than on a party to an international armed conflict’ because of the moral responsibility and complexity of administering a civilian population.⁹ The renowned international law scholar Louis Oppenheim argued that ‘[o]ccupation is invasion plus taking possession of enemy country for the purpose of holding it, at any rate temporarily. The difference between mere invasion and occupation becomes apparent from the fact that an occupant sets up some kind of administration, whereas the mere invader does not.’¹⁰ While these are just some definitions among many others, it is clear that occupation is thought of as an exception to the usual order of international society because it suspends, temporarily, the link between sovereignty and control over territory.

This chapter focuses on Area C as a case study for exploring how international law engages with home in the context of occupation. I make two main arguments. The first is that international law is complicit in the destruction of Palestinian homes in Area C. At the heart of the international law framework for occupation is the ‘duty towards ordinary life’.¹¹ Enshrined in Article 43 of the *Hague Regulations*, this duty empowers the occupier to enter into, manage and control the conditions of home in the occupied territory. As I argued in Chapter One, home is central to everyday life and ordinariness is one of the chief qualities of home.¹² For Palestinian residents in Area C, home symbolises the attachment to a Palestinian homeland,¹³ the yearning for return home and the desire for home as a safe space, while also being a place for ordinary and routine everyday practices.

⁷ Tilley, *ibid* 7.

⁸ Eyal Benvenisti, *The International Law of Occupation* (Princeton University Press, 2nd ed, 2004) 4.

⁹ *Prosecutor v Naletilic and Martinovic*, Case No. IT-98-34-T (2003), 73 [214] <http://www.icty.org/case/naletilic_martinovic/4>.

¹⁰ Louis Oppenheim, *International Law: A Treatise – Volume II: Disputes, War and Neutrality* (Hersch Lauterpacht ed, Longman, 7th ed, 1952).

¹¹ International Conferences (The Hague), *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, 18 October 1907 (‘*Hague Regulations*’), Article 43.

¹² See generally Peter King, *The Common Place: The Ordinary Experience of Housing* (Ashgate, 2005).

¹³ Ghazi Falah, ‘The 1948 Israeli-Palestinian War and its Aftermath: The Transformation and De-Signification of Palestine’s Cultural Landscape’ (1996) 86(2) *Annals of the Association of American Geographers* 256.

However, while the duty towards ordinary life is designed to promote the interests of the occupied population, Israel uses it to legitimise acts of home destruction or ‘domicide’.¹⁴ Israel claims that the destruction of Palestinian homes (and the construction of settler homes) is a ‘military necessity’ for maintaining security and the functions of ordinary life in Area C. I argue that international law is complicit in a destructive regime of homemaking because it makes this justificatory argument available to Israel and thus facilitates Palestinian dispossession through the duty towards ordinary life. To develop this argument I examine four modalities of home destruction taking place in Area C: demolition, siege, surveillance and invasion.

The second argument is that the concept of home can be understood as an analytical tool that reveals insights not otherwise visible in international law. When we look at the occupation through the lens of home, it becomes possible to see that international law’s homemaking work in Area C extends beyond the sheer physical destruction of home. It also involves the production of different subjectivities relating to home. Thus, in Area C, international law shapes the way home has come to embody and perform, as well as resist, the violence of occupation; how identity and collective memory are constructed as well as deconstructed through home; and how home has come to be defined in the ‘gray’ spaces¹⁵ between legality and illegality, permanence and provisionality, light and dark, safety and danger, homeland and exile.

I make these arguments aware that scholars have not discussed international law’s entanglements with home in the context of occupation before. This is problematic considering the political, historical, symbolic and strategic importance of home in the Israel-Palestine struggle and the profound transformations of home that are taking place everyday in Area C. Hence one of the aims of this chapter is to illustrate how the concept of home can be used to bring a critical perspective to the scholarship on international law and everyday life in the context of occupation. In connection to this, my focus on home demonstrates that while international law claims the concept of occupation as its own, the everyday lived experience of occupation is constituted by a mélange of laws and norms operating a different scales – international, national and local – intersecting in spaces such as home.

¹⁴ John Porteous and Sandra Smith, *Domicide: The Global Destruction of Home* (McGill-Queens University Press, 2001).

¹⁵ Oren Yiftachel, ‘Critical Theory and ‘Gray Space’: Mobilization of the Colonized’ (2009) 13(2-3) *City* 246.

Finally, I should note that the purpose of this chapter is not to rehearse debates about whether the occupation is legal or illegal. There is much to support the view that Israel has illegally annexed much of the land in Palestine and it has been ordered to withdraw by the United Nations Security Council.¹⁶ However, international law sidesteps issues of legality and illegality in order to regulate occupation. Nor is it to grapple with the question of what law applies, or doesn't apply, under occupation.¹⁷ It is widely acknowledged that the normative regime of occupation comprises humanitarian law and human rights law (though the application of the latter is contested).¹⁸ These issues have been extensively debated in a detailed and technical literature on the occupation.¹⁹ Instead, my concern here is with the texture or 'fabric' of occupation, that is, its nature, operation and processes, as this relates to home.²⁰

The chapter is organised as follows. In the first part I briefly explore the notion of home in Palestinian and Israeli lore and history before introducing home in Area C. I then turn to the international legal framework for occupation, including the duty towards ordinary life. In the second part of the chapter, I chart the destruction of Palestinian homes in Area C through the modalities of demolition, siege, surveillance and invasion. This discussion also explores the different subjectivities of home animated by international law's homemaking work. I conclude

¹⁶ Other scholars have argued that the occupation is illegal because it has persisted too long and cannot be considered a 'normal' situation of occupation: see David Kretzmer, 'The Law of Belligerent Occupation in the Supreme Court of Israel' (2012) 94 (885) *International Review of the Red Cross* 207, 236. See generally Daniel Bar-Tel and Izhak Schnell, *The Impacts of Lasting Occupation: Lessons From Israeli Society* (Oxford University Press, 2012) and Orna Ben-Naftali, 'PathoLAWgical Occupation', above n 6. Israel's prolonged occupation also raises the question of whether the law should adapt to address such situations. See also John Dugard, arguing that Israel's duties as an occupier do not change despite the length of the occupation, in United Nations General Assembly, A/HRC/7/17, *Human Rights Situation in Palestine and Other Occupied Arab Territories, Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967*, John Dugard (2008) [8].

¹⁷ I will, however, briefly mention of the Israeli Supreme Court's position, at page 158 below.

¹⁸ See footnotes at n 19 below, in particular Gross.

¹⁹ Yoram Dinstein, 'The International Law of Belligerent Occupation and Human Rights' (1978) 8 *Israel Yearbook on Human Rights* 104; Michael Dennis, 'Application of Human Rights Treaties Extraterritorially in Times of Armed Conflict and Military Occupation' in *Agora: Wall in Occupied Palestinian Territory* (2005) 99(1) *The American Journal of International Law* 119; Aeyal Gross, 'Human Proportions: Are Human Rights the Emperor's New Clothes of the International Law of Occupation?' (2007) 18(1) *European Journal of International Law* 1; and Lawrence Hill-Cawthorne, 'Humanitarian Law, Human Rights Law, and the Bifurcation of Armed Conflict' (2015) 64(2) *International and Comparative Law Quarterly* 293.

²⁰ Orna Ben-Naftali distinguishes between the large body of academic work focusing on questions to do with legality of the occupation, and the much smaller literature interested in the texture or 'fabric' of occupation: 'PathoLAWgical Occupation', above n 6, 131 and see Orna Ben-Naftali, Aeyal Gross and Keren Michaeli, 'The Illegality of the Occupation Regime: The Fabric of Law in the Occupied Palestinian Territory' in Adi Ophir, Michal Givoni, and Sārī Ḥanafī, *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (Zone, 2009).

the chapter by reflecting on the use of home as an analytical tool in scholarship on international law and everyday life under occupation.



Figure 17: Area C map (Source: United Nations Office for the Coordination of Humanitarian Affairs)

4.2 Ba'it / bayt بيت

I learned the words *ba'it* and *bayt* during my first visit to Area C. *Ba'it* in Hebrew and *bayt* in Arabic do the work of many in English.²¹ *Ba'it* and *bayt* mean home and house, household, and a house that holds, in a literal and metaphorical sense. *Ba'it* and *bayt* are also places of worship ('the home of holiness'), places for healing the sick and places of light: Hagar Kotef writes that in Hebrew a light socket is the *ba'it* of the bulb.²² *Ba'it* and *bayt* are also places defined by their ordinariness: they are where families gather and traditions unfold, where life takes place relatively unchanged from one day to the next. Part of the ordinary, too, are the quarrels, contests and struggles that happen within homes, as well as violence, victimhood and alienation. *Ba'it* and *bayt* recall the qualities and characteristics of home we have met before in this thesis: of dwelling and being, building and preservation, haven, identity, memory and homeland.

Ba'it and *bayt* are also organising units for different orders and functions. In this sense *ba'it* and *bayt* bear resemblance to the state. Kotef argues that the state, like the home, is a 'demarcated territorial unit, which is also an institution that organizes within (or "under") it the assemblage of citizens (and some non-citizens)'.²³ Yet what marks the borders of the state is the product of shifting definitions of the political. Similarly, Kotef notes, what 'constitutes both the household and what lies beyond it (the political sphere) turns out to be diffuse and unstable even while it appears to be sealed'.²⁴ The membrane between home and the outside world is filigree-thin; the distinction between public/private is broken down, despite the walls of the home.

In a similar vein Edward Said argued that amid the instability and contingency of the world, home is provisional.²⁵ That provisionality echoes in the poetry of Abu Tammam who wrote, centuries ago, 'neither you are you, nor home is home.'²⁶ The ontological security sought in a home is often out of reach or impossible.²⁷ Yet even if home, like the state and the world around it, is provisional and uncertain, our attachment to it remains. Ghazi Falah argues that the

²¹ See further Hagar Kotef, 'Ba'it (Home / Household)' (2010) *Mafte'akh*. Arabic translation and transliteration is my own.

²² Kotef, *ibid* 1.

²³ *Ibid*.

²⁴ *Ibid* 3.

²⁵ Said, above n 1.

²⁶ Abu Tammam, b.788-845. Tammam was a ninth century Abbasid era Arab poet and Muslim convert born in Syria to Christian parents. See Adonis, *An Introduction to Arab Poetics* (Saqi, 2003) 43.

²⁷ Anthony Giddens, *The Constitution of Society* (Polity, 1984). See further footnote 95 in Chapter One.

ordinariness of home allows it to merge into and become part of the landscape of everyday life.²⁸ Thus we continue to ‘house’ our treasured possessions in and to orient much of our lives around our home, even in the face of threat, fear and danger.

Perhaps it is that the distinctions that are so often made between the political and the domestic, the public and the private, the world and the home, the nation and the individual, do not disconnect two concepts but instead make their relationship essential: the one cannot exist without the other, as in Agamben’s ‘inclusive exclusion’²⁹ or Butler’s ‘constitutive outside’.³⁰ In other words, the relationship between home and state, individual and nation, for example, is symbiotic and the one contains the other. So *ba’it* and *bayt*, home, house and household, might also be conceived as the architecture of struggle between nationalism and exile, opposites that, like Hegel’s master and servant, inform and constitute each other.³¹ Nationalism, in the sense of ‘an assertion of belonging in and to a place, a people, a heritage’, and affirmed by the ‘home created by a community of language, culture and customs’.³² The collective ethos of nationalism coincides with the qualities of the home as a place that connects people to their land, history and culture, or what Bourdieu called the *habitus*, the combination of habit and inhabitation.³³

Home in Palestine for Palestinians is characterised by the tension between perpetual transformation and deep rootedness.³⁴ The wars leading up to the British mandate period, the experience of colonial rule from 1920-1948, and then the 1948 and 1967 Arab-Israeli wars, saw massive destruction of home and land, loss of life and exile. As Palestine disappeared from the geopolitical map of the ‘Middle East’ in 1948, the new State of Israel emerged.³⁵ As Said wrote, Palestine was ‘rebuilt’, ‘reconstituted’ and ‘re-established’ as Israel.³⁶ For Palestinian refugees, Palestine became an idea and a memory. Many Palestinian refugees continue to live in camps in neighbouring countries, refusing resettlement in Jordan or elsewhere. Home is their ancestral

²⁸ See throughout Falah, above n 13.

²⁹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford University Press, 1998), 8.

³⁰ Judith Butler, *Bodies That Matter: On the Discursive Limits of "Sex"* (Routledge, 2011) 3 in Kotef, above n 21, 3.

³¹ Said, above n 1, 140.

³² Ibid 139.

³³ On habitus see Pierre Bourdieu, *Outline of a Theory of Practice* (Cambridge University Press, 1977) and Pierre Bourdieu, 'The Genesis of the Concepts of "Habitus" and "Field"' (1985) 2(2) *Sociocriticism* 11.

³⁴ See discussion of rootedness and the metaphor of roots in relation to housing in Peter King, *The Common Place*, above n 12, chapter one, ‘Roots and Ruts’, 9-25.

³⁵ Israel Ministry of Foreign Affairs, *The Declaration of the Establishment of the State of Israel* (1948), <<http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/declaration%20of%20establishment%20of%20state%20of%20israel.aspx>>.

³⁶ Edward Said, ‘Zionism From the Standpoint of its Victims’ (1979) 1 *Social Text* 8.

village in what is now Israel. They consider their expulsion and exile temporary; they intend to return. Falah argues that Palestinian refugees' resistance to settling elsewhere is based on an autochthonic sense of home.³⁷ Home is contested ground. Roots ('*radic*') and radicalism, dwelling and struggle, go together.

Arabic meanings of home express the interweaving of place and identity. *Dar* is the structure of home, while *watan* is land or territory and has come to mean homeland.³⁸ Homeland, in turn, is associated with village and common land, and encompasses religious structures and landmarks natural and manmade.³⁹ Palestinian poetry and song celebrates the organic relation between home, land and identity through references to 'Mother's house', 'Father's orchard' and 'beloved soil'.⁴⁰ For the generation of poets either born into exile or occupation, such as Mahmoud Darwish and Ghassan Kanafani, the intimate relationship between home, land and identity is hewn into their writing.⁴¹ Contemporary Palestinian poets too, such as Waleed Khazindar, juxtapose the ordinariness of home, the experience of wandering and instability, and the fear of conflict and exile.⁴² For Khazindar, the 'cloud of migrations is in his eyes' on moving to another home and 'he will not confess to a bed that will blow up in the next war'.⁴³ 'This business of the lost homes', as David Grossman writes, 'is a very sensitive issue.'⁴⁴

At the 'heart and core' of the Arab-Israeli struggle has always been the clash of two nationalisms.⁴⁵ Each denies the other the right to self-determination in Palestine. Their history is one of 'mutual denial and mutual rejection.'⁴⁶ Home and homeland, identity, collective memory and the political future of each are bound together and to each other, making impossible the

³⁷ See generally Falah, above n 13.

³⁸ Porteous and Smith, above n 14, 92.

³⁹ Ibid.

⁴⁰ See Barbara Parmenter, exploring the significance of place in Palestinian literature, in *Giving Voice to Stones: Place and Identity in Palestinian Literature* (University of Texas, 1994).

⁴¹ See, among others, Mahmoud Darwish, *The Butterfly's Burden* (Fady Joudah trans, CopperCanyon, 2007) and Ghassan Kanafani, 'Returning to Haifa' (2008) 15(1/2) *Palestine - Israel Journal of Politics, Economics, and Culture* 213.

⁴² Waleed Khazindar, born in Gaza, is acknowledged as one of the leading younger generation Palestinian poets.

⁴³ Waleed Khazindar, 'Houses' (2013) 19(12) *Palestine-Israeli Journal of Politics, Economics, and Culture* 172 (Lena Jayyusi trans, reprinted from W.S. Merwin from Anthology of Modern Palestinian Literature).

⁴⁴ David Grossman, *Sleeping on a Wire: Conversations with Palestinians in Israel* (Cape, 1993) 37.

⁴⁵ Avi Shlaim, 'The Rise and Fall of the Oslo Peace Process' in Louise Fawcett (ed), *International Relations of the Middle East* (Oxford University Press, 2005), 247.

⁴⁶ Ibid.

question of one state or two.⁴⁷ Struggles over home go deep.⁴⁸ Even when peace is agreed, the provisionality of home may continue as further relocations and resettlements await both Palestinians and Israelis.⁴⁹ For Said, the loss of home is a ‘terminal’ loss and its ‘essential sadness can never be surmounted.’⁵⁰ Separation from home and homeland marks an ‘unhealable rift between a human being and a native place, between the self and its true home.’⁵¹

4.3 Home in Area C

The West Bank is a landlocked territory of 5655 square kilometres west of Jordan.⁵² It is home to almost three million people.⁵³ This includes close to 547,000 Jewish settlers living in settlements and outposts.⁵⁴ Area C hosts the major residential and development land in the West Bank. The population of Area C is thought to be between 180 000 and 300 000.⁵⁵ The figure is difficult to gauge because nearly two-thirds of West Bank towns and villages fall partly in Area C and partly in the 166 stranded villages that are geographically located within Area C but which are administered as part of Areas A and B. This arrangement leaves whole communities isolated and complicates everyday journeys within the West Bank. Predominantly agricultural, much of the West Bank’s productive land and natural resources lie in Area C, giving it significant economic

⁴⁷ See further Virginia Tilley, *The One-State Solution: A Breakthrough for Peace in the Israeli-Palestinian Deadlock* (University of Michigan Press, 2005) and Ian Lustick ‘One State Not Two? A Cruel Examination of The Two-States-Are-Impossible Argument For a Single-State Palestine/The Land of Israel’ in Susan Akram, Michael Dumper, Michael Lynk and Iain Scobbie (eds), *International Law and the Israeli-Palestinian Conflict: A Rights-Based Approach to Middle East Peace* (Routledge, 2011).

⁴⁸ See further Susan Slyomovics, *The Object of Memory: Arab and Jew Narrate the Palestinian Village* (University of Pennsylvania, 1998).

⁴⁹ Porteous and Smith, above n 14. On the relocation of settlers in the case of implementing a two state solution, see Bruce Patton, Michael Ignatieff, Brian Mandell, Eric Berger, David Matz and Yishai Blank, ‘Legal Issues and Human Rights Dimensions of the Israeli Settlements Issue: Victims and Spoilers’ (2005) 21(2) *Negotiations Journal* 221. See also Walid Khalidi, *All That Remains: The Palestinian Villages Occupied and Depopulated by Israeli in 1948* (Institute for Palestine Studies, 1992).

⁵⁰ Said, above n 1, 137.

⁵¹ Ibid.

⁵² Palestine Central Bureau of Statistics, <[http://www.pcbs.gov.ps/site/881/default.aspx#Geography &ClimateConditions](http://www.pcbs.gov.ps/site/881/default.aspx#Geography&ClimateConditions)>.

⁵³ Ibid.

⁵⁴ ‘Statistics on Settlements and Settler Population’, B’Tselem, 8 August 2013, <<http://www.btselem.org/settlements/statistics>>. See further Harriet Sherwood, ‘Population of Jewish settlements in West Bank up 15,000 in a year’, *The Guardian*, 26 July 2012.

⁵⁵ ‘Area C’, B’Tselem, <http://www.btselem.org/topic/area_c>. In 2011, the UN Office for the Coordination of Humanitarian Affairs put the figure at 150,000: ‘Displacement and Insecurity in Area C of the West Bank, East Jerusalem’, UN OCHA OPT, 2011. In 2013, the World Bank estimated 180,000: ‘West Bank and Gaza, Area C and the Future of the Palestinian Economy’, Report No. AUS 2922, World Bank, 2013. United Nations Habitat in 2014 put the figure at 300 000: ‘UN Habitat Approach to Spatial Planning in “Area C” of the Occupied West Bank’, UN Habitat OPT, 2014.

potential in farming, construction and minerals. According to the World Bank Area C is ‘key to future Palestinian economic development’.⁵⁶

In total, 36.5 per cent of Area C is Israeli state land (comprising ‘absentee property’, land confiscated following breach of building restrictions, or land otherwise expropriated);⁵⁷ 63 per cent is controlled by settlement councils and regional councils; 20 per cent is ‘survey land’ (land that is not registered and is under examination by the authorities with a view to expropriating it to the state); 30 per cent is ‘firing zones’, in which around 5000 Palestinians are resident; 14 per cent has been declared nature reserves and national parks; and 3.5 per cent lies within the ‘seam zone’, where access is heavily restricted. After accounting for the overlap between designations, Palestinians are prohibited from building homes or renovating homes in 70 per cent of Area C.

Because of this restriction, many Area C residents build and renovate their homes illegally. One afternoon in Area C I visited the home of a large family.⁵⁸ We slipped off our shoes and were shown into the formal room of the house. Sitting on mattresses on the bare earth floor, with the women, children and I on one side, the men on the other, we drank sweet tea. The father of the family told me how he had applied several times to Israeli authorities for a permit to extend their home to accommodate their newly-married son and his wife. Even though the father is well-connected in the community, and is a lawyer, he was refused a permit. The family needs the space, so they have built the extension without a permit. They fear that if this is discovered, the authorities could demolish the entire house as a punishment.

Another consequence of building restrictions in Area C is that many Palestinian homes lack infrastructure considered basic to everyday needs: plumbed water and sanitation, connection to electricity and gas, and access to services. On a walk in Jayyus, one man explained to me how residents had tapped an Israeli generator in the next village and diverted the power to their homes as they had no other means of supply.⁵⁹ In comparison to Palestinian homes, settler homes in Area C, are well-built, connected, secure, subsidized, and unsleeping with their thousands of lights blinking across the desert.

⁵⁶ World Bank, *ibid* vii.

⁵⁷ Raja Shehadeh, ‘The Land Law of Palestine: An Analysis of the Definition of State Lands’ (1982) 11(2) *Journal of Palestine Studies* 82.

⁵⁸ Walk in Area C, August 2013.

⁵⁹ Walk in Jayyus, Area C, August 2013.



Figure 18: Roads and fences carving through Area C

4.4 The international law of occupation

The Israeli Defense Force has governed the OPTs within the framework of the international law of occupation law since the 1967 Six Day War.⁶⁰ This is the longest occupation in modern history. The International Court of Justice in its 2004 *Advisory Opinion*⁶¹ confirmed that the Palestinian territories ‘remain occupied territories and Israel has continued to have the status of occupying Power.’⁶² This is despite international law’s core assumption that occupation is a

⁶⁰ In this chapter I use ‘Occupied Palestinian Territories’ and the abbreviation ‘OPT’ to refer to the areas occupied by Israel since 1967 (the West Bank, including East Jerusalem, Gaza and the Golan Heights). Ben-Naftali et al note that the United Nations now prefers ‘OPT’, substituting this for terms such as ‘the West Bank, Gaza Strip and East Jerusalem’ and ‘Palestinian occupied territories’, in order ‘to connote the contiguous nature of the area where the Palestinians are entitled to exercise their right to self-determination’: Ben-Naftali et al, ‘Illegal Occupation: The Framing of the Occupied Palestinian Territory’, above n 5, 552 at footnote 2.

⁶¹ *Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, International Court of Justice (ICJ), 9 July 2004 (‘The Court’, ‘ICJ’, ‘Wall advisory opinion’ and ‘Opinion’). Text of the Opinion is available at <<http://www.icj-cij.org>> and is also available as A/ES-10/273 and at 43 ILM (2004) 1009. The terminology used to refer to the wall/fence/barrier is not uncontroversial. The ICJ followed the UN General Assembly in adopting the term ‘wall’, which I also use in this chapter. Israel refers to the ‘fence’ while the Secretary-General employs the term ‘barrier’. See comment by the ICJ at paragraph 67 of the Opinion.

⁶² *Ibid* [78].

temporary state pending a peace agreement. Occupation is meant to be temporary precisely because it is an exceptional situation that suspends the usual order of international society.⁶³

Since the nineteenth century, international law has regulated the conduct of occupying forces through military rules, state practice and multilateral instruments.⁶⁴ Occupation is not unlawful. It is regarded as a possible consequence of military actions in war.⁶⁵ The international law of occupation has consequently developed as part of the law of war (which is also known as international humanitarian law or the law of armed conflict). Traditionally, the law of war comprises the *Hague Regulations* (an annex to the 1907 *Hague Convention*)⁶⁶ and the four 1949 *Geneva Conventions*, including their additional protocols.⁶⁷

Occupation law comes into force once active hostilities or warfare end and one power (or multiple powers acting in concert) takes effective control over the enemy's territory, territory to which it has no sovereign title and without the volition of the sovereign of the territory.⁶⁸

Occupation is thus exceptional because it suspends the basic tenet of international law that links sovereignty and control over territory. Occupation law is designed to balance the interests of the occupying power in governing the territory securely with its obligation to protect the interests of

⁶³ Tilley, above n 6, 7.

⁶⁴ Benvenisti, above n 8, 3.

⁶⁵ Ibid 3.

⁶⁶ *Hague Regulations*, above n 11. Text references to the *Hague Regulations* are drawn from the English language translation in James Scott (ed), *The Hague Peace Conventions and Declarations of 1899 and 1907* (3rd ed, 1918).

⁶⁷ There are four conventions and three additional protocols: International Committee of the Red Cross (ICRC), *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention)*, 12 August 1949, 75 UNTS 31; International Committee of the Red Cross (ICRC), *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention)*, 12 August 1949, 75 UNTS 85; International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention)*, 12 August 1949, 75 UNTS 135; International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, 75 UNTS 287 ('*Fourth Geneva Convention*'); International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, 1125 UNTS 3; International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, 1125 UNTS 609; International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)*, 8 December 2005 ('*Geneva Conventions*').

⁶⁸ Benvenisti, above n 8, 4.

citizens of the occupied territory. In this way, international law ‘neither condones or outlaws occupations; it treats them as a reality and simply tries to make them more decent.’⁶⁹

Israel denies the existence of an occupation and formally refuses to be bound by the international law of occupation. However, in practice it exercises some functions in accordance with that law, but it does so selectively. For example, it has committed to the humanitarian provisions of the *Geneva Conventions* on a ‘de facto’ basis.⁷⁰ Significantly, while Israel does not explicitly acknowledge itself as an occupier (or ‘occupying power’), its actions are consistent with that of an occupier whom, under international law, wields ‘effective control’ over the population of the occupied territory.⁷¹ This is, clearly, an expansive power. Nonetheless, traditionally the role of the occupier has been conceived as being more like a trustee or administrator. In other words, an occupier is meant to look after things, just as they were, until the occupation ends, or to restore things to how they were before the occupation. This obligation is what I call the ‘duty towards ordinary life’.

4.5 The duty towards ordinary life

The duty towards ordinary life is articulated in Article 43 of the *Hague Regulations*. Among the core duties of an occupier, Article 43 provides that:

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.⁷²

⁶⁹ Dan Simon, ‘The Demolition of Homes in the Israeli Occupied Territory’ (1994) 19(1) *Yale Journal of International Law* 1, 19 citing *The Proceedings of the Hague Peace Conferences: The Conference of 1899*, 518 (James Scott ed, 1920) (Address of Delegate Martens).

⁷⁰ Meir Shamgar, ‘Observance of International Law in the Administered Territories’ (1976) 1 *Israel Year Book of Human Rights* 276, 286.

⁷¹ I use the terms occupier, occupant and Occupying Power throughout this chapter as are used in international law.

⁷² *Hague Regulations*, Article 43, above n 11, in James Scott (ed), *The Hague Peace Conventions*, above n 64, in particular at 289-9. See also Yoram Dinstein, ‘The International Law of Belligerent Occupation and Human Rights’, above n 19, 106. As Marco Sassòli notes, Article 43 reaffirms rules contained in the 1874 *Brussels Declaration*. The *Brussels Declaration* did not enter force but is considered to have codified old rules of international humanitarian law: Marco Sassòli, ‘Legislation and Maintenance of Public Order and Civil Life by Occupying Powers’ (2005) 16 *European Journal of International Law* 661, 663-64.

Article 43 comprises two obligations. First, it requires the occupier to put in place new laws and policies necessary to govern everyday life in the occupied territory. Second, the occupier must respect laws in force prior to the occupation. Article 43 was recognised by the International Military Tribunal at Nuremberg as being part of customary international law.⁷³ Benvenisti describes the provision as ‘a sort of miniconstitution for the occupation administration; its general guidelines permeate any prescriptive measure or other acts taken by the occupant.’⁷⁴ Jean Pictet, in his seminal work on the interpretation of occupation law, described Article 43 as the ‘principle of normality.’⁷⁵ It has also been argued that the duty is vital because ‘human existence requires organic growth... Political decisions must be taken, policies have to be formulated and carried out.’⁷⁶

By implication, Article 43 also prohibits an occupier from carrying out certain acts such as changing the composition of the government, amending the constitution or the legal system, or anything else that would inhibit restoration of the territory to its pre-occupation state⁷⁷ or which would interfere with the right of the local population to maintain ‘ordinary’ or ‘normal’ life.⁷⁸ Article 43, then, brings to life a diverse legal terrain that comprises international law, domestic law, military rules and local custom, each operating in different places and at scales. For example, in Area C Israel uses a system of military orders issued by the Military Government to manage everyday matters, such as the permit regime, road building and military exercises. Military orders are also conduit for ‘channeling’, or importing, Israeli domestic law into the West Bank.⁷⁹ This creates a bifurcated legal system in which Israeli settlers are granted the rights, privileges and protections of Israeli law and are subject to the jurisdiction of Israeli courts, while Palestinians are subject to rule by military order and the jurisdiction of military courts.⁸⁰ It also sustains two parallel societies in the West Bank – Palestinian and Israeli – and embodies the ‘dual and discriminatory’ enforcement of law based on residential canton.⁸¹ International law is complicit in

⁷³ *Trial of the Major War Criminals*, International Military Tribunal in Nuremberg, published in (1947) *American Journal of International Law* 172. See also extensive discussion of Article 43 in Benvenisti, above n 8, 8-19.

⁷⁴ Benvenisti, *ibid* 9. See further on Article 43, Benvenisti, *ibid* chapter 2 and Sassòli, above n 72, 662-67.

⁷⁵ See generally Jean Pictet, ‘The Principles of International Humanitarian Law’ (1966) 6 (66) *International Review of the Red Cross* 455.

⁷⁶ Morris Greenspan, *The Modern Law of Land Warfare* (University of California Press, 1959) 225.

⁷⁷ See Benvenisti, above n 8, chapter 2.

⁷⁸ *Ibid*.

⁷⁹ See further Tilley, above n 6, 65-9.

⁸⁰ *Ibid*.

⁸¹ Fatmeh El-Ajou, Victor Kattan, Max du Plessis, John Reynolds, Rina Rosenberg, Iain Scobbie and Virginia Tilley, ‘Occupation, Colonialism, Apartheid? A Reassessment of Israel’s Practices in the

this through the power it gives the occupier through Article 43 to manage everyday life in the occupied territory.

However despite the centrality of Article 43 in the framework of occupation law, the scope and content of the duty is unclear. This is at least in part because of the broad and general nature of the text itself and of the commentary surrounding the duty. For example, scholars translating Article 43 from its original French have preferred the wider formulation ‘public order and civil life’ to the narrower ‘public order and safety’.⁸² As to the scope of the duty, Sassòli argues it encompasses the ‘social functions, ordinary transactions which constitute daily life’⁸³ while Benvenisti suggests it includes extensive duties to maintain and respect local laws and public welfare.⁸⁴ The Israeli Supreme Court, perhaps unsurprisingly, has also given Article 43 a wide interpretation.⁸⁵ The trouble is that many activities and obligations could fall into the categories of ‘public order’, ‘civil life’, ‘social functions’, ‘ordinary transactions’ and ‘welfare’, giving an occupier considerable latitude to intervene in the day-to-day life of the occupied territory with little restraint.⁸⁶

While the scope of the duty is broad, we can however narrow down its content by looking at surrounding provisions in the *Hague Regulations* and the *Geneva Conventions*. These include, for example, obligations to respect family, property and religious practice in the occupied territory (Article 46 of the *Hague Regulations*),⁸⁷ education (Article 50 of the *Fourth Geneva Convention*),

Occupied Palestinian Territories under International Law’ (Democracy and Governance Programme, Middle East Project, Human Sciences Research Council 2009), 8. See also David Kretzmer, ‘The Law of Belligerent Occupation as a System of Control: Dressing up Exploitation in Respectable Garb’ in Daniel Bar-Tel and Izhak Schnell, *The Impacts of Lasting Occupation*, above n 16. Virginia Tilley et al also note that constituting ‘separate reserves and ghettos’ facilitates ethnic zoning, which is prohibited under Article 2(d) of the Apartheid Convention: Tilley, above n 6, 156 ff, and see UN General Assembly, *International Convention on the Suppression and Punishment of the Crime of Apartheid*, 30 November 1973, A/RES/3068(XXVIII).

⁸² For example, Marco Sassòli, ‘Article 43 of the Hague Regulations and Peace Operations in the Twenty-First Century’, Background Paper Prepared for Informal High-Level Expert Meeting on Current Challenges in International Humanitarian Law (Cambridge, June 25-37, 3004) 3-4.

⁸³ Marco Sassòli, *ibid* at 3, cites the explanation provided by Baron Lambert at negotiations for the 1874 Brussels Declaration which was considered to codify many of old rules of international humanitarian law.

⁸⁴ Benvenisti, above n 8, 9.

⁸⁵ See, for example, Benvenisti, *ibid* 9 and David Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (University of New York Press, 2002) 58.

⁸⁶ As the Israeli High Court has confirmed on numerous occasions since the watershed case of *Beth El* in 1979: *HCI 606/78, Ayyub v. Minister of Defence*, 33(2) PD, p. 113, 1978 (*‘Beth El’*).

⁸⁷ *Hague Regulations*, above n 11.

work (Articles 51 and 52), medical and food supplies (Article 55) and public health (Article 56).⁸⁸ The duty towards ordinary life – the ‘miniconstitution’ for the international law of occupation – arches over these provisions and incorporates them as part of the concerns of ‘ordinary life’ which an occupier is obliged to maintain. Though home is not expressly mentioned among these provisions, the centrality of home to ordinary life cannot be doubted and for respect for home is implicit in the duty. For example, the ability to attend work and school, to sustain family relationships and to exercise the rights of property, depend – to a greater or lesser extent – on having a stable and functioning home.

Yet even with this narrowing down of the scope and content of the duty, the problem remains that its generality and vagueness can be exploited to justify activities that undermine – rather than maintain or restore – ordinary life. In Area C, Israel invokes Article 43 to authorise legislative measures ostensibly designed to maintain security and access across the territory but which actually operate to constrain, restrict and suppress Palestinians going about their daily life. For example, rules that allow Israel to build exclusive roads across Area C which obstruct Palestinian access to home and rules which prohibit Palestinians from building or extending homes. Israel also uses Article 43 to justify keeping in force outdated or anachronistic laws.⁸⁹ With the occupation now half a century long, preserving laws in force prior to the beginning of the occupation means social and economic stagnation in Area C. It is near impossible, for example, for Palestinian residents in Area C to own land because Israel insists on applying property laws from the British mandate period and earlier. This requires documentary evidence of ownership that most Palestinians do not have, not least because of the interruptions of war.⁹⁰ This leaves Palestinian homes in Area C outside of formal legal rights, in a ‘gray space’ of illegality and at risk of demolition.⁹¹

At a more basic level, the duty towards ordinary life can be used to legitimate and justify any number of interventions in the occupied territory that, paradoxically, undermine the possibility of ordinary life for the occupied population. The centrality of home to ordinary, everyday life makes it particularly vulnerable to such interventions. Considering the broader cultural, historical, symbolic and strategic importance of home in the Israel-Palestine struggle, control over home in

⁸⁸ *Fourth Geneva Convention*, above n 67.

⁸⁹ Sassòli, above n 82. See also Benvenisti, above n 8,11.

⁹⁰ See further Shehadeh, above n 57.

⁹¹ Yiftachel, above n 15.

Area C is a key route to maintaining power and suppressing resistance, making Israel's use of Article 43 to intervene at home both problematic and political.

In the second part of this chapter, I explore the ways Israel intervenes at home in Area C through the modalities of demolition, siege, surveillance and invasion. My analysis suggests that international law is drawn into a destructive regime of homemaking in Area C and is involved in constituting different and often conflicting subjectivities relating to the meaning, conditions and experience of home under occupation.

4.6 Demolition

During fieldwork I visited the village of Susiya in the Hebron Hills, in the northern reaches of Area C. Palestinians have lived on this land for centuries. Just south of the village is the Jewish settlement of Susya. In 1983, Israel declared Susiya an archaeological site and decreed that ownership of the site would be transferred to the state for protection. Residents' homes and a modest infrastructure of outbuildings, wells and generators were demolished. Soon after, Susya, the settlement, was established on the land. Susiya residents relocated to a site several hundred metres away and lived in tents and caves until 2001, when their homes were demolished again. In 2015, Susiya villagers began to fear a third demolition. Soldiers made unannounced visits to inspect and measure up their homes. Most homes lack permits because Israel refuses to authorise building and planning at Susiya. Between 2010 and 2014, 98 per cent of requests for Palestinian planning permits in Area C were rejected.⁹² Petitions to the Israeli Supreme Court by rights groups acting on behalf of Susiya residents to vacate current demolition orders have been refused.⁹³ Susiya residents told me that they live under constant threat of demolition while the settlers block access to 87 per cent of Susiya, denying residents safe routes their homes and land to build homes on.⁹⁴

⁹² See 'Violations of Civil and Political Rights in the Realm of Planning and Building in Israel and the Palestinian Territories – Shadow Report', Bimkom – Planners for Planning Rights, 2014, <http://tbinetnet.ohchr.org/Treaties/CCPR/Shared%20Documents/ISR/INT_CCPR_CSS_ISR_18128_E.pdf>.

⁹³ For example, in February 2014 the Israeli NGO Rabbis for Human Rights petitioned the Israeli High Court requesting an interim order to prevent authorities from demolishing homes in the village.

⁹⁴ 'Palestinian Village Khirbet Susiya Under Imminent Threat of Demolition and Expulsion', B'Tselem, 7 May 2015.

‘House demolitions’ – as they are widely referred to – are one of the most extreme forms of punishment Israel carries out in Area C.⁹⁵ The practice demonstrates a deliberate will to destroy the foundation of ordinary life. Since 1948, around 120,000 Palestinian homes have been demolished across the occupied Palestinian territories, and 46,394 structures since the beginning of the occupation in 1967.⁹⁶ Between 2000 and 2012 the Military Government issued demolition orders for 9,682 Palestinian buildings and carried out 2,829 of these.⁹⁷ In the period 2006 to 2013, 624 Palestinian homes in the West Bank were demolished, uprooting 3,075 people from their homes.⁹⁸ According to the Israeli Committee Against House Demolitions, at any one time there are over 2000 standing orders for the demolition of Palestinian homes.⁹⁹ The construction of the wall from 2003 onwards has also accounted for the demolition of many Palestinian homes, concentrated in Area C. In its latest update at May 2016, the United Nations Office for the Coordination of Humanitarian Affairs reported that 595 Palestinian homes had been destroyed in the West Bank since the beginning of 2016, already exceeding the figure for all of 2015 (547), with the majority of those homes in Area C.¹⁰⁰

Israel categorises home demolitions as punitive or administrative (this latter are also called ‘military need’ demolitions). The practice of punitive demolition originates in the laws of the British mandate period. During the ‘Great Arab Rebellion’ of 1936 to 1939, the British Army introduced a policy permitting the destruction of Palestinian homes in response to Arab attacks. This policy was underlined by Article V(5) of the *Palestine (Defense) Order in Council 1931* which stated that: ‘The High Commissioner... may, if he thinks it necessary for the purposes of the defense of Palestine, cause any buildings to be pulled down... or to be destroyed.’¹⁰¹ This provision was itself based on British orders promulgated during the South African Boer War to destroy homes closest to the sites of attacks carried out by Afrikaner forces.¹⁰² While the British

⁹⁵ See for example, the Israeli Committee Against House Demolitions (www.icahd.org) and ‘House Demolitions as Punishment’, B’Tselem at <http://www.btselem.org/topic/punitive_demolitions>. I say more about the term ‘house demolitions’, as opposed to home demolitions, below.

⁹⁶ ‘Statistics on Punitive House Demolitions’, B’Tselem, 22 March 2016, <http://www.btselem.org/punitive_demolitions/statistics>.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ See ‘The Effects of House Demolitions on the Family’, Israeli Committee Against House Demolitions, 2015, <<http://icahd.org/blog/2015/07/28/the-effects-of-house-demolitions-on-the-family/>>.

¹⁰⁰ ‘Monthly Overview: May 2016’, United Nations Office for the Coordination of Humanitarian Affairs <<https://www.ochaopt.org/content/monthly-overview-may-2016>>.

¹⁰¹ *The Laws of Palestine* 3, 2622 (Robert Drayton ed, 1934).

¹⁰² Simon, above n 69, 8.

authorities demolished Palestinian homes as a form of deterrence against attacks, Jewish homes were never demolished.¹⁰³

This mandate era law was updated in Article 119 of the 1945 *Defense (Emergency) Regulations*, giving the Israeli Military Commander discretion to order the demolition of ‘any house’ suspected to have been used in the commission of a criminal offence, and ‘any house’ that the persons suspected to have committed the offence or aided in the offence live in.¹⁰⁴ The discretion is very broad, as the repetition of ‘any house’ indicates, and has the potential to net a large number of persons and homes, and to affect an even greater number of residents when extended family and visitors present at the time of demolition are accounted for. The standard of proof is very low and the demolition can occur without any need to issue judicial proceedings first.

One of most significant consequences of the 1948 *Nakbah* (‘catastrophe’ in Arabic) was the widespread loss and destruction of home. In the year between 1947 and 1948 alone, over 726,000 Palestinians – half the population – were uprooted from their homes.¹⁰⁵ In the decades that followed, Israeli homes were built on the bones of Palestinian homes, often by Palestinian workers, as Amos Gitai depicts in the film *House*.¹⁰⁶ Khalidi’s photographic catalogue of homes demolished in the *Nakbah* is annotated with a scale of destruction from ‘complete obliteration’ to ‘complete destruction with rubble of original houses clearly identified but no walls standing’, ‘houses mostly demolished with rubble containing standing walls but without roofs’ and ‘major destruction and partial occupancy.’¹⁰⁷ The demolition of Palestinian homes in the *Nakbah* was an attempt to clear the land for Israeli homes, as well as to deny the existence of Palestinians.¹⁰⁸ Khalidi’s catalogue of home destruction paradoxically debunks the myth that pre-state Israel was a land without people.

As this indicates, the defilement of Palestinian homes by Israel is not a new phenomenon. While the demolition of Palestinian homes has been condemned as illegal under international law,¹⁰⁹

¹⁰³ Terry Meade, ‘Violence and Domestic Space: Demolition and Destruction of Homes in the Occupied Palestinian Territories’ (2011) 16(1) *The Journal of Architecture* 71, 77-8.

¹⁰⁴ *Defense (Emergency) Regulations 1945*.

¹⁰⁵ See further Michael Fischbach, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (Columbia University Press, 2003).

¹⁰⁶ Amos Gitai, *House* (film, 1980).

¹⁰⁷ *Ibid* 273.

¹⁰⁸ Khalidi, above n 49. See also Shalhoub-Kervorkian and Ihmoud at above n 4.

¹⁰⁹ While the ICJ did not rule on the legality of the settlements, it did hold that the settlements were part of the annexation and expansionist enterprise of the wall, which violated international law: see *Wall* advisory

Israel relies on its authority as the occupier power under international law to justify the demolition. As we saw earlier in this chapter, Article 43 – the duty towards ordinary life – gives an occupier considerable scope to intervene in day-to-day life in the occupied territory. In the cases of *Beit Sourik* and *Ma'arabe* the Israeli Supreme Court confirmed that the demolition of Palestinian homes was necessary to protect settlers living near the wall and so maintain ordinary life in the occupied territory.¹¹⁰ These decisions are significant because they confirm two things: first, that settlers are considered part of ‘ordinary life’ in the occupied territory and thus fall within the ambit of the Article 43 duty, alongside Palestinians; and second, that home and home interests are relevant to the determination of ‘ordinary life’, whether with regard to the destruction of home (Palestinians) or the construction of homes (settlers). Thus, the decisions also shed light on international law’s homemaking work in the context of occupation. International law intervenes in the occupied territory to shape the meaning, conditions and experience of home through occupation law. In doing so, it also constitutes different subjectivities relating to home, such as permanence, ordinariness and inclusion (for settlers) and provisionality, exceptionality and exclusion (for Palestinians).

As we saw earlier in this chapter, the duty towards ordinary life is as an overarching duty that interacts with a number of other provisions in the *Hague Regulations* and the *Geneva Conventions*. This opens up various other ways in which the duty can be used to justify home demolition. While Article 53 of the *Fourth Geneva Convention* prohibits the destruction of property in the occupied territory, it makes an exception where such destruction is ‘rendered absolutely necessary by military operations.’¹¹¹ Israel claims that demolishing Palestinian homes in Area C is a ‘military necessity’ when those homes are, for example, sited on land needed for a checkpoint or a road, which are considered essential to ‘ordinary life’ in the occupied territory.¹¹² Article 55 gives the occupier control over ‘real estate’ in the occupied territory and obliges it to

opinion, above n 61. See also generally discussion in *Agora: Wall in Occupied Palestinian Territory* (2005) 99(1) *The American Journal of International Law* 119.

¹¹⁰ See, for example, *Beit Sourik Village Council v. The Government of Israel et al* HCJ 2056/04 (2004) 48(5) PD 807 and *Mara'abe v The Prime Minister of Israel* HCJ 7957/04, 15 September 2005.

¹¹¹ *Fourth Geneva Convention*, Article 53, above n 67.

¹¹² See ‘Demolition for Alleged Military Purposes’, B’Tselem, 1 January 2011, <<http://www.btselem.org/razing>>. See also ‘Israel’s Policy of Demolishing Palestinian Homes Must End: A Submission to the UN Human Rights Council by the Israeli Committee Against House Demolitions’, Israeli Committee Against House Demolitions, March 2013, <<http://icahd.org/2013/03/03/israels-policy-of-demolishing-palestinian-homes-must-end-icahd-submission-to-the-un/>>. See also Lawrence Hill-Cawthorne, ‘The Role of Necessity in International Humanitarian and Human Rights Law’ (2014) 47(2) *Israel Law Review* 225.

‘safeguard’ property.¹¹³ Ironically, Israel argues that safeguarding property as part of the duty to maintain ordinary life in fact requires demolishing homes.

Demolishing a home, whether ostensibly for punitive or administrative purposes, has the same effect: it uproots and undermines the possibility of ‘ordinary life’. Under military rules, when an order for the demolition of a home is made, residents must be given a warning within 48 hours and be allowed to appeal to the military commander.¹¹⁴ But the warning is rarely given. Sometimes, a warning is given but not brought to the attention of residents. For example, the warning notice might be left under a rock nearby the resident’s home.¹¹⁵ Home demolition is often carried out at night. The darkness amplifies panic. Lack of visibility also increases the danger of demolition, particularly for residents attempting to gather their belongings from inside.¹¹⁶ Some residents are ordered to assist in the demolition of their own homes.¹¹⁷ Electricity, water and gas are turned off to disrupt the functions of the home before the demolition begins.

‘Demolition’ generally means reducing a home to rubble. In some cases home demolition stops short of complete reduction and instead involves causing irreversible damage or alteration of a home for a new purpose, such as for use as a military base. During my walks in Area C villages, I noticed piles of stones and blocks that were once homes and other homes that had been burnt by firebombs inside but remained structurally intact, with four blackened walls standing. On one occasion I met two boys playing on the rubble of their own demolished home (they were now living with extended family elsewhere in the village) (Figure 32). It seemed that for children, anything – even a demolished home – can be a playground.

¹¹³ *Hague Regulations*, Article 55, above n 11.

¹¹⁴ See further reports by B’Tselem: ‘Through No Fault of Their Own: Israel’s Punitive House Demolitions in the Al-Asqa Intifada, November 2004’, 2004; ‘Land Grab: Israel’s Settlement Policy in the West Bank’, 2002; ‘Policy of Destruction: House Demolition and Destruction of Agricultural Land in the Gaza Strip’, 2002; ‘Demolishing Peace: Israel’s Policy of Mass Demolition of Palestinian Houses in the West Bank’ 1997.

¹¹⁵ ‘Palestinian Homes Demolished without Warning’, Amnesty International, 2008 <<http://www.amnesty.org/en/news-and-updates/news/palestinian-homes-demolished-without-warning-20080311>>. Israel calls the routine practice of not warning the ‘surprise element’ of its house demolition policy. See also Jeff Halper, ‘The Message of The Bulldozers’ (2006) 26 *Forced Migration Review* 28.

¹¹⁶ See further Nathan Marom, ‘The Planning Deadlock, House Demolitions in the Palestinian Neighbourhoods of East Jerusalem’ in Philipp Misselwitz and Tim Rieniets, *City of Collision: Jerusalem and the Principles of Conflict Urbanism* (2006) 347-52.

¹¹⁷ See ‘The Effects of House Demolitions on the Family’, Israeli Committee Against House Demolitions, above n 99.

A demolished home is usually sealed with metal sheets or concrete blocks. The rubble is then tagged with numbers or letters. This creates a readable record of demolition across the landscape. This kind of quantification and methodical process re-describes home demolition as an ordinary act of administering a territory under occupation, rather than an exceptional act of violent destruction. By creating a legal space in which an occupier can justify home demolition as a ‘military necessity’ and as part of its duty to maintain ‘ordinary life’ in the occupied territory, international law participates in a destructive regime of homemaking. It is also involved in constituting different experiences of home for Palestinians and Israelis.

4.7 Beyond demolition

It is significant that NGOs, courts and scholars refer to ‘house demolitions’, rather than ‘home demolitions’.¹¹⁸ While the phrase ‘house demolition’ invokes images of bulldozers and rubble, ‘home demolition’ broadens the discussion to ‘examine the extensive economic, political, cultural and social geographies (and temporalities) of such violence.’¹¹⁹ Porteous and Smith argue that when a home is destroyed, ‘what is lost is not only the physical place, but the entire emotional essence of home – aspects of personal self-identity.’¹²⁰ The destruction of home is the ultimate act of ‘de-signification’, because home signifies the identity of a people.¹²¹ The phrase ‘house demolition’ can thus be used to obscure and reduce the violence of home destruction, and the gravity of ‘de-signification’, by removing or abstracting away from the deep emotional sediment buried in the word ‘home’.

Some scholars prefer the term ‘domicide’ to describe ‘the deliberate destruction of home by human agency in pursuit of specified goals, which causes suffering to the victim.’¹²² ‘House demolition’, with its air of administrative efficiency and practicality, fails to convey that element of suffering. Domicide or home destruction can take many forms, such as eviction and expropriation; dislocation and relocation; repurposing and rebuilding; and the creation of conditions of instability and precariousness at home and ‘displaceability’.¹²³ Home destruction

¹¹⁸ See, for example, above n 95, 99 and 114.

¹¹⁹ Christopher Harker, ‘Spacing Palestine Through the Home’ (2009) *Transactions of the Institute of British Geographers* 320, 5.

¹²⁰ *Ibid* 63.

¹²¹ See generally *ibid*. See also Terry Meade ‘Destruction of Homes, Erasure of History’ in Chiara Certomà, Nicola Clewer and Doug Elsey (eds) *The Politics of Space and Place* (Cambridge Scholars Publishing, 2012).

¹²² Porteous and Smith, above n 14, 12.

¹²³ Yiftachel, above n 15.

also traverses different temporalities – it may be a present, ongoing experience; it may be remembered from the past; or it may be feared in the future – as well as different spatialities: from the destruction of a single home to the destruction of the collective memory of a people. In other words, it is not a condition of home destruction that the physical shell of a home is lost. It may even be enough to slowly erode the possibility of home in the imaginary.

If we limit our understanding of home destruction to the physical demolition of home, other forms of suffering related to the loss of home may be overlooked, devalued or denied. Focusing on physical demolition collapses the particular, individual and imaginative stories of home into generalities – as in the anonymous piles of rubble in Khalidi’s catalogue of destroyed homes – and produces what Weizman calls a ‘hollow land’: a landscape not only absent Palestinian lives, but also devoid of the voices of those who continue to make home there.¹²⁴ Indeed while much attention has been given to home demolitions, this offers us only a partial view of the destruction of Palestinian homes in Area C. In the next part of this chapter, I explore three other modalities of home destruction: siege, surveillance and invasion.



Figure 19: Home in Area C showing firebomb damage. The home is still lived in.

¹²⁴ Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (Verso Books, 1st ed, 2007).



Figure 20: Sign beside Area C village

4.8 Siege

We visit Qalqilya on a Friday. It is market day. The main street is teeming with traffic – trucks, trays loaded with sheep, and dust-shrouded cars coming in from the villages. There is a chaos of horns and people wandering either side of the broken road. I weave alongside black-shawled women and children with neat round haircuts. On the street are *shawarma* stalls and men tossing discs of flatbread over coals. Homes sit stacked on top of sundry shops, jutting out into the street as an overbite. We buy *labna* and sticky *baqlawa* and eat at plastic tables set unevenly on cracked concrete before a view of parked cars. Arafat blinks at us from a poster on a shop window catching late afternoon sun. It is bustling, but market day here is not what it once was (Figures 21 and 22).



Figure 21: Poster of Yasser Arafat

Qalqilya is an ancient town surrounded by about 30 villages. Its wealth is agricultural: the land here is endowed with rich loamy soil and a relatively high water table. Though Qalqilya has been under occupation since 1967, it has suffered most in the past two decades. The 1990s saw increasing travel restrictions, road closures and property confiscation. This intensified when construction of the wall began in the early 2000s. The wall encloses the town on three sides.¹²⁵ There is one access point for a population of nearly 48,000. Qalqilya's economy has shrunk as fewer people travel across the West Bank to reach the market, while residents are unable to tend their fields, which now lie fallow.¹²⁶ Many have abandoned their homes and left to find work elsewhere, outside of Area C or across the border in Israel. Said described exile as 'a solitude experienced outside the group' where deprivation is felt through not being with others in communal habitation.¹²⁷

¹²⁵ See 'Map of the Separation Barrier', B'Tselem, <http://www.btselem.org/download/separation_barrier_map_eng.pdf>.

¹²⁶ See generally 'Oslo: Before and After: The Status of Human Rights in the Occupied Territory', B'Tselem, 1999, <http://www.btselem.org/publications/summaries/199905_oslo_before_and_after>.

¹²⁷ Said, above n 1, 140.



Figure 22: Baqlawa in Qalqilya

The wall is perhaps the most visible symbol of the occupation. It cleaves 708km through the West Bank, including much of Area C.¹²⁸ The wall does not neatly cut along the perimeter of Area C. It snakes its way across the desert landscape haphazardly, with twists and turns and bends, enclosing homes and villages in its course. According to Israel, the wall is a necessary part of protecting and maintaining ordinary life in the territory by providing security. The wall is positioned to the east of the 1949 Armistice Line, or the Green Line, annexing Palestinian land to Israel. Parts of Area C fall within this ‘gray space’ created between the Green Line and the wall, which is also known as the seam zone.¹²⁹ By the time the wall is complete some 50,000 Palestinians will be trapped in extraterritorial ‘islands’ within the seam zone,¹³⁰ cut off from the rest of the West Bank on one side and secured from Israel on the other side by layers of fencing. Edward Said might have had in mind such a space when he wrote:

And just beyond the frontier between “us” and the “outsiders” is the perilous territory of not-belonging: this is to where in a primitive time peoples were banished, and where in the modern era immense aggregates of humanity loiter as refugees and displaced persons.¹³¹

On a walk in Area C I visited the home of a Palestinian hemmed inside the seam zone (Figures 23 and 24), with a settlement on one side and the wall on the other.¹³² This home has been cut off by the wall from the village it was once part of. The home is ringed on four sides by a double barbed wire fence and a deep ditch. Entirely enclosed and sealed off, it stands defiantly alone. The home itself is simple, built according to tradition and beaten into shape by the Israeli laws that restrict the height, size and decoration of homes in Area C. It has a flat roof and the structure is brick. Some small personal touches have escaped notice: the front door is painted green; the windows are curtained with lace. On the gate to the garden there is a plaque. It is the plaque the faithful display on their homes to mark the Hajj, the pilgrimage to Mecca.¹³³ Yet what captures my eye is the nicely kept garden, planted with trim flowerbeds, close-clipped bushes and cacti. Things would appear to grow well under the shade of the wall. A hose is coiled on the rocks like a snake

¹²⁸ See B’Tselem, ‘Map of the Separation Barrier’, above n 123. See also, for a visual record, Josef Koudelka, *Wall: Israeli and Palestinian Landscape 2008-2012* (Aperture, 2013).

¹²⁹ Yiftachel, above n 15.

¹³⁰ Weizman, above n 124, 176.

¹³¹ Said, above n 1, 140.

¹³² This walk was guided by volunteers from Machsomwatch, an Israeli NGO led by older women that patrols West Bank checkpoints to curb abuses against Palestinians. See <<http://www.machsomwatch.org/>>.

¹³³ حج (Hajj) is the Islamic pilgrimage to Mecca. One of the seven pillars of Islam, it is a religious duty that Muslims must journey to Mecca at least once in their lifetime, if they are able to.

sleeping beneath the desert sun. I am surprised by the garden, the care someone takes to maintain it. Perhaps I assume there can be no beauty or pride in a home like this, in this forsaken place, trapped inside the seam zone, an exceptional space of not-belonging. We spoke to the son of the household through fences and barbed wire (Figure 23). He told us that his father had made the Hajj last summer. When we leave he scuttles up onto his roof to fix a TV aerial.



Figure 23: Home in the seam zone

While the wall dominates images of the occupation in the West Bank, the infrastructure of occupation in Area C also includes a network of roads, fences, barriers, ditches and dykes. Their lack of coordination adds a chaotic and spontaneous quality to the violence of occupation. Exclusive access roads are for Israeli number plates. Tall, thick concrete walls rise up on each side of these roads, forming half-enclosed tunnels ostensibly to protect Israelis travelling across the West Bank to East Jerusalem and other parts of Israel. The planning and construction of the roads is intimately linked with Israel's settlement policy (I discuss this below).¹³⁴ Meanwhile, the ancient landscape of Area C is riven with anastomoses of fences, barriers, ditches and dykes, creating a complicated, confusing and constantly changing pattern that thwarts attempts to lay down roots in any one place.

¹³⁴ See further Tilley, above n 6, 58-9.

This infrastructure of occupation tears the fabric of ordinary life and reorganizes it to oppress, deter and deny the possibilities for home. It severs connections between Palestinian towns and villages, isolating residents, cutting families off from each other and depriving livelihoods. It delimits, reduces and erases space in Area C for Palestinian homes. Ceaselessly constructing and reconstructing the occupation in and around Palestinian homes, it generates an atmosphere of siege: the sense of being attacked from all sides. Home in Area C is no longer a safe haven: the occupation is inside and all around home, at once embodying and performing the occupation.

The infrastructure of occupation in Area C has been described as ‘one of the most serious threats to the continued Palestinian presence’,¹³⁵ a planned enterprise designed ‘to confine them [Palestinians] to small enclaves, thereby leaving the land (their land) free for Israeli settlement and annexation’¹³⁶ and to cause ‘a quiet transfer of Palestinians out of the country’.¹³⁷ However, at the same time, the presence of home in Area C and Palestinian residents’ refusal to leave indicates that home not only embodies and performs the occupation; it also resists it. Home as a place of resistance to the occupier’s attempts to disinherit Palestinians of their homeland and identity.¹³⁸ International law, by bringing the occupation into being and framing its ongoing operations, shapes these contrasting subjectivities in relation to home: of violence and resistance, of exclusion and inclusion, of exile and homeland, of the ordinary and the exceptional.

¹³⁵ ‘Aggressive Urbanism: Urban Planning and the Displacement of Palestinians Within and From Occupied East Jerusalem’, Civic Coalition for Defending Palestinians’ Rights in Jerusalem, 2009, 9.

¹³⁶ Halper, above n 115, 33.

¹³⁷ Meade, above n 103, 76.

¹³⁸ See further Shalhoub-Kevorkian, above n 4.



Figure 24: Home in Area C surrounded by wall and fences

4.9 Surveillance

We are at Jayyus. It is just past midday. We are waiting for the checkpoint gates to open. We shelter from the desert sun in an upturned shipping container. By 1pm almost twenty people have gathered on each side of checkpoint that marks a crossing inside Area C. The gate is scheduled to open at 1.15pm. There is nothing to do but wait. I walk idly around. On this side of the gate there are men who need to cross to reach their fields on the other side. They mill around a horse and cart. Transport and infrastructure is poor here. On the other side of the checkpoint there are women and children. They are about twenty metres away, behind another set of gates. I stand with the men and peer through the metal gates. Some of the men talk with one of the security guards. The guard refuses to answer when the gate will open. The guard holds a rifle and a clipboard.

By 1.30pm the gate has not opened. People appear resigned to the frustration. The security guards are chatting idly inside their office beside the checkpoint. There's a sense of business as usual. At last the gates open. Single file queues form on both sides of the checkpoint. A shuffling-processing of people, permits and papers begins. People begin to walk through. Two women,

smiling in *abayas*, are trailed by a man. He is agitated; we greet him: *Ahlan wa sahlan*. He tells us what happened. They are crossing the checkpoint to visit family on the other side. They had brought a box of *baqlawa* as a gift. The checkpoint guards took the box and passed it through a scanner. The box was opened; each pastry was taken out and broken up. The sticky mess was returned before the three passed through the checkpoint. The women's cheerfulness struck me as a small act of resistance, but also of how ordinary the occupation's abuses and deprivations have become.



Figure 25: Jayyus checkpoint

There are hundreds of checkpoints similar to the one at Jayyus dotted throughout Area C (Figures 25-28).¹³⁹ The checkpoints form part of Israel's surveillance network – a 'matrix of control', as one scholar has described it¹⁴⁰ – that stretches across Area C.¹⁴¹ In the West Bank as a whole there are around 100 checkpoints and hundreds of temporary 'flying checkpoints'; about a third of these are staffed by civilian guards hired by private security companies under state supervision.¹⁴² Checkpoints have advertised opening hours, but, as at Jayyus, these are not always followed: checkpoints often open later than advertised, or for less time than advertised, or at highly inconvenient times of day, or not at all. It is the 'structured chaos' that characterises the occupation and menaces everyday life for Palestinians.¹⁴³

¹³⁹ See Tilley, above n 6, 152-4 and Alon Margalit and Sarah Hibbin, 'Unlawful Presence of Protected Persons in Occupied Territory? An Analysis of Israel's Permit Regime and Expulsions From the West Bank Under the Law of Occupation' (2011) 13 *Yearbook of International Humanitarian Law* 245.

¹⁴⁰ Jeff Halper, 'The 94 Per Cent Solution: A Matrix of Control' (2000) 216 *Middle East Report* 14.

¹⁴¹ 'Resstriction of Movement: Checkpoints, Physical Obstructions, and Forbidden Roads', B'Tselem, 20 May 2015 <http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads>.

¹⁴² Specifically, the Administration of Border Crossings at Ministry of Defense: see B'Tselem *ibid*.

¹⁴³ Weizman, above n 124, 5.



Figure 26: An ordinary day moving to and from home through Jayyus checkpoint

The ostensible purpose of the checkpoints is to control and monitor Palestinian movement within and between Areas A, B and C of the OPT and between the OPT and Israel. But they also operationalise a regime of inclusion and exclusion, belonging and not-belonging, to which home is central.¹⁴⁴ At any time, a checkpoint might appear, re-locating home on the landscape, changing routes to and from home, and blocking access to home for residents, family, friends, visitors, travellers. Thus checkpoints regulate and discipline how, when and even whether Palestinian homes can be reached; they relocate home inside rings of surveillance and control; and they reshape home from a place of protection and permanence to a place that is surrounded by and open to danger, uncertainty and provisionality.

Palestinians need multiple travel permits to travel in Area C. As Weizman observes, the permits allow different categories of persons to travel to different categories of space through different categories of checkpoints.¹⁴⁵ Men and women over 16 years of age are required to have a ‘permanent residence permit’ to live in their own home. They are also obliged to use a ‘prior coordination mechanism’ to arrange access to their own homes and to apply for ‘visitor’ permits to visit other peoples’ homes. The need for a permit, and the possibility of a permit being revoked, makes home in Area C impermanent, uncertain and precarious. The permits transfer control over the conditions of home from Palestinians to the occupier. The permits normalise and routinise anxiety about home as part of ordinary life in Area C. At the checkpoints, permits and identification papers must be shown. They are frequently rejected, confiscated or destroyed, with no reasons given. Physical harassment and intimidation at checkpoints is common.¹⁴⁶

¹⁴⁴ See further Adi Ophir, Michal Givoni, and Sārī Ḥanaḥ, above n 20.

¹⁴⁵ Weizman, above n 124, 146.

¹⁴⁶ See data collected by Machsomwatch, above n 132.



Figure 27: Jayyus checkpoint

Palestinians have no choice but to submit to the checkpoints system in order to survive: they need to get to and from home each day to reach work, family, school and hospitals. By living in their homes and submitting to the checkpoints, Area C residents perpetuate the discipline of occupation.¹⁴⁷ Surveillance, Foucault argued, makes power ‘multiple, automatic, and anonymous’ – less about an obvious and immediate threat of violence than about networks of relations that induce acquiescence.¹⁴⁸ In these ways, the checkpoints reflect how the occupation undermines – rather than restores or maintains – ordinary homelife for Palestinians. International law, by framing the situation of occupation and authorising the occupier to enter into and control ordinary

¹⁴⁷ Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977* (Harvester Press, 1980) 155.

¹⁴⁸ *Ibid.*

life in the territory through the checkpoints, becomes complicit in acts of deprivation and home-unmaking.



Figure 28: Queue at Jayyus checkpoint

4.10 Invasion

Home is the site for history's most 'intricate invasions'.¹⁴⁹ Walking in Kadum, it is quiet and there are few people about. The land is burnt and cleared. One olive tree remains, steadfast. We linger by a home on the edge of hills. It is grey-looking and licked by flamescars, the windows smashed out by firebombs. Geese peck among loose clumps of dry earth in the old garden. Some gnarled vines survive, twisting up a pergola on the side of the home. I imagine this place in summer. It would have been pretty. I stand balancing on a stone, arms akimbo, surveying the land rising up through the valley all around, catching a faint, distant whizz of cars along a highway. Kadum is famous for its long-running Friday protests.¹⁵⁰ After prayers, residents march through the main street. Israeli soldiers break up the protests, throwing tear gas and water bombs and often making arrests. In the distance, a kilometre or so away, a settlement sits watch high on the

¹⁴⁹ Homi Bhabha, *The Location of Culture* (Routledge, 1994) 13.

¹⁵⁰ Similar to the protests staged in Bil'in, as chronicled in Emad Burnat and Guy Davidi's documentary *Five Broken Cameras* (Burnat Films, 2011).

hillside. The skyline above is cut by the angular roofs and neat square shapes of settler homes. The settlement is called Kadumim. It is another linguistic appropriation, in addition to the land taken.¹⁵¹ To the far side of Kadumim there is another Palestinian village. A road once passed between Kadum and the village. Families could reach each other by car in a few minutes, on foot in a little more. Now the road is blocked by the settlement. Villagers are prohibited from driving anywhere near the settlement. They must take a long, winding route through the mountains, at least an hour's drive. Few people around here have cars. Some walk; most no longer go. Many have relocated.



Figure 29: The road through Kadum burnt from firebombs; settler homes overlooking beyond

The term ‘settlements’ encompasses ‘all the physical and non-physical structures and processes that constitute, enable and support the establishment, expansion and maintenance of Israeli

¹⁵¹ See description of Kadumim in Matityahu Drobles, *Settlement in Judea and Samaria – Strategy, Policy and Plans*, 1980 at [3], Matityahu Drobles, *Settlement in Judea and Samaria – Strategy, Policy and Plans*, 1980. The English version is attached to United Nations General Assembly and United Nations Security Council, A/36/341 and S/14566, 19 June 1981, *Letter dated 19 June 1981 from the Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People to the Secretary-General*, (31 August 2015) (‘Drobles plan’).

residential communities beyond the Green Line of 1949.¹⁵² This includes settlements, settlement blocks, outposts, and ‘any other structures that have been erected, established, expanded and/or appropriated or any land or natural resources appropriated.’¹⁵³ The first Israeli settlements in the West Bank were established immediately after the 1967 war. From 1967 to 1978 Israel argued that the settlements were vital to the country’s security. The tenor changed when plans were published that openly put settlements at the heart of Israel’s annexation policy. In 1981 the state adopted a master plan titled *Settlement in Judea and Samaria – Strategy, Policy and Plans*.¹⁵⁴ The Drobles plan clarified that Israel’s intention in building settlements was not (or not only) for security, but to systematically and permanently annex the West Bank to Israel:

The civilian presence of Jewish communities is vital for the security of the state... There must not be the slightest doubt regarding our intention to hold the areas of Judea and Samaria for ever... The best and most effective way to remove any shred of doubt regarding our intention... is a rapid settlement drive in these areas.¹⁵⁵

Between 1968 and 1978 military authorities in the West Bank had confiscated around 47,000 dunums of Palestinian land, expelling Palestinians from their homes and expropriating the land to the state for the construction of the first 13 settlements.¹⁵⁶ The settlement master plan called for the creation of separate Palestinian enclaves for those who remained. Since the *Beth El* case in 1979, the Israeli Supreme Court has continued to approve acquisitions of privately owned land in the Palestinian territories for the construction of settlements, justifying the settlements as a military necessary for securing itself as the occupier.¹⁵⁷ In a long line of cases since *Beth El*, the Israeli Supreme Court has emphasised the centrality of Article 43 of the *Hague Regulations* – the duty towards ordinary life – in seeking to find a balance between military needs and those of the local population.¹⁵⁸ It has necessarily taken a wide view of ‘ordinary life’ that includes settlers

¹⁵² I adopt the definition used by the UN Human Rights Council in its 2013 report on the settlements: UN Human Rights Council, *Report of the Independent International Factfinding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian People Throughout the Occupied Palestinian Territory, including East Jerusalem*, 7 February 2013, A/HRC/22/63, [4].

¹⁵³ *Ibid.*

¹⁵⁴ Drobles plan, above n 151.

¹⁵⁵ See Kretzmer, above n 85, 90 and references to the Drobles plan, *ibid.*

¹⁵⁶ See further Nur Masalha (ed), *Catastrophe Remembered: Palestine, Israel and the Internal Refugees – Essays in Memory of Edward W Said, 1935-2003* (Zed, 2005), especially chapter one.

¹⁵⁷ *Beth El*, above n 86.

¹⁵⁸ See generally discussion in David Kretzmer, 'The Law of Belligerent Occupation in the Supreme Court of Israel', above n 16.

within the local population whose welfare must be promoted under the Article 43 duty.¹⁵⁹ This selective deployment of the duty enmeshes international law with Israel's settlement building program.



Figure 30: Settlements ring Kadum

In 2015 there are at least 325,000 settlers in 125 government-sanctioned settlements dotted throughout Area C.¹⁶⁰ There are also around 100 'outposts': settlements which are not officially recognised by the state but likely to have been established with state assistance.¹⁶¹ Israel has altered zoning and land use regulations to approve construction of new settlements and to retroactively approve existing settlements in Area C. Data provided by the Military Government indicates that about 75 per cent of settlements do not have approval permits.¹⁶² The annual growth rate for the settler populations is 6 per cent: more than three times higher than that of Israel, at 1.8

¹⁵⁹ *H CJ 10356/02 Yoav Hess et al. v The Commander of IDF Forces in the Judea and Samaria et al* 58(3) PD, p. 443, 2004. This is despite the effect of the *Elon Moreh* case which confined the meaning of 'military necessity': *Dweikat et al v Government of Israel et al* HCJ 390/79 (1979) 34(1) PD 1.

¹⁶⁰ 'Area C', B'Tselem, above n 55. See also 'Statistics on Settlements and Settler Population', above n 54. This does not include East Jerusalem.

¹⁶¹ *Ibid.*

¹⁶² 'Planning and Construction Policy in the Settlements', B'Tselem, October 2013 <http://www.btselem.org/planning_and_building/settlement_planning_policy>.

per cent.¹⁶³ A quarter of that growth comes from Israelis relocating to the settlements and new immigrants to Israel choosing to live in the settlements.¹⁶⁴ West Bank settlements fall under the status of ‘National Priority Area’, which means residents are entitled to inexpensive, good quality housing, subsidised mortgages, free education, free transportation, grants and tax exemptions for industry and agriculture, and low taxes.¹⁶⁵ The settlements now command 42 per cent of land in the West Bank. The figure is higher when we include the land Palestinians are denied access to through settler intimidation and violence.¹⁶⁶

The settlements play a double role in the occupation. First, they provide housing for settlers, many of whom are attracted by the idea of pioneering a Jewish homeland in the desert.¹⁶⁷ The settlements are thus key to population growth and territorial expansion in Area C. To achieve this, the settlements carry out different spatial rites. The architectural historian Robin Evans describes those spatial strategies that protect, insulate and draw inwards a section of society as ‘rites of retreat’ and those that expel and exterminate sections of society that are considered a threat as ‘rites of exclusion’.¹⁶⁸ Rites of retreat and exclusion often accompany each other. We can see this in the way the settlements simultaneously construct (protect and include) homes for Israeli settlers while destroying homes for Palestinians (deprive and exclude).

Second, the settlements are central to Israel’s security architecture in Area C. Light and sight are integral to this. The settlements are almost excessively lit. Ariel Sharon famously said he wanted ‘the Arabs to see Jewish lights every night five hundred metres from them.’¹⁶⁹ The settlements also command the landscape from the tops of hills with sightlines in every direction, allowing attacks against settlers to be anticipated and repelled.¹⁷⁰ Security forces patrol the settlements

¹⁶³ See Harriet Sherwood, ‘Population of Jewish settlements in West Bank up 15,000 in a year’, above n 54.

¹⁶⁴ ‘Statistics on Settlements and Settler Population’, above n 54.

¹⁶⁵ See, for example, Aron Heller, ‘Israel Expands Settlement Subsidies’ (4 August 2013, The Washington Post), <https://www.washingtonpost.com/world/israel-expands-settlement-subsidies/2013/08/04/b01a4faa-fd1d-11e2-96a8-d3b921c0924a_story.html>.

¹⁶⁶ ‘By Hook and by Crook: Israeli Settlement Policy in the West Bank’, B’Tselem, July 2010 <http://www.btselem.org/publications/summaries/201007_by_hook_and_by_crook>. On settler violence and intimidation of Palestinian villagers, see Palestine Monitor <<http://www.palestinemonitor.org/>>.

¹⁶⁷ See further Arthur Neslen, *Occupied Minds: A Journey Through The Israeli Psyche* (University of Chicago Press, 2006).

¹⁶⁸ Robin Evans, ‘The Rights of Retreat and the Rites of Exclusion: Notes Towards the Definition of Wall’ (1971) 41(6) *Architectural Design* 335-9 and as published in *Translations from Drawing to Building* (Architectural Association Publications, 1996).

¹⁶⁹ Emmanuel Sivan, ‘The Lights of Netzarim’ (*Ha’aretz*, 7 November 2003).

¹⁷⁰ See further Rafi Segal and Eyal Weizman, ‘The Mountain: Principles of Building in Heights’ in Rafi Segal and Eyal Weizman (eds), *A Civilian Occupation: The Politics of Israeli Architecture* (Verso, 2003)

under instruction to shoot Palestinians seen looking at the buildings.¹⁷¹ Weizman describes the visual domination of the settlements as ‘optical urbanism’.¹⁷² The effect for Palestinians is all-consuming:

You can hardly find a window in a Palestinian house that does not open onto some red-tiled roof of the neighbouring settlement ... From the window of a burnt clothing store in re-occupied Bethlehem, from a bathroom window in Kafr Beit Dajan, from a living room window in the village of Sinjel, from the mouth of a cave belonging to the cave-dwellers in southern Mount Hebron, from an office in Nablus, from a store in Ramallah – from everywhere you can spot the settlement on the hilltop, looming, dreadfully colonial ... alienated, threatening, conquering houses, lusting for more.¹⁷³

Seeing is important. Raja Shehadeh, observing the settlements from his walks in the West Bank hills, writes: ‘Israeli planners place Jewish settlements on hilltops and plan them such that they can only see other settlements while strategically dominating the valleys in which most Palestinian villages are located.’¹⁷⁴ Nadera Shalhoub-Kevorkian argues that the aesthetics of occupation relies on a double vision: the oppressor must see the oppressed in order to dominate and control it while the oppressed must see the oppressor to be dominated and controlled by it.¹⁷⁵ The invasion of Palestinian homes through sight and seeing is worrying not just because of what this might allow the occupier to see, but because watching itself is a devastating and destructive exercise of power.¹⁷⁶ The ‘inspecting gaze’ of the settlements internalises the occupation within Palestinian homes. In doing so, the settlements turn Palestinian homes and their inhabitants inside themselves to become the overseers of their imprisonment.¹⁷⁷

The ICJ in its *Wall* advisory opinion, while not requested to give an opinion on the legality of the settlements, condemned the construction of settlements and said that they fundamentally alter

and Elia Zureik, David Lyon and Yasmeeen Abu-Laban (eds), *Surveillance and Control In Israel/Palestine: Population, Territory and Power* (Routledge, 2013).

¹⁷¹ Ibid.

¹⁷² Weizman, above n 124, 111-39.

¹⁷³ Gideon Levy, 'The Lowest Points in Israel' in Rafi Segal and Eyal Weizman (eds), *A Civilian Occupation: The Politics of Israeli Architecture* (2004) 170.

¹⁷⁴ Raja Shehadeh, *Palestinian Walks: Notes on a Vanishing Landscape* (Profile, 2008), xiv.

¹⁷⁵ Giving the example of a light festival in East Jerusalem: see Nadera Shalhoub-Kevorkian, *Security Theology, Surveillance and the Politics of Fear* (Cambridge University Press, forthcoming 2017).

¹⁷⁶ See generally Michel Foucault, *Power/Knowledge*, above n 147.

¹⁷⁷ Ibid 155.

existing conditions in the occupied territory, undermining the duty towards ordinary life.¹⁷⁸ The settlements also appear to violate the Oslo II agreement, Article 31 of which states that ‘neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations.’¹⁷⁹ Yet by ‘seeding the terrain’ with anchor points in strategic locations,¹⁸⁰ the settlements create ‘facts on the ground’ – invasions of the landscape so permanent as to make a future Israeli withdrawal impossible and amounting to de facto annexation. As the ICJ has cautioned, the settlements may be a “fait accompli”.¹⁸¹

This resignation to the settlements echoes the view that the invasion of Palestinian homes is part of the history of Palestine. As Said argues:

...an open door is necessary for passing between inside and outside, but it is also used as an avenue by others to enter. Even though we are inside our world, there is no preventing others from getting in, overhearing us, decoding our private messages, violating our privacy. That is how we read the history of Palestine from the crusades to Balfour and Weizman: that it was entered despite us, lived in despite us.¹⁸²

The settlements are another way in which the occupation is embodied and performed through home, and through which Palestinian homes have also come to resist the occupation. International law – structuring and regulating the occupation and deployed selectively by Israel to justify its activities – is involved in constituting these different subjectivities of home and is complicit in acts homemaking and home-unmaking in Area C, with devastating effects for Palestinians.

¹⁷⁸ *Wall* advisory opinion, above n 61, [114]-[142].

¹⁷⁹ *Oslo II*, Article 31, above n 2.

¹⁸⁰ Weizman, above n 124, 167.

¹⁸¹ *Wall* advisory opinion, above n 61, [121].

¹⁸² Edward Said, ‘Interiors’ in Moustafa Bayoumi and Andrew Rubin (eds), *The Edward Said Reader* (Granta, 2001) 271.



Figure 31: The ancient terraced land in Area C (middle), encircled by fences (top left and bottom)

4.11 Conclusion

Home in Area C is ‘the outcome of struggle among conflicting interest groups seeking domination over an immediate environment’.¹⁸³ The struggle for home – and for the identity, collective memory and idea of homeland associated with home – requires one group imposing its claim over another by replacing the signifiers of home with their own.¹⁸⁴ Acts of constructing and destructing, deterritorialising and reterritorialising the landscape of home displaces identity and the layers of ideological sediment that accompany home.¹⁸⁵

While home is not explicitly addressed in the international law of occupation, in this chapter I have explored some of the ways that international law, through the duty towards ordinary life, is involved in the destruction of home in Area C. As a subject of analysis, home helps us to see international law’s operations in everyday life and the types of homemaking (and home-

¹⁸³ Falah, above n 13, 256.

¹⁸⁴ Ibid.

¹⁸⁵ Gilles Deleuze and Felix Guattari, ‘Kafka: Toward a Minor Literature: The Components of Expression’ (1985) 16(3) *New Literary History* 591 in Avtar Brah, *Cartographies of Diaspora – Contesting Identities* (Routledge, 1st ed, 1996) 203-4.

unmaking) work it does. However, I have also shown how the concept of home can be understood as an analytical tool in itself.

Looking through the lens of home in Area C makes visible how international law, in the context of occupation, constitutes different subjectivities relating to the meaning, conditions and experience of home. Through the case study of home in Area C I traced the ways that home is characterised by notions of legality and illegality, light and dark, inclusion and exclusion, permanence and provisionality. Bringing the concept of home to the critical analysis of international law and everyday life in the context of occupation produces important insights about human experience, and particularly the experience of suffering that results from the destruction of home. This experience otherwise remains hidden in the scholarly literature and wider debates on the occupation.

Taking home as an analytical tool also illustrates how international law's everyday practices in the context of occupation are animated through an array of laws operating at different scales. The international law duty towards ordinary life is given meaning, purpose and content through its interaction with military rules and national laws as well as local rules and norms. Home emerges from these dynamic interactions and both embodies and performs, as well as resists, the occupation.

Finally, while this chapter has focused on home under occupation, I acknowledge that everyday life in Palestine is not fully determined by the occupation.¹⁸⁶ On the other hand, what is most striking about the occupation is in fact its 'everydayness'. After fifty years, occupation *is* the landscape, rather than being *of* the landscape. This makes it difficult to separate everyday life from the occupation, its overarching structure, operational norms and lived conditions. The everydayness of occupation, the normalisation of its operations and disciplines, also shields from view its most problematic effects. For these reasons I argue that it remains important to investigate how everyday life is constituted by the occupation. In this chapter I have examined the conditions and experience of home in Area C as a quintessential marker of everyday life under occupation as it is shaped by international law.

¹⁸⁶ See, for example, Harker, above n 119.



Figure 32: Children play on the rubble of a demolished home

CHAPTER FIVE

City home

‘Cities, like dreams, are made of desires and fears.’¹

5.1 Introduction

The Heygate Estate in Elephant and Castle, south London, was home to 3,000 residents. Built between 1973 and 1974 at the end of the post-war house building boom, the Heygate was a symbol of the best and the worst of the British public housing project. While much-loved by many of its residents, the Heygate was dogged by lack of maintenance amid funding cuts for public housing and the estate fell into decline in the 1980s, fuelling a popular mythology that cast the estate as a hotbed for crime and anti-social behavior.² In 2014 the estate was demolished as part of a regeneration scheme.³ The regeneration was designed to clean up Elephant and Castle and unlock what was represented by Southwark Council as ‘dead capital’ in the centre of the city. A luxury residential and ‘socially-mixed’ lifestyle precinct is now under construction where the Heygate stood. Former residents have been scattered across London and further afield. However, long after the loss of their homes they continue to campaign that ‘Heygate was home’.⁴

This chapter is about the dynamic between the concept of home and the right to housing in international law. The right to housing in London is in urgent need of defending.⁵ The housing

¹ Marco Polo in Italo Calvino, *Invisible Cities* (Vintage, 1974, 1997 ed).

² See, for example, Ian Steadman, ‘Look to the Heygate Estate For What’s Wrong With London’s Housing’, *The New Statesman*, 6 November 2013.

³ On regeneration in London, see among others Anna Minton, *Ground Control: Fear and Happiness in the Twenty-First Century City* (Penguin, 2012).

⁴ See ‘Heygate was Home’ online archive by Southwark Notes Archive Group and the Antipode Foundation, <<http://heygatewashome.org/>>.

⁵ On the relation between the global financial crisis and national housing markets, see Manuel Aalbers, ‘The Great Moderation, the Great Excess and the Global Housing Crisis’ (2015) *International Journal of Housing Policy* 1.

question is at the centre of political debate,⁶ with an ever-increasing gap between housing supply and demand, rising household debt, bloated waiting lists for public housing, housing benefit cuts⁷ and the dominance of the private rental sector.⁸ Renters in the city on spend, on average, more than 60 per cent of their income on rent⁹ and house prices have risen 11% in the past year¹⁰ – much faster than wage increases¹¹ – while less than a third of the city’s population will ever be able to buy their own home.¹² As a ‘world city’ located at the heart of global financial markets,¹³ London relies on the precarious housing-finance nexus,¹⁴ shaping an uneven landscape of who can and cannot make a home in the city.¹⁵

The housing situation in London has recently come to the attention of international lawyers. The former United Nations Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, visited the UK in 2013 to investigate the impact of changes to housing and finance policies on the right to housing.¹⁶ This right is the most direct protection of housing under international law.¹⁷ It

⁶ See, for example, David Madden and Peter Marcuse, *In Defence of Housing* (Verso, 2016) and Daniel Dorling, *All That is Solid: The Great Housing Disaster* (Allen Lane, 2014).

⁷ See Helen Carr and Dave Cowan, ‘The Social Tenant, the Law and the UK’s Politics of Austerity’ (2015) 5(1) *Oñati Socio-legal Series* 73.

⁸ See Kath Scanlon, Christine Whitehead and Peter Williams, ‘Taking Stock: Understanding the Effects of Recent Policy Measures on the Private Rental Sector and Buy-to-Let’, The London School of Economics and Political Science, 1 April 2016.

⁹ London rents nine times average wage. The London Mayor’s definition of affordable rent is up to 35% of monthly pay. See HomeLet monthly data on rental prices and value, comparing London with the rest of the UK, <<http://homelet.co.uk/homelet-rental-index>>. See also Resolution Foundation, ‘The Housing Headwind: The Impact of Rising Housing Costs on UK Living Standards’, 28 June 2016.

¹⁰ Figures to end 2015. This compares with a 5.3% annual increase for the UK. See Land Registry, House Price Index <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/470864/Sept_2015_HPI.pdf>. See also Nationwide House Price Index data for London, <<http://www.nationwide.co.uk/about/house-price-index>>.

¹¹ The latest Office for National Statistics data (2014) estimates the average annual wage increase at 1.4%. See Annual Survey of Hours and Earnings, 2014 Provisional Results, <<http://www.ons.gov.uk/ons/rel/ashes/annual-survey-of-hours-and-earnings/2014-provisional-results/stb-ashes-statistical-bulletin-2014.html>>.

¹² See further Polly Toynbee, ‘Housing is the Next Target in David Cameron’s Dismantling of the Welfare State’, *The Guardian* (online), 10 November 2015.

¹³ Doreen Massey, *World City* (Polity, 2007) and Saskia Sassen, *The Global City: New York, London, Tokyo* (2nd ed, Princeton University Press, 2001).

¹⁴ Johnna Montgomerie and Mirjam Büdenbender, ‘Round the Houses: Homeownership and Failures of Asset-Based Welfare in the United Kingdom’ (2015) 20(3) *New Political Economy* 386, 401.

¹⁵ See, among others, Loretta Lees, ‘Gentrification and Social Mixing: Towards an Inclusive Urban Renaissance?’ (2008) 45(120) *Urban Studies* 2449 and Neil Smith, *The New Urban Frontier: Gentrification and the Revanchist City* (Routledge, 1996).

¹⁶ This followed the Special Rapporteur’s earlier report on this issue: UN Human Rights Council, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context*, Raquel Rolnik, 4 February 2009, A/HRC/10/7 (‘2009 report’).

¹⁷ See UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Article 25(1) and UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*,

is based on a framework of material entitlements to ‘adequate housing’ and requires states to remedy violations of the right.¹⁸ Rolnik criticised the UK Government for eroding policies central to the welfare state that had long supported housing provision and for allowing councils to divert funds from public housing to subsidise the consumption of market-produced houses.¹⁹ Describing the situation in London as ‘severe’, Rolnik diagnosed the problem as the ‘financialization’ of housing. Financialisation, she argued, transformed *homes into assets*, thus undermining the right to housing. Financialisation has since been taken up by the current Special Rapporteur, Leilani Farha, who reported to the UN Human Rights Council on financialization and the right to housing in February 2017.²⁰ While there is a burgeoning wider literature on financialisation in housing studies, it remains little discussed in international law, making the Special Rapporteurs’ sensitivity to the issue particularly noteworthy.²¹

However, while the right to housing mounts an important challenge to financialisation and the idea of *home as asset*, in this chapter I argue that it does not go far enough. I ground my theoretical argument in a qualitative analysis of testimonies given by Heygate residents after their removal from the estate. In their testimonies, the residents frame the meaning of home through notions of memory, belonging and identity. Drawing from these testimonies alongside phenomenological work on home by writers such as Gaston Bachelard and Marcel Proust, I suggest that the right to housing offers only a partial vision of home because it strains towards but fails to capture the more expansive account articulated by Heygate residents. By allowing us to shift into the conceptual terrain of home, the Heygate residents’ testimonies are useful both

16 December 1966, United Nations, Treaty Series, vol. 993, p. 3. UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, Article 11(1) (ICESCR).

¹⁸ See further UN Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23, [7] (*General Comment No. 4*) and my discussion below.

¹⁹ UN Human Rights Council, *Mission to the United Kingdom of Great Britain and Northern Ireland – Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination in this Context*, Raquel Rolnik, UN Doc A/HRC/25/54/Add.2, 30 December 2013, [79] (*‘UK report’*).

²⁰ UN Human Rights Council, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination in this Context*, Leilani Farha, UN Doc A/HRC/34/51, 24 February 2017. See also UN Office of the High Commissioner for Human Rights ‘Portugal: UN Experts to Assess Impact of Economic Crisis on Housing, Water and Sanitation’, press release, 30 November 2016.

²¹ By contrast, critical urban scholars have paid much attention to the neoliberal restructuring of cities – of which financialisation is part – over the past two decades. See especially Neil Smith, *The New Urban Frontier*, above n 15; Neil Brenner and Nikolas Theodore (eds), *Spaces of Neoliberalism: Urban Restructuring in North America and Western Europe* (Wiley, 2002); Jamie Peck, ‘Neoliberalizing States: Thin Policies/Hard Outcomes’ (2001) 27(2) *Progress in Human Geography* 445; and Neil Brenner and Nik Theodore, ‘Neoliberalism and the Urban Condition’ (2005) 9(1) *City* 101.

because they reveal the limits of the architecture of rights and remedies and because they open up a landscape of experience in relation to home – of loss, suffering and exclusion – that is not visible in international law.

Thus the aim of the chapter is not to undermine the concept of the right to housing. Rather, it takes the Special Rapporteur's intervention in London's housing situation and the financialisation debate as an opportunity to critique the right to housing as a system of knowledge about home in international law. To this end I also suggest that a right to housing informed by a phenomenological approach to home gives stronger grounds with which to resist the idea of *home as asset*. Importantly, the right could be more responsive to the fact that for most people habitation involves a relationship to home that takes various forms – affective and symbolic as well as material, financial and formal legal – and that home, beyond being a material and social good, is a key site for the articulation of human life, experience and feeling.

The chapter begins with the Heygate Estate case study, recalling its history and how the regeneration unfolded. It then turns to the right to housing and the Special Rapporteur's mission to the UK. The Special Rapporteur visited a number of public housing estates in London during the mission and explicitly discussed in her report regeneration projects involving the demolition of estates in the city.²² Following this it examines the Heygate residents' testimonies. It concludes by analysing the limits of the right to housing in relation to home and the implications of this for international law's 'homemaking' work. The chapter takes a slightly different course than the previous two. While in the lake home and desert home studies I examined the ways international law shapes and constitutes home, here the focus is on how international law plays a remedial role to redress a home problem. As I noted in the Introduction, one of the distinctive features of scholarship on international law and everyday life is that it considers a range of roles for international law. By offering a counterpoise to the lake home and desert home studies, this chapter further brings out the dynamic, productive and problematic ways that international law manifests in everyday life.

²² The available documents do not specify which public housing estates the Special Rapporteur visited.

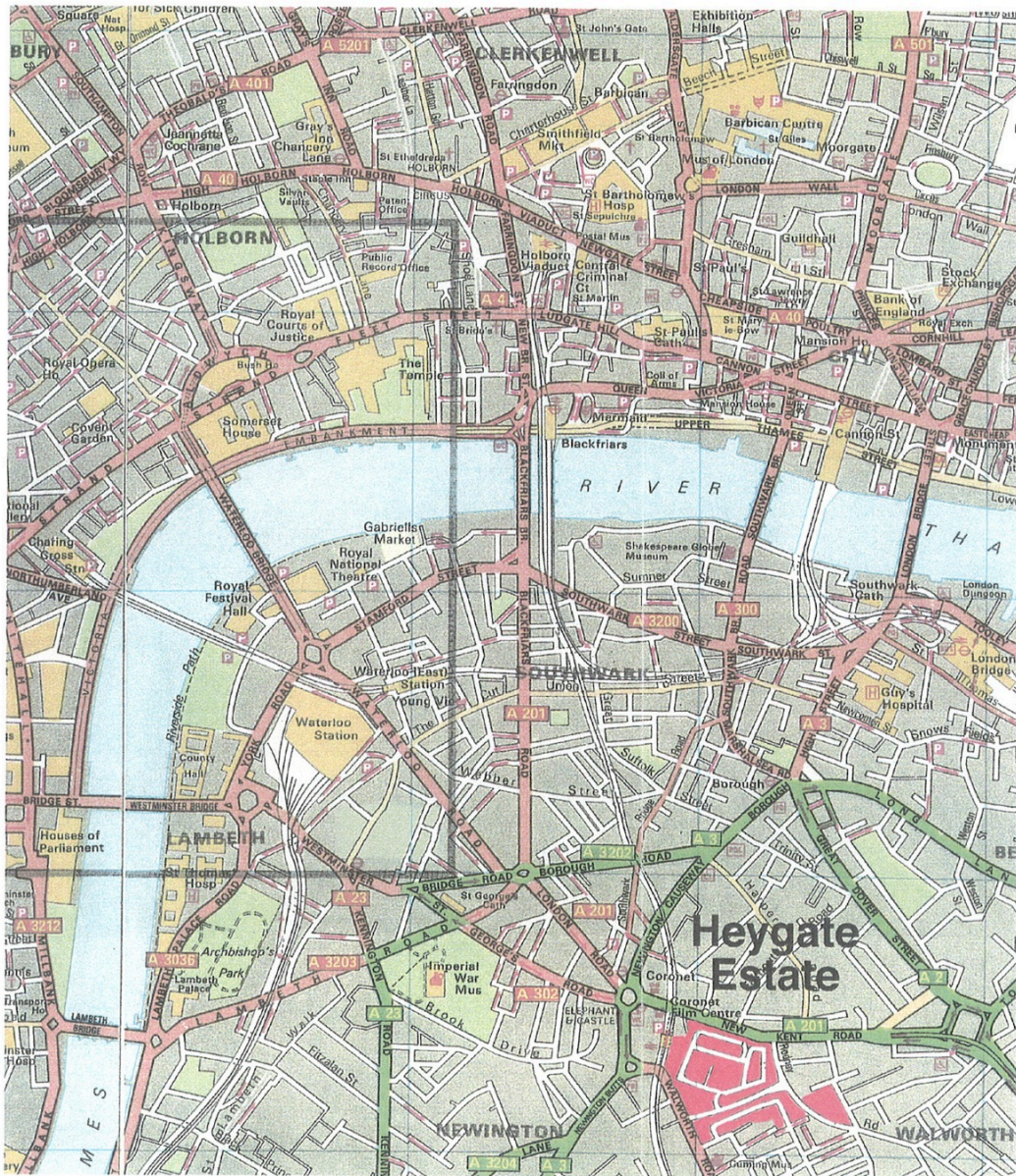


Figure 33: The Heygate Estate in London (image: Southwark Notes)

5.2 The Heygate Estate

The Heygate Estate stood on a twenty-two acre block adjacent to the New Kent Road and Walworth Road in Elephant and Castle, within the London borough of Southwark (Figure 33). Built between 1973 and 1974 the Heygate replaced the Newington Estate, which had been demolished during a period of slum clearance. The Heygate offered 1,212 pristine new homes to around 3,000 residents. One thousand flats were leased by Southwark Council to public housing tenants; the remaining flats were owned by leaseholders. For many residents the estate was a vast

improvement in living standards. One resident reflected: ‘We were one of the first families to move into the estate in 1974 and I remember us being excited about the hot running water, central heating and inside toilets.’²³ The estate was within walking distance of the River Thames and, at the centre of a transport hub, it was enviably close to all of London’s entertainments. Many residents were young couples who would see the next two generations of their families grow up on the estate.

The Heygate was a striking example of the late modernist style of British public housing. Designed as a twin to Peckham’s larger Aylesbury Estate, the architect’s brief was to provide a modern living environment.²⁴ Central shared gardens were surrounded by 23 high-rise residential towers with smaller maisonette blocks tucked beneath. The Heygate was built using mainly precast concrete slabs. In the 1960s, this was a popular method for building public housing cheaply and quickly.²⁵ Aesthetically, however, the finished look was harsh: one critic noted the Heygate’s ‘uncompromising north-European austerity’.²⁶ The estate’s towers were linked by floating bridges or ‘pedways’.²⁷ The pedways allowed residents to circumnavigate the estate without needing to walk along pavements or roads. It was a design inspired by the ‘streets in the sky’ vision of public housing life made famous by Sheffield’s Park Hill estate, built a decade earlier.²⁸ Tim Tinker, the Heygate’s architect, said the pedways took into account the need for ‘defensible space and public overview’.²⁹ This channeled Oscar Newman’s theory, influential at the time, which linked public housing design to the social ills associated with public housing estates. Newman argued that crime rates were higher in high-rise apartment buildings than in lower housing projects because residents felt less responsible for an environment occupied by so many people.³⁰

²³ ‘Heygate was Home’ resident testimonies, above n 6, and for all further excerpts below.

²⁴ ‘Supporting Evidence, Heygate Leaseholders Group – Elephant and Castle Compulsory Purchase Order 2012, Interview with Tim Tinker’, <<http://betterelephant.org/images/TimTinker.pdf>>.

²⁵ Carr and Cowan, above n 7, 76.

²⁶ Will Montgomery, ‘Sounding the Heygate Estate’ (2011) 15(3-4) *City* 443.

²⁷ See further Mark Minkjan, ‘The Pedway – Elevating London’ (documentary, 2013).

²⁸ ‘Streets in the sky’ was first used to describe the design of Sheffield’s Park Hill Estate, built 1957-1961, but now more generally describes a style of high-rise architecture in British public housing of the 1950s and 1960s that replaced dilapidated terrace housing. For a critique of the design, see in particular Alice Coleman, *Utopia on Trial* (Shipman, 1985, 1990), applying Oscar Newman’s defensible space theory to post-war public housing towers in Tower Hamlets and Southwark (see also n 27 below). Compare, more recently, Jane Jacobs and Loretta Lees, ‘Defensible Space on the Move: Revisiting the Urban Geography of Alice Coleman’ (2013) 37(5) *International Journal of Urban and Regional Research* 1559.

²⁹ Tinker, above n 24.

³⁰ Oscar Newman, *Defensible Space: People and Design in the Violent City* (Architectural, 1973). In some ways, this is similar to arguments made by Jane Jacobs, in her seminal work *The Death and Life of Great*

The Heygate's 'concrete culture'³¹ and its defensive design contributed to the unenviable reputation the estate acquired over time. The estate was described as a 'disconnected and uninviting... monolith'³² and a 'neo-brutalist estate of tall concrete blocks' that 'never established any true sense of community and quickly established a reputation for violence and crime'.³³ That class and prejudice can be expressed through the construction methods and design of public housing has been noted by Lynsey Hanley, who writes: 'to bolt homes together, rather than to build them brick by brick..., [meant that] by the 1970s, the further entrenchment of the class system through housing was complete. You could no longer look at a council house without knowing it was one.'³⁴ These impressions were reinforced when the Heygate fell into decline in the 1980s and 1990s. As Southwark felt the effects of funding cuts, it could not sustain maintenance on the estate and the Heygate's buildings, gardens and public spaces deteriorated.

The decline of the Heygate was not an isolated case. Estates across the UK were suffering.³⁵ Local authorities from the late 1970s onwards lost central government funding amid the broader restructuring of the welfare state influenced by the ascendancy of neoliberal economic policy.³⁶ Local authorities increasingly faced a dilemma between, on the one hand, the need for investment in housing and, on the other, central government pressure to reduce spending. The housing finance reforms introduced first in the *Local Government, Planning and Land Act 1980* and tightened in the *Local Government and Housing Act 1989* placed strict capital controls on local

American Cities (Random House, 1961, 2002) that street life – comprising lively footpaths and active shopfronts – contributes to collective safety and operates as an inbuilt form of 'neighbourhood watch' (Tinker's 'public overview'). However, in other ways the design of the Heygate promoted the exact opposite of Jacobs' theory: by taking residents off street level to ostensibly increase their safety, the estate may have become less safe.

³¹ See Adrian Forty, *Concrete and Culture: A Material History* (Reaktion, 2012) examining the effects of concrete on culture as opposed to its technical properties.

³² Anitra Baliga, Sofia Garcia, Jenna Keyes, Boying Lyu, Ahmad Osman, 'Negotiating Regeneration', LSE Cities Resourceful Cities Project Report, 2013-2014, 5, <<http://www.lse.ac.uk/LSECities/cities/Programme/pdf/ResourcefulCity/01NegotiatingRegeneration.pdf>>.

³³ Nicholas Boys Smith and Alex Morton, 'Create Streets: Not Just Multi-Storey Estates' (Policy Exchange and Create Streets, 2013) 19.

³⁴ Lynsey Hanley, *Estates: An Intimate History* (Granta, 2008), 19.

³⁵ See, in particular, Peter Malpass, *Reshaping Housing Policy: Subsidies, Rents and Residualisation* (Routledge, 1989) and more recent analysis in Peter Malpass, 'Housing and the New Welfare State: Wobbly Pillar or Cornerstone?' (2008) 23(1) *Housing Studies* 1, arguing that the 'wobbly pillar' metaphor fails to capture the complexity of the current circumstances in which housing is becoming more, not less, active in the restructuring of the welfare state.

³⁶ For example, Jamie Peck and Adam Tickell describe 'the active *destruction and discreditation* of Keynesian-welfarist and social-collectivist institutions' in Jamie Peck and Adam Tickell, 'Neoliberalizing Space' (2002) 34(3) *Antipode* 380, 384 (emphasis in original). See further references at n 21 above. See also recently Tom Crewe, 'The Strange Death of Municipal England', *London Review of Books*, volume 38, issue 24, 15 December 2016, 6-10.

housing authority expenditure on housing needs while also encouraging asset sales.³⁷ The reforms affected the requirement for local housing authorities to keep a ‘housing revenue account’, brought in under the *Housing Act 1935*, in which revenue expenditure and income relating to a housing authorities’ housing stock was recorded.³⁸ The central government had, prior to the reforms, paid local governments a subsidy to balance revenue and expenditure. Local housing authorities had themselves set the rent for housing, based on what was deemed ‘reasonable’. However, as Cowan explains, the 1980 Act removed the no-profit rule allowing housing authorities to make a surplus and based the subsidy on what the central government thought was the appropriate income and expenditure for individual local authorities. The system failed because local authorities found themselves outside of central government controls, having either balanced their revenue or being in surplus.³⁹

The changes introduced in the 1989 Act prohibited local authorities from contributing to or taking from their housing revenue account and also altered the basis of the subsidy.⁴⁰ The effect of the changes was to leave local authorities’ housing revenue accounts in deficit and once more reliant on the central government’s housing subsidy.⁴¹ Local authorities were now reliant on the proceeds of ‘right to buy’ sales⁴² and at the same time unable to fully realise the value of their housing revenue. Local authority associations feared the reforms would reduce house building and lead to deterioration in the maintenance and repair of council homes.⁴³

The effect of the reforms was also reflected in the changing balance of housing provision. Until the 1980s, councils and local authorities were the main contributors to the growth of public housing in the UK while privately-owned housing associations played only a minor role.⁴⁴ But by the early 1990s, 90 per cent of council housing stock had been transferred to local authorities. By 2010, 47 per cent of that stock had been acquired by housing associations.⁴⁵ Between 1980 and

³⁷ *Local Government, Planning and Land Act 1980* (UK) (‘1980 Act’) and *Local Government and Housing Act 1989* (UK), Part VI (‘1989 Act’). See discussion in David Cowan, *Housing Law and Policy* (Cambridge University Press, 2011), 97-99. See also White Paper, *Housing: The Government’s Proposals* (Cm 214, Department of Environment, 1987), introducing changes to revenue funding of council housing.

³⁸ *Housing Act 1935* (UK).

³⁹ Cowan, above n 37, 97.

⁴⁰ 1989 Act Part VI, above n 37.

⁴¹ *Ibid* and see discussion in Cowan, above n 37, 97-8.

⁴² Part V *Housing Act 1985* (amended by the *Housing Act 2004*).

⁴³ For example, the Association of Metropolitan Authorities and Association of London Authorities.

⁴⁴ See further Peter Malpass, *Housing Associations and Housing Policy: A Historical Perspective* (Palgrave Macmillan, 2000).

⁴⁵ Peter Malpass and Ceri Victory, ‘The Modernisation of Social Housing in England’ (2010) 10(1) *International Journal of Housing Policy* 3, 8, arguing that the reality for tenants might have been different considering the shortcomings of the organisational model for public housing.

2010 almost two million council housing dwellings were sold through the right to buy and the later ‘right to acquire’ policy.⁴⁶ The physical deterioration of estates over this period has been linked to the increasing marginalisation of public housing residents.⁴⁷ It has also foregrounded the shift in the role of local authorities from being *providers* to *enablers* of housing,⁴⁸ and the increasing centrality of housing associations to policy on social exclusion and neighbourhood regeneration.⁴⁹ It is against this background that the regeneration of the Heygate Estate should be understood.

⁴⁶ ‘Right to buy’ was open to council housing tenants; the ‘right to acquire’ was an equivalent scheme for housing association tenants. The effects of the schemes are the same: both facilitate the transfer of housing from public to private control, and arguably reflect the shift in the role of the state from provider of housing to facilitator of housing finance.

⁴⁷ Helen Carr, ‘The Right to Buy, The Leaseholder, and the Impoverishment of Ownership’ (2011) 38(4) *Journal of Law and Society* 520. See also Ian Cole and Robert Furbey, *The Eclipse of Council Housing* (Routledge, 1993).

⁴⁸ See discussion in David Cowan, *Housing Law and Policy*, above n 37, 87-8. See also Hanan Haber, ‘Regulation as Social Policy: Home Evictions and Repossessions in the UK and Sweden’ (2015) 93 *Public Administration* 806 and John Robinson, ‘Welfare as Wrecking Ball: Constructing Public Responsibility in Legal Encounters Over Public Housing Demolition’ (2016) 41(3) *Law & Social Enquiry* 670. See also *Homelessness Reduction Bill* (HL Bill 96, 30 January 2017), private members’ bill introduced by Bob Blackman, proposing a duty on local housing authorities to intervene earlier and to provide advisory and other services in relation to homelessness.

⁴⁹ Peter Malpass, *Housing Associations and Housing Policy*, above n 44. See also David Cowan, Caroline Hunter and Hal Pawson, ‘Jurisdiction and Scale: Rent Arrears, Social Housing, and Human Rights’ (2012) 39 *Journal of Law and Society* 269, 282-6.



Figure 34: Site map, Heygate Estate (image: Southwark Notes)

5.3 Regeneration

In 1998, Southwark Council announced the ‘regeneration’ of Elephant and Castle.⁵⁰ The Heygate was to be demolished and redeveloped into a new residential and commercial hub. It would take another ten years before Southwark finalised its plans for the regeneration and even longer for works to begin at the Heygate.

The regeneration arose out of the housing finance reforms of the previous decades that had forced councils to look elsewhere to raise income.⁵¹ For Southwark, this meant the sale of its housing stock. In its Regeneration Strategy, Southwark explained that: ‘... Local Authorities are now expected to realise at least £2.75 billion a year from property.’⁵² It described the sale of council

⁵⁰ Southwark Council, *Regeneration Strategy*, 11 June 1998 (‘Regeneration Strategy’).

⁵¹ See my discussion at pp 195-7 above.

⁵² Regeneration Strategy, above n 50, 5.1, citing the Chancellor of the Exchequer’s Economic and Fiscal Strategy 11 June 1998.

housing stock as ‘a sale of what we do not need to pay for investment in what we do need.’⁵³ The Heygate commanded a prime inner city position and land of this acreage was rarely available in London. As a relatively underdeveloped pocket of the city, it was attractive to investors.

Southwark set out the pros and cons this way:

The use of Council assets to level in investment to achieve physical regeneration will have considerable impact on the Council’s finances – positively, through the realisation of cash values and the reduction in future obligations (maintenance etc) and negatively – in the short-term through loss of land and rents.⁵⁴

This began the transformation of the Heygate from being a collection of homes into an asset and financial investment, as the language of ‘assets’, ‘investment’, ‘finance’, ‘cash values’, ‘obligations’ and ‘rents’ suggested. That financial interests drove the regeneration was reflected in various other ways. For example, Southwark choose to press ahead with demolishing the estate, rather than take the less expensive option of refurbishment and upgrading. A stock survey in 1998 had found that the Heygate was of ‘good design and of sound, traditional construction’ and that the ‘level of works is modest and can be attributed largely to the ageing of the stock’.⁵⁵ An ‘options appraisal’ study in 1998⁵⁶ also confirmed the buildings were structurally sound and recommended a mixture of refurbishment and redevelopment.

Southwark also made the case for regeneration by tapping into popular mythology about the Heygate. In a strategic report published in 1998, Southwark claimed that Elephant and Castle was ‘one of the areas people would most like to see removed by the millennium’,⁵⁷ that the area had ‘a general feeling of lack of safety’⁵⁸ and that ‘incremental works would not resolve the larger issue of poor local transport connections, an ugly and polluted environment’.⁵⁹ This was despite the results of the options appraisal study in which it was noted in relation to the Heygate that ‘crime statistics show a very low crime rate for this estate’⁶⁰ and that there was ‘a large number of

⁵³ Regeneration Strategy bid.

⁵⁴ Ibid 5.2

⁵⁵ Southwark Housing and NBA Consortium Services Limited, ‘Stock Survey Condition: Final Report 1999’, 26.

⁵⁶ Southwark Council, ‘Heygate Estate – Options Appraisal Study’, Allot & Lomax, 30 July 1998 (‘Options Appraisal Study’).

⁵⁷ Southwark Council, Director of Regeneration and Environment, ‘Strategic Report’, 24 June 1998, 4.1.2.

⁵⁸ Ibid 4.1.2

⁵⁹ Ibid 4.1.3.

⁶⁰ Options Appraisal Study, above n 56, 25.

residents, mainly elderly, who have resided on the estate for a number of years and have extensive links with the local E&C area, and who have a reluctance to consider relocating elsewhere in the borough.⁶¹ Nonetheless, Southwark wanted to cultivate ‘social mix’ in Elephant and Castle and to transform its ‘unrecognised economic potential’.⁶² It saw opportunities for ‘wealth creation’⁶³ and the new development as ‘one of the major generators of wealth within Southwark’.⁶⁴

‘Social mix’ has been critiqued as a euphemism in gentrification schemes (sometimes also known as regeneration, ‘beautification’ and ‘revitalization’) for attracting high-income professionals while excluding low-income earners.⁶⁵ Indeed, that ‘social mix’ meant something other than social diversity for Southwark was clear to me on my field walks in Elephant and Castle. On these walks, I discovered that the area is already extremely diverse. I walked around the Elephant and Castle roundabout which carries 37 bus routes, transporting over 30,000 people everyday.⁶⁶ The Metropolitan Tabernacle, just off the roundabout, provides sermons in four languages. Almost a third of traders in the nearby Elephant and Castle shopping centre cater to a specific ethnic demand.⁶⁷ The Elephant’s varied economic and social interests and networks of co-operation build the ‘secondary diversity’ that Jane Jacobs identified as essential for functioning and flourishing cities⁶⁸ and which Richard Sennett reminds us is a ‘source of mutual strength rather than a source of mutual estrangement and civic bitterness’.⁶⁹ Regeneration tends to flatten this sort of diversity by introducing higher living standards that working class and low-income residents cannot afford and by catering to the lifestyles and occupational choices of a high-earning, professional elite community.⁷⁰ At the new ‘Elephant Park’ development on the site of the Heygate Estate prices start at £330,000 for a studio flat.

⁶¹ Ibid 26.

⁶² Ibid.

⁶³ Ibid 4.3.1.

⁶⁴ Ibid 4.1.3.

⁶⁵ On ‘social mix’, see Loretta Lees, ‘Gentrification and Social Mixing: Towards an Inclusive Urban Renaissance?’ (2008) 45(120) *Urban Studies* 2449, doubting whether social mix policies can lead to an ‘inclusive urban renaissance’. See also Rowland Atkinson, ‘The Evidence on the Impact of Gentrification: New Lessons for the Urban Renaissance?’ (2004) 4(1) *European Journal of Housing Policy* 107, arguing that the ‘inclusive renaissance agenda’ in the UK has been discarded in favour of ‘revitalization’ pursued through gentrification and displacement.

⁶⁶ See figures in ‘Negotiating Regeneration’, 10, above n 32.

⁶⁷ Ibid 11.

⁶⁸ Jacobs, above n 30, 148.

⁶⁹ Richard Sennett, ‘Civility’, *Urban Age Bulletin* 1, LSE Cities (2005), 1.

⁷⁰ See Tim Butler and Garry Robson, ‘London Calling: The Middle Classes and the Remaking of Inner London’ (Berg 3PL, 2003) and generally Loretta Lees, Tom Slater and Elvin Wyly, *The Gentrification Reader* (Routledge, 2010).

In 2002 Elephant and Castle was identified as an ‘Opportunity Area’ in the Greater London Authority’s strategic plan for London, increasing the pressure on Southwark to move forward with the regeneration.⁷¹ In the same year, Southwark explained its reasons for demolishing the estate in a leaflet to residents: ‘It is clear that the Heygate Estate is deeply unpopular with many of you.’⁷² In 2004 it published a development framework for the Elephant and Castle area, detailing a new town centre, new commercial and leisure facilities, a new transport interchange and 5,300 new homes, including 1,100 replacement properties for the Heygate estate.⁷³ A mixture of owner-occupied housing and private rental housing was proposed, the latter priced at both market rent and ‘affordable rent’.⁷⁴ Affordable rent allows registered housing providers (including private landlords and housing associations) to charge no more than 80 per cent of the market rent for new housing.⁷⁵

The development framework also set out arrangements for the demolition of the buildings⁷⁶ and the ‘decanting’ of tenants⁷⁷ and leaseholders from the estate.⁷⁸ Tenants would have the choice to move from the Heygate to another council property in Southwark or to move to a new build property within the regeneration scheme;⁷⁹ they would be ‘offered priority allocations in the new replacement housing.’⁸⁰ Tenants were also helped to find new homes through the council’s online stock bidding system, ‘Homesearch’. Leaseholders would be bought out by Southwark at the market value of their property and would also receive a ‘home loss payment’ and ‘disturbance costs’, such as costs associated with moving and acquiring replacement property.⁸¹ Leaseholders

⁷¹ Mayor of London, *The London Plan*, <<https://www.london.gov.uk/what-we-do/planning/london-plan>>.

⁷² Southwark Council, ‘The Future of Heygate Estate’ [undated].

⁷³ Originally published as the ‘Elephant and Castle Framework for Development’ and later adopted as ‘Supplementary Planning Guidance for the Elephant and Castle’: see Strategic Director of Regeneration, ‘Elephant and Castle – Adoption of Supplementary Planning Guidance’, 19 February 2004 (‘development framework’).

⁷⁴ ‘Affordable rent’ was introduced as part of the Government’s Affordable Homes Programme, 2011-2015. See ‘Written Statement to Parliament: Affordable Homes Programme’, Minister for Housing and Local Government, the Right Hon Grant Shapps, 14 February 2011. The aim of the programme was to increase the supply of new affordable homes in England: see ‘Affordable Homes Programme 2011-2015: Guidance and Allocations’, <<https://www.gov.uk/government/collections/affordable-homes-programme-2011-to-2015-guidance-and-allocations>>.

⁷⁵ Affordable Homes Programme *ibid*.

⁷⁶ Southwark – Strategic Director of Housing and Strategic Director of Regeneration, ‘Heygate Estate Decant Arrangements’, 18 May 2004, [11]-[15] (‘decant arrangements’).

⁷⁷ *Ibid* [16]-[26].

⁷⁸ *Ibid* [27]-[41].

⁷⁹ *Ibid* [19(a)].

⁸⁰ *Ibid* [9].

⁸¹ *Ibid* [10].

would also be offered re-housing if, after the buyout, they were unable to find new housing on the open market and would be given a 'Right to Return' to move back to the Elephant and Castle once the replacement housing was built.⁸²

The plan changed in 2007 when Southwark announced it would be decanting residents before the promised replacement housing had been built. This was shortly after Southwark had selected had the multinational property developer Lend Lease as its partner in the regeneration. The Heygate's location in inner London made interest from commercial property developers inevitable. In the 'Heygate Action Plan', Southwark argued that 'immediate evacuation' of residents was necessary 'because of significant concerns about maintaining community safety and the decaying infrastructure of the estate.'⁸³ Southwark argued that decanting was key to the success of the regeneration:

Demolition of the Heygate will provide symbolic and tangible evidence to the people of Southwark that the Council is driving ahead with the regeneration of the Borough. Rapid rehousing of residents is also desirable from a community safety perspective. Half empty blocks become a breeding ground for crime and antisocial behaviour.⁸⁴

The estate was 'emptied' between 2007 and 2013.⁸⁵ During the decant maintenance was scaled back on the estate. Homes were sealed off using thick metal plates welded onto doors and windows and access to corridors was blocked, limiting movement around the estate for remaining residents.⁸⁶ By 2009, six of the 15 proposed early housing sites had been cancelled and affordable housing on the proposed redevelopment was reduced to 45 per cent (498 units) from the 70 per cent (684 units) projected in 2007.⁸⁷

Under the 'Regeneration Agreement', Southwark and Lend Lease share the profits of the regeneration, subject to Lend Lease receiving a 'Priority Developer Return' of 20 per cent of

⁸² 'Former Heygate Residents Right to Return', <http://www.2.southwark.gov.uk/info/200183/elephant_and_castle/1124/elephant_park/4>.

⁸³ 'Heygate Action Plan', Strategic Director of Major Projects, Item No. 16, 19 June 2007, [63], <<http://betterelephant.org/images/HeygateActionPlan.pdf>>.

⁸⁴ Ibid [8].

⁸⁵ Ibid.

⁸⁶ Francesco Sebragondi, 'Notes on the Potential of Void: The Case of the Evacuated Heygate Estate' (2012) 16(3) *City* 337, 340.

⁸⁷ Southwark Strategic Director of Major Projects, 'Heygate Replacement Housing Sites – Final Review', 18 June 2009.

costs.⁸⁸ This clause incentivises Southwark to prioritise profit over other interests in decision making about the regeneration and ties the council's funding to a commercial developer. It also excludes the interests of others who preside over considerable social capital, such as local residents. That social capital is effectively being appropriated or destroyed by the regeneration. Lend Lease has also renegotiated Southwark's affordable housing target for the new development from 35 per cent to 25 per cent,⁸⁹ using new provisions in the *Growth and Infrastructure Act 2013* which give developers scope to renegotiate, or negotiate out of, affordable house building obligations on the grounds of 'financial viability'.⁹⁰ These aspects of the agreement underline not only the favourable legislative conditions for developers in London but also the ways in which home on the Heygate Estate was transformed by the regeneration into a question of profit and loss.⁹¹

Ben Campkin has argued that 'regeneration' is a metaphor for urban change and likens the practice to a form of 'urban decay' in which London has been destroyed and remade.⁹² David Madden and Peter Marcuse argue that phrases like 'urban regeneration' and 'affordable housing' need to be contested: these terms 'muddle' contentious political issues and mask actions that would be recognised as undesirable if properly named.⁹³ They are 'part of the process by which housing crisis and urban inequality are normalized.'⁹⁴ Other scholars have framed regeneration through David Harvey's idea of 'accumulation by dispossession'.⁹⁵ Regeneration also recalls what Edward Soja euphemistically described as 'restructuring':

⁸⁸ 'The Mayor and Burgesses of the London Borough of Southwark and Lend Lease (Elephant and Castle) Limited – Regeneration Agreement in Respect of Elephant and Castle', 23 June 2010, <<https://southwarknotes.files.wordpress.com/2013/02/ra.pdf>>.

⁸⁹ See Southwark's appeal under the section 57 of the *Freedom of Information Act 2000* (UK) against the Information Commissioner's decision to require Southwark to release the 'Viability Assessment' (prepared by Lend Lease) for the regeneration of the Heygate: *The Mayor and Burgesses of the London Borough of Southwark v the Information Commissioner, Lend Lease (Elephant and Castle) Limited, and Mr Adrian Glasspool* FA/2013/0162 at [12].

⁹⁰ *Growth and Infrastructure Act 2013* (UK), in particular section 106 BA, BB and BC. See further 'Section 106 Affordable Housing Requirements – Review and Appeal', Department for Communities and Local Government, UK, <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192641/Section_106_affordable_housing_requirements_-_Review_and_appeal.pdf>.

⁹¹ See most recent policy on affordable housing requirements and viability assessments in London estate developments: Mayor of London, *Homes for Londoners: Affordable Housing and Viability Supplementary Planning Guidance*, consultation draft, February 2017, available at <https://www.london.gov.uk/sites/default/files/draft_affordable_housing_and_viability_spg_2016.pdf>.

⁹² Ben Campkin, *Remaking London: Decline and Regeneration in Urban Culture* (I B Tauris, 2013). Compare Peck and Tickell, above n 36.

⁹³ David Madden and Peter Marcuse, *In Defence of Housing* (Verso, 2016) 216.

⁹⁴ *Ibid.*

⁹⁵ David Harvey, *The Limits to Capital* (Blackwell, 1982).

Restructuring is meant to convey a break in secular trends and a shift towards a significantly different order and configuration of social, economic and political life. It thus evokes a *sequence of breaking down and building up again, deconstruction and attempted reconstitution...* Restructuring implies flux and transition, offensive and defensive postures, a complex mix of continuity and change.⁹⁶

So too did the regeneration of Elephant and Castle come to mean the radical ‘restructuring’ of home for Heygate residents: in this case, the destruction of their homes, the breakup of their community, and the replacement of a settled community by a new population. Freedom of information data shows that of the original 1,034 secure tenant households, 216 have remained in Elephant and Castle’s SE17 postcode.⁹⁷ The rest have been scattered across London in a 20 kilometre radius from the Heygate site. The number of affordable rented homes to be built on the replacement housing sites has been almost halved from the original 1,100 to 553.⁹⁸ Forty-five tenants have moved into new homes in the Elephant and Castle area, though none on the site of the former Heygate.⁹⁹

⁹⁶ Edward Soja, ‘Economic Restructuring and the Internationalization of the Los Angeles Region’ in Michael Smith and Joe Feagin (eds), *The Capitalist City: Global Restructuring and Community Politics* (Blackwell, 1987) 178, cited in Brenner and Theodore, above n 21 (emphasis in original).

⁹⁷ ‘Freedom of Information Request’, Adrian Glasspool (leaseholder), <https://www.whatdotheyknow.com/request/analysis_of_displaced_heygate_re#incoming-394155>.

⁹⁸ This reflects general trends in changing tenure types in London: see Chart 2 ‘The tenures on London’s regenerated estates are changing’ in London Assembly, ‘Knock It Down or Do It Up: The Challenge of Estate Regeneration’, February 2015, 14, <https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/KnockItDownOrDoItUp_0.pdf>.

⁹⁹ ‘Inquiry into the London Borough of Southwark (Heygate) Compulsory Purchase Order 2012’, above n 22, [5.12], [5.16].



Figure 35: Construction hoarding at Elephant Park

5.4 The right to housing

The housing situation in London has recently come to the attention of international lawyers. The former United Nations Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, visited the UK in 2013.¹⁰⁰ Her mission was to investigate how the changing economic, financial and housing policies in the UK over the past decades have impacted on the enjoyment of the right to housing and contributed to crises in the housing and financial sectors.¹⁰¹ The Special Rapporteur visited public housing estates, new housing developments, homelessness crisis centres and food banks in London, Edinburgh, Glasgow, Belfast and Manchester. She met with government officials, housing charities and social landlords, housing and human rights experts and academics, national human rights and civil society organisations, and residents. She also reviewed hundreds of written testimonies.¹⁰²

¹⁰⁰ The Special Rapporteur's UK mission lasted from 29 August to 11 September 2013. In this chapter I refer to 'Rolnik' or 'Special Rapporteur'. I abbreviate the long title of the mandate, 'Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and the Right to Non-discrimination in this Context', to 'Special Rapporteur on Adequate Housing'.

¹⁰¹ See 2009 Report, above n 16, 1-18.

¹⁰² *Ibid* [1]-[3].

The mandate of the Special Rapporteur was established by the Commission on Human Rights in 2000 and falls within the ‘Special Procedures’ of the UN Human Rights Council.¹⁰³ So far there have been three Special Rapporteurs: Miloon Kothari (2000-2008), Rolnik (2008-2014) and the current mandate holder, Leilani Farha. The Special Rapporteur’s role is to investigate and report on the implementation of the right to adequate housing by Member States. The right to housing is found in Article 25(1) of the *Universal Declaration on Human Rights* and in Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights*.¹⁰⁴ It protects ‘the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing’.¹⁰⁵ The United Nations Committee on Economic, Social and Cultural Rights (CESCR) in *General Comment 7* (1997) added that the right also protects against forced eviction, harassment and other threats.¹⁰⁶

In *General Comment 4* (1991), CESCR explained that the right to housing comprises seven elements: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.¹⁰⁷ It is debated whether these elements establish ‘minimum core’ obligations that states must fulfil.¹⁰⁸ In terms of implementation, the right to housing requires states to ‘take deliberate, concrete and targeted steps towards meeting and sustaining the realisation of the right.’¹⁰⁹ It also requires states to remedy violations, such as by providing compensation in the case of forced eviction.¹¹⁰

Following her mission to the UK, Rolnik reported to the Human Rights Council.¹¹¹ While noting that ‘[a]ccess to adequate housing has been a hallmark of the history of public policies in the United Kingdom’¹¹² and that housing ‘was also a pillar of the post-war welfare State’, policy changes and initiatives in the UK introduced since the late 1970s had acted as a catalyst for the

¹⁰³ UN Commission on Human Rights, *Question of the Realization in all Countries of the Economic, Social and Cultural Rights Contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and Study of Special Problems which the Developing Countries Face in Their Efforts to Achieve These Human Rights*, 17 April 2000, E/CN.4/Res 2000/9, [7(c)].

¹⁰⁴ Article 25(1) UDHR and Article 11(1) ICESCR above n 16.

¹⁰⁵ *General Comment No 4.*, above n 18, [1].

¹⁰⁶ *Ibid* [1].

¹⁰⁷ *Ibid* [8].

¹⁰⁸ See further *ibid* [5]. On the concept of “minimum core”, see Katherine G Young, ‘The Minimum Core of Economic and Social Rights: A Concept in Search of Content’ (2008) 33(1) *Yale Journal of International Law* 113.

¹⁰⁹ Committee on Economic, Social and Cultural Rights, *General Comment No. 3* (1990) [2].

¹¹⁰ *General Comment No 4.*, above n 18, [17].

¹¹¹ UK Report, above n 19.

¹¹² *Ibid* [11].

‘financialisation’ of housing.¹¹³ This included the deregulation of housing finance systems, the privatisation of council housing, and the reduction of public expenditure.¹¹⁴ The *Housing Act 1980*, which aimed to give security of tenure and introduced the ‘right to buy’, was ‘central’ to the UK’s new approach.¹¹⁵ According to Rolnik the right to buy had significantly increased homeownership by allowing tenants to buy their homes from councils but it had also reduced the availability of public housing stock.¹¹⁶ At the same time, councils received less than half the money of right to buy sales and faced strict capital controls, making it difficult to use the money to replace homes that were sold.¹¹⁷ The Special Rapporteur also noted that recent fiscal austerity measures had impacted access to affordable housing, such as the spare-bedroom subsidy (the ‘bedroom tax’) and the abolition of the Council Tax Benefit.¹¹⁸ These initiatives had reduced access to affordable housing and produced a ‘housing crisis’ that was especially ‘severe’ in London.¹¹⁹ In short, the Special Rapporteur was of the view that financialisation had undermined the enjoyment of the right to housing in the city.

5.5 The financialisation of housing

For Rolnik, at the heart of financialisation is the transformation of the role of housing ‘from a social good into a financial asset.’¹²⁰ Problems of access and affordability are exacerbated not only by population growth and new household formation, but also by ‘the reality of housing as an asset and financial investment.’¹²¹ Financialisation entails ‘the assumption that the housing market would take care of ensuring access to adequate and affordable homeownership for all’.¹²² Leilani Farha, the current Special Rapporteur, in her recent report argues that financialisation ‘dehumanizes’ housing in the transformation from ‘social use to commodity value’.¹²³ Building on Rolnik’s work, Farha offers a more direct definition of the financialisation of housing as ‘structural changes in housing and finance markets and global investment whereby housing is treated as a commodity, as a means of accumulating wealth and often as a security for financial

¹¹³ Ibid [15].

¹¹⁴ Ibid [17]. See further UN General Assembly, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, UN Doc A/67/286 (10 August 2012), especially pp 8-20.

¹¹⁵ See <www.legislation.gov.uk/ukpga/1980/51/introduction>.

¹¹⁶ UK Report, above n 19, [18].

¹¹⁷ Ibid [27].

¹¹⁸ Ibid [54].

¹¹⁹ Ibid [34].

¹²⁰ Ibid [21].

¹²¹ Ibid [24].

¹²² Ibid 20.

¹²³ Farha, above n 20.

instruments'. It also refers to how 'capital investment in housing increasingly disconnects housing from its social function of providing a place to live in security and dignity' and how 'housing and financial markets are oblivious to people and communities, and the role housing plays in their well-being.'¹²⁴

Financialisation has not received any attention in international law other than in the work of the Special Rapporteurs. However, there is a considerable literature on financialisation in other fields such as urban studies,¹²⁵ economics,¹²⁶ politics,¹²⁷ geography,¹²⁸ art¹²⁹ and competition studies,¹³⁰ as well as in housing studies.¹³¹ One of the most prolific authors, Manuel Aalbers, defines financialisation as 'the increasing dominance of financial actors, markets, practices, measurements and narratives, at various scales, resulting in a structural transformation of economies, firms (including financial institutions), states and households.'¹³² Others authors define financialisation as both a spatial and temporal phenomenon within the current finance-led growth regime¹³³ and '*part of and key to* structural transformations of advanced capitalist economies.'¹³⁴ Financialisation is also said to be a pattern of accumulation in which profit-making occurs through financial channels rather than through trade and production,¹³⁵ which produces highly unequal social outcomes.¹³⁶

¹²⁴ Ibid [1].

¹²⁵ Montgomerie and and Büdenbender, above n 14.

¹²⁶ Gerald Epstein, *Financialization and the World Economy* (Edward Elgar, 2006).

¹²⁷ Alan Finlayson, 'Financialisation, Financial Literacy and Asset-Based Welfare', (2009) 11(3) *The British Journal of Politics & International Relations* 400.

¹²⁸ Shaun French, Andrew Leyshorn and Thomas Wainwright, 'Financializing Space, Spacing Financialization' (2011) 35(6) *Progress in Human Geography* 798.

¹²⁹ Mark Taylor, 'Financialization of Art' (2011) 6(2) *Capitalism and Society* 3.

¹³⁰ Rodrigo Fernandez and Manuel Aalbers, 'Financialization and Housing: Between Globalization and Varieties of Capitalism' (2016) 20(2) *Competition & Change* 71.

¹³¹ Most recently, Manuel Aalbers, *The Financialization of Housing: A Political Economy Approach* (Routledge, 2016).

¹³² Fernandez and Aalbers, above n 130, 71-2.

¹³³ See generally Montgomerie and and Büdenbender, above n 14, and Shaun French et al, above n 128.

¹³⁴ Fernandez and Aalbers, above n 130, 71 (emphasis in original).

¹³⁵ Ibid.

¹³⁶ For example see Johnna Montgomerie and Karel Williams, 'Financialized Capitalism: After the Crisis and Beyond Neoliberalism' (2009) 13(2) *Competition and Change* 99 and Bob Jessop, 'Financialization, Financial Crisis and Deficit Hysteria: Neo-Liberalism Redux', in Francisco Panizza and George Philip (eds), *Moments of Truth: The Politics of Financial Crises in Comparative Perspective* (Routledge, 2014), 101-19.

Housing scholars have examined the financialisation of housing from the perspective of mortgage securitisation,¹³⁷ mortgage markets,¹³⁸ rental housing,¹³⁹ homeownership,¹⁴⁰ housing rights,¹⁴¹ credit scoring of homeowners,¹⁴² asset-based or property-based welfare¹⁴³ and planning and land use.¹⁴⁴ For these scholars, the financialisation of housing involves broadly the transformation of housing into forms of finance, such as assets and liabilities.¹⁴⁵ Many set their discussion in the context of shifts in national housing models from regulated mortgage and capital markets, limited cross-border capital flows and a low private-debt-to-GDP-ratio towards higher private debt levels, asset-based or property-based welfare and an increasingly liberal financial environment.¹⁴⁶ Though the underlying cause of these shifts is seen as national in origin, Aalbers describes the rise and fall of housing markets internationally as ‘global in nature’.¹⁴⁷ However, its local impact and reshaping of everyday life cannot be overlooked. Financialisation ‘asks people from all walks of life to accept risks into their homes that were hitherto the province of professionals. Without significant capital, people are being asked to think like capitalists.’¹⁴⁸

In earlier academic work, Rolnik argues that the city is the geographical arena in which financialisation materialises and links this to urban neoliberal strategies which have shrunk space for the poor in cities.¹⁴⁹ While one view sees that the regeneration of Elephant and Castle and the redevelopment of the Heygate occurred in the context of changing welfare state policy at the national level, Rolnik’s work is valuable because it positions local urbanisation and the social

¹³⁷ Thomas Wainwright ‘Laying the Foundations for a Crisis: Mapping the Historico-geographical Construction of RMBS Securitization in the UK’ (2009) 33(2) *International Journal of Urban and Regional Research* 372.

¹³⁸ Manuel Aalbers, ‘The Financialisation of Home and the Mortgage Market Crisis’ (2008) 12 *Competition and Change* 148. While Aalbers refers to ‘home’ in the title of his chapter, his analysis is directed at ‘housing’. I discuss the distinction below.

¹³⁹ Desiree Fields and Sabina Uffer, *The Financialization of Rental Housing: A Comparative Analysis of New York City and Berlin* (Urban Studies, 2014).

¹⁴⁰ Richard Ronald, *The Ideology of Home Ownership Homeowner Societies and the Role of Housing* (Palgrave Macmillan, 2008).

¹⁴¹ Raquel Rolnik, ‘Late Neoliberalism: The Financialization of Homeownership and Housing Rights’ (2013) 37(3) *International Journal of Urban and Regional Research* 1058.

¹⁴² Sarah Hall, ‘Geographies of Money and Finance II: Financialization and Financial Subjects’ (2012) 36(3) *Progress in Human Geography* 403 and see Aalbers, above n 138.

¹⁴³ Montgomerie and Büdenbender, above n 14 and John Doling and Richard Ronald, ‘Home Ownership and Asset-Based Welfare’ (2010) 25 *Journal of Housing and the Built Environment* 165-173.

¹⁴⁴ Maria Kaika and Luca Ruggiero ‘Land Financialization as a ‘Lived’ Process: The Transformation of Milan’s Bicocca by Pirelli’ (2013) *European Urban and Regional Studies* 1.

¹⁴⁵ Fernandez and Aalbers, above n 130, 73 ff.

¹⁴⁶ *Ibid* 72.

¹⁴⁷ Aalbers, above n 5.

¹⁴⁸ Randy Martin, *Financialization of Daily Life* (Temple University Press, 2002) 12.

¹⁴⁹ Rolnik, above n 141.

restructuring of cities in a global context. For example, she relates speculative global movements of financial capital, the global location strategies of transnational corporations and inter-local competition to how many local governments have been forced to engage in competition for space, mobilising public-private partnerships and opportunities for foreign investment in central city real estate markets. Urban financialisation strategies are intended to attract corporations, greatly affecting housing affordability in cities. Rolnik argues, in particular, that ‘regeneration’ targets land on which public housing is located because this offers ‘the twin advantages of demolishing stigmatized housing complexes while engaging in profitable (for the investors!) urban operations.’¹⁵⁰ This creates an urban scenario in which ‘the poor don’t exist and at the same time “unlock” the value of land’.¹⁵¹ The eviction and displacement of residents that results is ‘seldom accompanied by adequate housing alternatives for those affected.’¹⁵² It also creates enclaves for the wealthy and tourists in the city, with those unable to afford to live in the city pushed into inadequate housing, an argument Saskia Sassen has vividly made in relation to London.¹⁵³ For Rolnik, financialisation has caused a ‘massive spoliation’ of the ‘assets’ of the poor, ‘opening up new frontiers – land hitherto part of the commons (such as public housing or traditional informal settlements) – to financial investors.’¹⁵⁴

Farha, the current Special Rapporteur, has also emphasised the need to see issues of residential injustice related to the increasing dominance of financial actors in the production and provision of housing, and the normalisation of the idea of housing as asset, as a global phenomenon that manifests in both the global North and South, rather than as discrete local incidents.¹⁵⁵ In her view, the right to housing provides the framework for a ‘paradigm shift’ away from the idea of *home as asset* because it re-directs attention to the fundamental values of ‘dignity, security and human experience’ that underline the right.¹⁵⁶

By emphasising the value of home as a social good, both Special Rapporteurs’ work on financialisation mounts an important challenge to the idea of *home as asset*. Farha in particular

¹⁵⁰ Ibid 1061, 1063.

¹⁵¹ Ibid 1064.

¹⁵² Ibid.

¹⁵³ See Saskia Sassen, *The Global City: New York, London, Tokyo*, above n 12.

¹⁵⁴ Rolnik, above n 141, 1064. See also Colin Crouch, *Post-Democracy* (Polity, 2004) on the reversion of public bodies from pursuing political programmes that respond to the needs of ordinary people to commercialisation and forging links with business interests.

¹⁵⁵ Leilani Farha, ‘Housing, Financialization and Human Rights’, presentation with David Madden and Bruce Porter, LSE Sociology Department Seminar, 6 March 2017.

¹⁵⁶ Ibid.

has sought to highlight the fundamental values the right to housing seeks to fulfill and protect, such as the well-being of people and communities. However, it is arguable that the right to housing does not go far enough. I elaborate this argument in the next part of the chapter through a qualitative analysis of Heygate residents' testimonies which offer a different vision for home than that given by the Special Rapporteurs and which bring out the limitations of the right to housing.



Figure 36: Construction site, Elephant Park

5.6 Home at the Heygate

After their removal from the estate, Heygate residents gave testimonies as part of a community archive project called 'Heygate was Home'.¹⁵⁷ In their testimonies, residents returned to a number of themes to describe their subjective meaning of home. The most common themes were: (1) Remembrance and other notions of individual and collective memory, including the importance of time passing, as a way of framing meanings of home; (2) the positioning of the habitual, the

¹⁵⁷ See above n 3. For other recent work involving interviews with public housing tenants, see (in the Australian context), Dallas Rogers, 'The Poetics of Cartography and Habitation: Home as a Repository of Memories' (2013) 30(3) *Housing, Theory and Society* 262.

subjective and the imaginary over the material to articulate a sense of identity in relation to home; and (3) fears and anxieties about home arising from the regeneration and relating to feelings of belonging and not belonging. Here, I reflect on the meaning of home for Heygate residents drawing from these observations and wider theory on home.

Memory and the passing of time are often used to describe notions of home.¹⁵⁸ In *The Poetics of Space*, Gaston Bachelard argues for a phenomenology of architecture in which architecture should be understood as an experience, rather than as a material product. For Bachelard, home is a space for daydreaming¹⁵⁹ and should be theorised in ways that places ‘memory and imagination’ foremost, rather than as secondary to the material measures of home. This understanding was evident in my analysis of Heygate residents’ testimonies. They spoke of how each generation of their family ‘have their own personal memories of life on the estate’. For some residents, the strength of their memories intensified their anguish. One resident, after being forced to leave her home, reflected: ‘My daughter didn’t want to: she said ‘*mum they’re my memories*’... And to this day my daughter cannot bear to talk about it...’

Heygate residents frequently described home on the estate in terms of time passing and the repetition of practices and traditions over time. One resident said:

‘Many of us in our own relationships then moved into our own first homes on the estate, keeping the family and friendship bond alive; and then went onto having children of our own who had the pleasure of growing up on the Heygate estate.’

Home – the dwelling itself and the people and objects within it – also serves as a repository for the memories of residents’ past selves.¹⁶⁰ Typical reflections included: ‘I am happy and proud to have lived for the first 33 years of my life on the estate’ and ‘I was 7 years old when we moved onto the Heygate’. Another observed that: ‘the majority of people had been there over 30 years. They had their children there, the children grew up there, their grannies were there.’

¹⁵⁸ See, for example, Gaston Bachelard, *The Poetics of Space*, (Maria Jolas trans, Beacon Press, 1962, 1992 ed); Marcel Proust, *Swann’s Way – Volume 1 of In Search of Lost Time* (L Davis trans, Penguin, 2003); Dallas Rogers, *ibid*; and Keith Jacobs and Jeff Malpas, ‘Material Objects, Identity and the Home: Towards a Relational Housing Research Agenda’ (2013) 30(3) *Housing, Theory and Society* 281.

¹⁵⁹ Bachelard *ibid* 6.

¹⁶⁰ Rogers develops this idea extensively: see above n 157.

The passage of time binds past, present and future individual and collective memories and gives shape to a mythic or imaginary home. The connection between home, habitual practices, and the passage of time also expresses the human need for physical and ontological stability from which to build a coherent identity. For some residents, habitual practices in the home, such as maintaining family relationships and friendships, linked their past self to their present self across time. As one resident said: 'I am still in contact with many of my old neighbours and friends from the estate.' For others, home contains the memories of the past that sustain and anchor the formation and expression of identity in the present. As one resident said: 'I was brought up in this area and it was all I knew. My family has been here since 1955 and all my friends are here.'

These empirical excerpts also illustrate how home can be understood as the 'materialization of memory'.¹⁶¹ Dallas Rogers suggests that a person might remember a material object (such as a home) that no longer exists in material form, or a material object might itself become a repository for the memories of a person's past self.¹⁶² Here, imagination and remembrance are of primary importance, while the material is trivialised. This suggests that the existence of a physical, material object is not a necessary condition for describing and understanding notions of home.

In their testimonies Heygate residents also tended to describe home on the estate as a central reference point within the urban landscape, using both concrete and metaphysical or ideal terms.¹⁶³ 'Right from the start life was great in our little village in the heart of the city.' 'It was like heaven and I mean that.' Because home was central to residents' inner life world, the loss of home was destabilising, like a loss of ontological bearings. One resident described the experience of his elderly father and his friends: 'It's like a social centre for them, I don't know what he is going to do when they knock that down'.

In these excerpts, home serves to articulate and orient an individual sense of identity in the world, even long after the physical dwelling has been lost. Keith Jacobs and David Malpas, drawing from Marcel Proust's meditation on home and its objects in the novel *In Search of Lost Time*,¹⁶⁴ argue that the longing for home is often 'a longing for a time of stability and security, a time that cannot be found in the present.'¹⁶⁵ Heygate residents often contrasted home at the Heygate with

¹⁶¹ Ibid 268.

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Marcel Proust, *Swann's Way – Volume 1 of In Search of Lost Time* (L Davis trans, Penguin, 2003).

¹⁶⁵ Jacobs and Malpas, above n 158, 164.

their new living circumstances, implicitly or explicitly noting what they had lost. This was evident in the way one resident experienced the decanting process. ‘People started thinking “*well I don’t like this, I’d rather move somewhere with a nice settled community again.*”’ Another resident reflected: ‘I have been there 4 years now, but there is no communication with neighbours, and when nobody wants to mix then you don’t know what’s going on with people, I like to mix and I like to know – at least you had that warm feeling on the Heygate.’ The loss of home at the Heygate was more often conceived as the loss of qualities and values integral to residents’ sense of identity, such as community and the sense of being settled, rather than as the loss of a material dwelling.

Similarly, residents often prioritised the habitual and imaginary over the material in describing home at the Heygate. One resident reflected: ‘It’s a concrete jungle to some people, but when I looked out of my kitchen window when I was busy washing I could see all the pink blossoms. It was like being in the country when you look out of your window.’ Habitual, imaginative and highly individual experiences defined home for Heygate residents. Other residents strongly associated home with habitual practices and experiences in and around the home, rather than the material dwelling itself. One resident said: ‘It was lovely because you could see the children play happily outside.’ Another said: ‘I would tell them to come in and if I had food ready I would sit them down, that’s how close we were.’ These excerpts also reflect the close connection between home rituals, practices and other acts of habitation and the formation of subjective identity through relationships and feelings.

Another way Heygate residents described home, and feelings of belonging at home, was through the juxtaposition of positive and negative associations and opposing or contrasting experiences. For example many Heygate residents when discussing home on the estate compared feeling safe and unsafe.¹⁶⁶ As a resident recalled, ‘I used to be able to walk through this estate at 2 or 3 o’clock in the morning on my own in the dark and not have a single worry.’ Others said: ‘you felt very safe and back then you could rely on you neighbours to watch over each other’s properties and belongings’ and ‘moving [away] meant we had to remove our children from the care of loved ones and put them in the care of strangers.’

Home at the Heygate was a haven and refuge for the spirit as much, if not more than, it was a physical shell protecting the people and objects within it. As one resident said, ‘The estate was an

¹⁶⁶ Rogers, above n 157, 269-70.

oasis of greenery amidst the hurly burly world outside.’ Bachelard uses metaphor to describe how our homes shelter us from the storm of life: ‘It braces itself to receive the downpour, it girds its loins. When forced to do so, it bends with the blast, confident that it will right itself again in time, while continuing to deny any temporary defeats.’¹⁶⁷ Home nurtures the spirit. Home emboldens an individual to say: ‘I will be an inhabitant of the world, in spite of the world.’¹⁶⁸ Home is an ‘instrument with which to confront the cosmos.’¹⁶⁹ Peter Saunders and Peter Williams in their seminal work on home identify these same qualities or characteristics as the ‘ontological security’ that homes provide.¹⁷⁰ Ontological security is the ‘[c]onfidence or trust that natural and social worlds are as they appear to be, including the basic existential parameters of self conception and social identity’.¹⁷¹ So home simultaneously offers sanctuary for the self, a place to nurture individual identity, and a platform from which to present the self in the world. Home might be thought of as the ‘hood’ in ‘selfhood’.

By contrast, losses of home bring into focus the way home often serves as an object for reflecting upon fears and anxieties about belonging, and not belonging, in the world.¹⁷² Commenting on the regeneration, one resident said: ‘I don’t think there will be many working class people in this area in the future... We will have to move outside London because they want London as a rich domain now’. Another (referring to Southwark Council) said, ‘Their attitude was more or less *‘We don’t want the ‘new poor’ like you here anymore, we want overseas investors’*, and this is what London is becoming.’ For Heygate residents, the regeneration brought into relief long-running debates about socio-economic status and class identity in the context of public housing and more recent concerns around urban citizenship. The regeneration also made residents feel unwelcome at home and home became a place of imminent and actual displacement. As Homi Bhabha has noted, the experience of ‘unhomeliness’ is sometimes, paradoxically, key to what home is.¹⁷³

¹⁶⁷ Bachelard, above n 158, 46.

¹⁶⁸ Ibid 46-7.

¹⁶⁹ Ibid 46.

¹⁷⁰ ‘Ontological security’ was coined by Anthony Giddens in *The Constitution of Society* (Polity, 1984). See discussion in Moira Munro and Ruth Madigan, ‘Privacy in the Private Sphere’ (1993) 8(1) *Housing Studies* 29 and Peter Saunders and Peter Williams, ‘The Constitution of Home: Towards a Research Agenda’ (1988) 3(2) *Housing Studies* 81.

¹⁷¹ Citing Antony Giddens, Saunders and Williams, *ibid* 81-2.

¹⁷² Jacobs and Malpas, above n 158, 281. See also Arien Mack, *Home: A Place in the World* (NYU Press, 1993).

¹⁷³ Homi Bhabha, ‘The World and the Home’ (1992) 31-2 *Social Text* 141.

For Heygate residents, ‘homecoming is out of the question’.¹⁷⁴ Heygate residents often described feeling unanchored, adrift and far from ‘home’ even when they had moved into new homes. Home – real or ideal – ineluctably pulls. One resident, who after losing his family home on the estate could only find affordable housing in Slough, a regional centre roughly an hour’s drive west of London, described travelling back to Elephant and Castle every weekend to visit friends and attend church even though this was at great financial cost to himself. ‘We now find ourselves living very far away from what we knew as home’. The loss of home is the loss of continuity, tradition and the past – important props that keep human life along its path. One resident reflected: ‘Even when they have moved and gone into other places they have lived about a year afterwards and then died: because they wish they were back at the Heygate – they missed it.’

The loss of home strikes at the core of the self. Heygate residents described losing their homes in non-material, metaphysical terms: it ‘destroyed their spirit’ and ‘broke many hearts’. They ‘lost hope’. They were affected ‘not just... financially, but also emotionally, socially and spiritually.’ Many residents thought of the regeneration as a ‘death sentence’, in a literal and metaphorical sense. One resident described the demolished estate as a “‘Ghost Town” with its heart ripped out’. Another described how its ‘bones will be stripped’. The contrast between body/bones and heart/spirit maps on to the contrast between the physical shell of the home and the memories, habitual experiences and imaginaries home contains. Perhaps these metaphors of the body should not surprise us. The old adage rings: ‘home is where the heart is’.

Yet even with the loss of home and the breakup of their community, Heygate residents have continued to campaign that ‘Heygate was home’. For residents, the loss of home has compelled a project of resistance and remembrance, in turn affirming their identity and feelings of belonging.¹⁷⁵ One Heygate resident insisted that: ‘They can’t take away our memories and our accomplishments, and there will never ever be another special place like the Heygate Estate.’ Another resident, referring to the regeneration, said: ‘what they are trying to do is introduce a better class of people to the Elephant and Castle. ... Well I said “you can’t get a better class of people than us.”’¹⁷⁶

¹⁷⁴ Edward Said, ‘Reflections on Exile’ in *Reflections on Exile, and Other Literary and Cultural Essays* (Harvard University Press, 2000), 142.

¹⁷⁵ Rogers, above n 157, 266.

¹⁷⁶ See further Loretta Lees, ‘Resisting Gentrification on its Final Frontiers: Learning from the Heygate Estate in London (1974–2013)’ (2016) 57 *Cities* 14.

The excerpts I have discussed here reflect that the material world is often not at the centre of the meaning of home for Heygate residents. Instead, residents wove together symbolic and expressive meanings of home characterised by individual and collective memory, a sense of identity and feelings of belonging. The testimonies also evidence the ‘spatio-temporal’ nature of home. From this point of view, home can be thought of as a *space* (whether real or imaginary) *in time* that traverses the past (through the remembrance of home), the future (in imaginaries of yet-to-be homes, and fears and anxieties about home unrealised) and the present, through the acts of habitation that shape and define everyday life.

The phenomenological account of home that Heygate residents’ give in their testimonies is in striking contrast to the idea of home as a material and social good elaborated in the right to housing. The testimonies are useful because they allow us to shift into the conceptual terrain of home, opening up a landscape of experience not visible in international law. By revealing that deeper phenomenological account of home, the testimonies also give us a much stronger basis than the right to housing from which to challenge the idea of *home as asset* that is constituted by processes of regeneration and financialisation. I develop this argument in the next part.

5.7 Home and the right to housing

Rolnik, in her report following her mission to the UK, emphasised that the ‘right to adequate housing should not be considered narrowly.’¹⁷⁷ Adequate housing comprises all of the ‘elements’ elaborated in *General Comment No. 4*. Together these constitute an idea of home as a material good (through the provision, for example, of habitable housing and appropriate building materials) and a social good (by ensuring, for example, security of tenure, affordable housing and housing located near to services, facilities and employment). The Special Rapporteurs have also underscored that the right to housing provides remedies for violations, such as compensation and replacement housing; and that it intervenes to respond to threats to the enjoyment of adequate housing, short of violations, by reminding states of their obligations, for example, to provide housing finance and to stimulate house building.¹⁷⁸ In this way, the right to housing that Rolnik ministers to mounts an important challenge to the idea of *home as asset*, and the risk of displacement and dispossession this entails for low-income and other residents.

¹⁷⁷ UK Report, above n 19, [7].

¹⁷⁸ Ibid and see Farha, above n 20, 19-21.

However, it is arguable that the right to housing does not do enough. First, bound to operate within the conceptual architecture of rights and remedies, the right to housing offers a limited and partial conception of home. While the right understands home in terms of ‘adequate housing’ and as a material and social good, Heygate residents describe home in terms of memory, identity and belonging. Second, and this follows from the first point, by failing to capture those phenomenological meanings of home, the right to housing cannot acknowledge or respond to Heygate residents’ experience. Their loss, suffering and struggle in relation to home goes unnoticed by the right to housing.

Third, and building on these two points, even if the right to housing did conceive of Heygate residents’ loss of home as a ‘violation’, their loss cannot be ‘remedied’ in the way envisaged by the right. For Heygate residents, home on the estate was unique and irreplaceable. Further, the suggestion in the right to housing that losses of home might be remedied through compensation or replacement housing does little to counteract the logic of financialisation and regeneration in which homes are dispensable. The Heygate residents’ testimonies reveal that home has intrinsic values worth protecting and which cannot be measured in material or monetary terms. This dimension of home is not expressed in the right to housing.

Bringing these points together, by falling short of a richer, phenomenological account of home, the right to housing – even in the hands of the Special Rapporteur, perhaps its most sensitive exponent – does not do enough to challenge the idea of *home as asset*. These criticisms of the right to housing can be made even though a considerable amount of work has been done in the past decade by the Special Rapporteurs and scholars to develop the right to housing beyond the seven ‘elements’ of the right set out in *General Comment No. 4* and to enrich the meaning and content of the right to housing.¹⁷⁹ For a long time criticised as underdeveloped and understudied,¹⁸⁰ since the creation of the mandate of the Special Rapporteur in 2000 the right to housing has received relatively more attention.¹⁸¹ The first Special Rapporteur, Miloon Kothari extended the definition of the right, describing it as the ‘the right to live somewhere in security,

¹⁷⁹ *General Comment No.4*, above n 18.

¹⁸⁰ Jessie Hohmann, *The Right to Housing: Law, Concepts, Possibilities* (Hart Publishing, 2013), 2-3.

¹⁸¹ See for example, Hohmann *ibid*; See also Padraic Kenna, *Contemporary Housing Issues in a Globalized World* (Ashgate, 2014); Padraic Kenna, ‘Globalization and Housing Rights’ (2008) 15 *Indiana Journal of Global Legal Studies* 397; and Giulia Paglione, ‘Domestic Violence and Housing Rights: A Reinterpretation of the Right to Housing’ (2006) 20 *Human Rights Quarterly* 120.

peace and dignity'¹⁸² and 'the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.'¹⁸³ Kothari also added five new elements to the right: access to environmental goods and services (such as land and water); freedom from dispossession; information, capacity and capacity-building; resettlement; and participation in decision-making.¹⁸⁴

More recently, Farha has examined the relationship between the right to housing and the right to life.¹⁸⁵ This is promising work: it opens the way for a deeper interpretation of the right that goes beyond the provision of housing as a material good and reaches towards some of the intangible values and qualities of home. She has also identified 'human experience' as one of the fundamental values embedded in the right to housing, and connected the right to housing to the 'well-being' of people and communities, calling for a paradigm shift in the debate about financialisation back to these values.¹⁸⁶ While Farha has only lightly explored these possibilities, we can imagine how the right to housing might be developed in relation to the values of human experience and well-being by drawing from the conceptual apparatus that *home* gives us. For example 'cultural adequacy', which is one of the elements of the right to housing, could be developed from meaning culturally-appropriate building materials (as the CESCR has interpreted it) to a more sophisticated understanding of culture as community, tribe, 'togetherness' and neighbourhood, ideas which are encompassed by home and which are integral to human experience and well-being.¹⁸⁷ Indeed, for Heygate residents, home on the estate revolved around the role that neighbours, families and friends played in knitting together lives and building livelihoods. The concept of home, as I have argued throughout this thesis, comprises many different meanings. Its conceptual amplitude – rooted in ideas of belonging, identity and collective memory – may answer the Special Rapporteur's call for a 'paradigm shift' by expanding and enriching the meaning of the right to housing and reconnecting 'housing' with the values of 'home'.

¹⁸² UN Commission on Human Rights, *Question of the Realization in all Countries of the Economic, Social and Cultural Rights*, E/CN/4/Res 2000/9, above n 78.

¹⁸³ UN General Assembly, Human Rights Council, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context*, Miloon Kothari, 'Promotion and Protection of all Human Rights, Civil, Political, Economic Social and Cultural Rights, Including the Right to Development' [sic], A/HRC/7/16, 13 February 2008, 4.

¹⁸⁴ *Ibid* 5.

¹⁸⁵ 'The Right to Life and the Right to Housing', Presentation to the Human Rights Council, Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of living, and on the Right to Non-discrimination in this Context, Ms Leilani Farha, 11 July 2016.

¹⁸⁶ Farha, above n 155.

¹⁸⁷ On these ideas, see Richard Sennett, *Together* (Yale University Press, 2012).

While the writings of Special Rapporteurs are not binding international law they are an important and influential source for informing the meaning and interpretation of human rights. As such, the work of the Special Rapporteurs in enriching the right to housing is very welcome. Yet, even with the development of the right to housing by the Special Rapporteurs, the right to housing still remains at some remove from the phenomenological account of home that Heygate residents give, and the integrality of notions of identity, collective memory and belonging to the meaning of home that they articulate.

Scholars have also done much to explore and elaborate the right to housing over the past two decades. However, their work also leaves this right straining towards, but not reaching, a more expansive account of home on which a stronger challenge to the idea of *home as asset* could be based. In his work on the globalisation of housing rights,¹⁸⁸ Kenna alludes to the potential for enriching the right to housing with the concept of home. However, he leaves this tantalisingly untouched, saying only: ‘Many of these elements of home have not been fully explored or articulated in the domain of housing rights.’¹⁸⁹ Hohmann has offered the most recent and substantial examination of the right to housing in her promisingly titled book, *The Right to Housing: Law, Concepts, Possibilities*.¹⁹⁰ While arguing that the right to housing provides the most direct protection of ‘housing and home’ in international law, Hohmann explicitly chooses not to distinguish between housing and home in her work, arguing that it is ‘artificial’ to draw clear conceptual lines between the two.¹⁹¹ Hohmann critiques the right to housing for lacking content and meaning and for being disconnected from the social conditions of its violation, such as homelessness and the oppression of women and domestic workers. She deploys concepts of privacy, space and identity as lenses to explore and expand the right, furnishing her analysis with an impressive body of recent case law. However, by choosing to deploy those concepts Hohmann limits the scope and vision of the right and closes off other possibilities. We can imagine other concepts that might have been chosen for her analysis – and indeed which other scholars have deployed in their own – such as violence,¹⁹² security,¹⁹³ shelter¹⁹⁴ and gender,¹⁹⁵ among other

¹⁸⁸ Kenna, above n 181.

¹⁸⁹ Ibid 469.

¹⁹⁰ Hohmann, above n 180.

¹⁹¹ Ibid 5.

¹⁹² See for example Paglione, above n 181.

¹⁹³ Scott Leckie, ‘The Justiciability of Housing Rights’ (1994) *SIM Special* 18.

¹⁹⁴ Robert Ellickson, ‘The Untenable Case for an Unconditional Right to Shelter’ (1992) 15 *Harvard Journal of Law and Public Policy* 17 (albeit arguing against recognition of the right to housing).

concepts, to explore the right to housing. The problem is that while all of this work *extends* the right to housing, and importantly indicates the salience of the right in many spheres of human experiences, it gives us little that coherently locates and grounds that right in a deeper philosophical basis.

The limits of these analyses of the right to housing become apparent when we shift into the more expansive terrain of home. As I mentioned earlier, scholars working on the right to housing have failed to engage with the idea of home, and in doing so they have largely dismissed the vast wider literature on home in fields outside of law. It is worth briefly reviewing the literature here because it gives us a measure of the limits – and possibilities – of the right to housing when looked at through the lens of home.

‘House’ is most often associated with a physical structure for living in and the materials with which housing is constructed. Hohmann, for example, cites the Oxford English Dictionary to define ‘house’ as a ‘building for human habitation’.¹⁹⁶ Alison Blunt and Robyn Dowling argue that one of the most important elements of home is that it is, in fact, a house. Home is ‘a structure in which we are housed, whether that be a tent, a caravan, house, apartment, park bench, or any other assemblage of building materials on a particular site.’¹⁹⁷ Yet what makes a house a home, they argue, are the feelings of belonging and identity that extend beyond the raw materials of the house.¹⁹⁸ Kim Dovey argues that home is a ‘profoundly symbolic term’, and that ‘any attempt to translate it as “house” oversimplifies.’¹⁹⁹ Rykwert argues that ‘a home is not the same as a house and this is why we need two different words.’²⁰⁰

In contrast to ‘house’, ‘home’ is frequently discussed in the literature in connection with a range of non-material meanings and ideas. Amos Rapoport argues that ‘home = house + x’.²⁰¹ The ‘x factor’, according to Lorna Fox, represents ‘the social, psychological, and cultural values which a

¹⁹⁵ Katherine Hughes and Elisabeth Wickeri, ‘A Home in the City: Women’s Struggle to Secure Adequate Housing in Urban Tanzania’ (2011) 34 *Fordham International Law Journal* 788.

¹⁹⁶ *Ibid* 185.

¹⁹⁷ Alison Blunt and Robyn Dowling, *Home* (Routledge, 2006), 6.

¹⁹⁸ *Ibid* 10.

¹⁹⁹ Kim Dovey, ‘HOME: An Ordering Principle in SPACE’ (1978) 22 *Landscape* 27, 27-8.

²⁰⁰ Rykwert, above n 92, 51.

²⁰¹ Amos Rapoport, ‘A Critical Look at the Concept “Home”’ in David Benjamin and David Stea (eds), *The Home: Words, Interpretations, Meanings and Environments* (Avebury, 1995) 27-30.

physical structure acquires through use as a home.²⁰² Looked at this way, a *house* takes on the quality of *home* through the imaginative, memorial and habitual practices that develop in relation to it.²⁰³ This resonates with the concept of home that Heygate residents articulate in their testimonies.

On a similar theme, Blunt and Dowling suggest that home is a place invested with meaning and affective value over time.²⁰⁴ As we saw, Heygate residents often returned to the passing of time to express the subjective experience of home, and many residents defined themselves by how many years they had lived on the estate. Saunders and Williams conceive of home as a locale that is ‘simultaneously and indivisibly a spatial and a social unit of interaction’ and a physical ‘setting through which basic forms of social relations and social institutions are constituted and reproduced.’²⁰⁵ Home is a fusion of the social unit of the household and the physical unit of the house. Liisa Horelli writes about ‘parts of the house’, such as rooms, doors and floor plans, in contrast to the ‘elements of the home’, which she describes as associations and affective states like childhood memories and rhythms.²⁰⁶ In Sherry Ahrentzen’s interviews with people who work at home, respondents insisted on using house instead of home to separate out ‘feelings of home from their place of work’.²⁰⁷ Similarly, Heygate residents’ did not place the material world at the centre of their experience of home, and instead evoked the meaning of home through their memories and feelings.

Despite the examples I have just given of distinctions being drawn between home and house in the wider literature, ‘home’ is also still frequently conflated, interchanged and confused with ‘house’ in that literature. One scholar has noted the difficulty of separating out intertwined

²⁰² Lorna Fox, ‘The Meaning of Home: A Chimerical Concept or a Legal Challenge?’ (2002) 29(4) *Journal of Law and Society* 580, 590 and Lorna Fox O’Mahony, *Conceptualising Home: Theories, Laws and Policies* (Hart, 2007).

²⁰³ Henri Lefebvre and Michel de Certeau argued that spatial practices – actual and perceived – shape identity and our experience of the world: Henri Lefebvre, *The Production of Space* (Donald Nicholson-Smith trans, Wiley-Blackwell, 1991) and Michel de Certeau, *The Practice of Everyday Life* (University of California Press, 1984).

²⁰⁴ On the meaning of and distinction between house and home, see further discussion in Blunt and Dowling, above n 197, in particular chapter one ‘Introduction’ 1-32 and chapter three ‘Residence: House-as-Home’, 88-140. See also Doreen Massey, ‘A Place Called Home’ (1991) 17 *New Formations* 3-15.

²⁰⁵ Saunders and Williams, above n 170, 82.

²⁰⁶ Liisa Horelli, *Psychosocial and Socio-Cultural Meanings of Dwelling (in the Context of a Self-Planned Community)*, Series: Psychosocial and Socio-Cultural Meanings of Dwelling (1990), cited in Amos Rapoport, ‘A Critical Look at the Concept "Home"’, above n 186.

²⁰⁷ Sherry Ahrentzen, ‘A Place of Peace, Prospect And ... A P.C.: The Home as Office’ (1989) 6(4) *Journal of Architectural and Planning Research*.

meanings of home and house²⁰⁸ while others have argued that attempts to claim either of the words ‘home’ and ‘house’ must address both the multifaceted and multi-scalar nature of both.²⁰⁹ The difficulty of making the distinction is a reminder that house and home *are* linked and that it is important to draw attention to their relationship; but also to untangle it and to explore the distinct qualities and capacities of both house and home: work that is yet to be done in scholarship on the right to housing.

5.8 Conclusion

Bringing the discussion in the previous parts together, the wider literature on home supports the view that the meaning and content of the right to housing can and should be developed in relation to the richer concept of home. *Home* says something different, and arguably deeper, than *house*. Home speaks to the experience of inhabitants in a way that house does not. In particular, home opens up ideas of collective memory, identity and belonging that continue to be integral for the articulation of human life, experience and feeling, as we saw in the Heygate residents’ testimonies.

Moreover, the right to housing – and the interests of dignity, security and human experience that the Special Rapporteur has said underline the right²¹⁰ – would be strengthened and enriched by the concept of home because this would extend the reach of the right to situations and concerns not currently embraced by it. It might also lead to alternative outcomes for inhabitants beyond what the current, limited framework of rights and remedies offers. For Heygate residents, responses to the financialisation of home in London, and the idea of *home as asset*, must involve more than building replacement housing or provide compensation for homes lost (while these are also necessary). A right to housing informed by a more expansive account of home could engage with the types of interests Heygate residents put at the centre of their understanding of home and thus provide a stronger basis from which to challenge the threats to home that processes of regeneration and financialisation present. This is not to deny that Heygate residents, or others like them, did not need or did not welcome the replacement housing that many did receive. It is simply to acknowledge that their experience involved more than the destruction of a *physical* home: theirs was the loss of community, social belonging, individual and collective identity, and the sense of home as a haven.

²⁰⁸ Lyn Richards, *Nobody’s Home: Dreams and Realities in a New Suburb* (Oxford University Press, 1990).

²⁰⁹ Blunt and Dowling, above n 197.

²¹⁰ Farha, above n 155.

To return to one of the key themes of this thesis – international law in everyday life – we can also say that bringing home in the city into conversation with international law through the right to housing compels us to review the presence and practice of the discipline in everyday life. Ideas of the local, the nearby, the intimate and the micro – which are often associated with home – challenge the traditionally bounded spaces of the nation and the state that are central to the ideology of international law. However, when we look through the lens of home, we see how the right to housing is one route through which international law’s attentions and energies are directed to those smaller spaces.

In the city, international law’s presence raises particular problems relating to the complexities of urban life. Arjun Appadurai writes that cities are spaces where ‘proximate fears’ mix with ‘faraway events’ and where intimacy and strangeness, closeness and isolation can prevail among neighbours.²¹¹ Lefebvre argued that to be expelled from home in the city is to be deprived of the possibilities of urban life.²¹² The concept of home, understood in the richer sense described by Heygate residents – comprising notions of identity, memory and belonging – both reveals and engages with that complexity. The right to housing could better respond to the conditions for home in the city by embracing that understanding of home.

²¹¹ Arjun Appadurai, *Fear of Small Numbers: An Essay on the Geography of Anger* (Duke University Press, 2006) 100.

²¹² Henri Lefebvre, *Le Droit à La Ville* [The right to the city] (3rd ed, Anthropos-Economica, 2009) 146. See also David Harvey, ‘The Right to the City’ (2003) 27(4) *International Journal of Urban and Regional Research* 939 and Manuel Aalbers and Kenneth Gibb, ‘Housing and the Right to the City: Introduction to the Special Issue’ (2014) 14(3) *International Journal of Housing Policy* 207.



Figure 37: Public housing, Elephant and Castle

CHAPTER SIX

Conclusion

‘But the dwelling is more than the structure, as the soul is more than the body that envelops it. For countless millions of people the bond between themselves and the place where they live transcends the physical frame of their habitation.’¹

6.1 Home matters

Home, as we have seen throughout this thesis, is a complex, ambiguous and contested concept. Yet at the same time home is an ordinary part of everyday life. Our homes stand by as we go about our daily routines and patiently await our return. As a dwelling place, we rely on our homes to meet our basic need for shelter but also to cabin our thoughts, longings, anxieties and fears. Even for those who do not have a home, the search for one consumes much energy and attention.² Without a home many feel adrift. For all its ordinariness, home matters. As Fox argues: ‘They matter to the people who have them, and to those who do not; they matter to those who have lost a home through displacement or dispossession; even the threat of losing a home has been shown to trigger major stress reactions.’³ We need our homes to quietly announce that we exist in the world.

The contrast between the ordinariness and the importance of home in everyday life strikes me as I walk through the streets of my own neighbourhood. I pass along rows of terrace homes with identical façades, the same windows, and the same politely paved paths. But beyond the front door, every home has its own story. There are memories buried in the foundations. The floorboards are bowed with the weight of journeys across them. Traditions and pastimes reside in corners and cupboards. Prayers are offered up to the eaves. Our homes tell us much about

¹ Paul Oliver, *Dwellings: The Vernacular House Worldwide* (Phaidon, 2003, 2007), 15.

² As poignantly depicted in Matthew Desmond, *Evicted: Poverty and Profit in the American City* (Allen Lane, 2016).

³ Lorna Fox O’Mahony, ‘The Meaning of Home: From Theory to Practice’ (2013) 5(2) *International Journal of Law in the Built Environment* 156, 158.

ourselves. The physical home is a palimpsest inscribed with the histories of those who inhabit it as well as a psychological and epistemological space of yearning, being and belonging. When we say we are ‘at home’, what we mean is that we can be our self.

Here in London, the streets are bedizened with real estate hoarding: ‘for sale’, ‘to let’, ‘on the market’, ‘open to offers’. Homes are sold and passed on, they ‘change hands’, as we say, and make room for new households. Recently when I was out walking a young couple asked me to photograph them outside their home. They were moving that day. They posed before the hinged front gate and held their newborn baby between them. Smiling brightly, all three were full of hope. I was reminded of a family I visited at Damnak Trayeong. Evicted from Boeung Kak Lake, they had been relocated to vastly inferior housing on the outer urban wasteland of Phnom Penh. They had brought with them objects from their previous home: a hearth shrine, a TV, a tall varnished wardrobe that seemed out of place in the tiny one roomed dwelling. Framed family photographs hung on the deeply cracked walls.

When we move homes, or are forced to leave our homes, we remain attached to them in some way and we take part of them with us, whether through a photograph, a story or a memory. This is so even where the experience of home is negative. The memory of a violent or oppressive home, for example, lingers long afterwards.⁴ In researching this thesis I noticed that suffering in relation to home, and attachment to home, often go hand in hand. Many of the research participants who I met, talked to and walked with during my fieldwork had lost their home but few had lost their will or desire for home. Indeed, their loss had only crystallised the meaning and importance of home to them. Most dreamed of returning home or remaking home. They remained attached to an ideal or vision of home as a safe and nurturing place, even when the possibility of this seemed far out of reach. They showed me that deprivations of home are frequently met with a dogged, daily resistance that has its roots in home understood as something much more than bricks and mortar.

These observations are not meant to banalize the brutality of home destruction as we saw it in the preceding chapters. Nor are they meant to imbue losses of home with notions of humanism or to mobilise the suffering of homelessness, exile and displacement. In the course of writing this

⁴ See, among others, Rachel Pain, ‘Social Geographies of Women’s Fear of Crime’ (1997) 22 *Transactions* 231; Alison Blunt and Robyn Dowling, *Home* (Routledge, 2006) 125-6; and generally Karel Kurst-Swanger and Jacqueline Petcosky, *Violence in the Home: Multidisciplinary Perspectives* (Oxford University Press, 2003).

thesis, the reality that we live in an age of dispossession and detachment grew increasingly clear. According to the United Nations High Commissioner for Refugees, global forced displacement reached its highest recorded level in 2015. In that year alone, 63.5 million people were displaced from their homes due to conflict and persecution and 34,000 (or 1 in 113 people) were forced to flee their homes each day in both the global North and South.⁵ Amid the chaos of geopolitical transformation, social uncertainty and new mobilities, Jasanoff recently argued that '[h]uman beings are on the move as never before'.⁶

However it is chastening to reflect that these figures do not include the millions of people made homeless by economic recession, and those who face poverty at home and the risk of losing their home due to spiraling household debt.⁷ And there are many more people, also falling outside of the official counts, who remain in homes made dangerous by war, political unrest, domestic violence or development and climate-related threats and for whom leaving home may be not an option.⁸ Far from the perception of home as haven, in many parts of the world – including right here in our streets and villages – home may be more accurately characterised by the experience of immense human suffering and by relationships of survival and resistance.⁹

For these reasons among others research on home is vital. However, until this point, home has largely gone unnoticed by international law scholars and policymakers. My aim in this work has been to draw attention to the lack of a well-developed concept of home in international law and to elaborate the central thesis that international law is *already present* at home, though we had not sought to look for it there before. In this connection I examined a small number of situations in which international law intervenes at home and gets involved in constituting and mediating the meaning, conditions and experience of home. There are many more situations that I could have explored; this is for future work. The three case studies illustrated that the effect of international

⁵ United Nations High Commissioner for Refugees, *Global Trends: Forced Displacement in 2015*, 20 June 2016, 2 (latest data as of 7 April 2017).

⁶ Sheila Jasanoff, 'Subjects of Reason: Goods, Markets and Competing Imaginaries of Global Governance' (2016) 4(3) *London Review of International Law* 361.

⁷ See in particular Atif Mian and Amir Sufi, *House of Debt: How They (and You) Caused the Great Recession and How We Can Prevent it From Happening Again* (University of Chicago Press, 2015).

⁸ Not being counted may also mean going unnoticed. See generally on the problems of quantification in the human rights sphere, Sally Engle Merry, *The Seductions of Quantification* (University of Chicago Press, 2016).

⁹ See further, among other examples, Homi Bhabha, 'Halfway House' (1997) 35(9) *Artforum International* 11 and Homi Bhabha, 'The World and the Home' (1992) 31-2 *Social Text* 141; Bonnie Honig, 'Difference, Dilemmas, and the Politics of Home' (1994) 61(3) *Social Research* 563; and Katherine Brickell, 'Plates in a Basket Will Rattle': Marital Dissolution and Home 'Unmaking' in Contemporary Cambodia' (2013) *Geoforum* 262.

law's 'homemaking' work is often (but not always) negative. Nonetheless, I also argued that the concept of home may be understood as an analytical tool that makes visible experiences – of loss, suffering and struggle but also of radical engagement and expanded agency – which cannot be captured or expressed in the language of international law. In these ways, the thesis concerned both the presences *and* absences of international law in relation to home and how we might approach international law problems differently by looking through the lens of home.

In Chapter One, I put forth a working definition of home based on five key themes of home: home as being, haven, property, homeland and nostalgia. The meaning of home is not, of course, limited to these. However, they are the dominant and recurring understandings of home in the scholarly literature and together they form a penumbra under which many other subthemes of home fall. I gave context to those home themes through the case studies in Chapters Three, Four and Five. These studies traced how international law engages with home in the context of a World Bank land titling project in Cambodia; the longstanding military occupation of Palestine; and the 'crises' in the housing and financial sectors as these manifest in London. The breadth and diversity of the case studies – spanning vastly different geographical locations, different areas of international law and different home problems – emphasise the urgency of asking questions about how patterns of inclusion and exclusion from home are dictated by larger realities; about how our homes are radically political spaces¹⁰ and 'vulnerable crucibles' of power,¹¹ as well as places of comfort and retreat; and about how seemingly private issues are also public problems that need to be made visible and contestable. This thesis has attempted to address some of these questions from the perspective of international law, and more generally, to show to what extent and in what ways the international legal order is mixed up with home.

In bringing the thesis to a close, it will be valuable in the first part of what follows to briefly recall some of the scene-setting we did in Chapter One, situating the thesis among scholars interested in the everyday life of international law and surveying the wider literature on home. In the second part of the chapter I examine how we might characterise international law's homemaking work at Boeung Kak Lake, Area C and the Heygate Estate. Inasmuch as homemaking work involves acts of deprivation, I argue that it is important to account for the many and varied instances of the loss and destruction of home in both 'everyday' and

¹⁰ For example see bell hooks, *Yearning: Race, Gender and Cultural Politics* (Turnaround, 1994).

¹¹ See discussion in Katherine Brickell, "'Mapping" and "Doing" Critical Geographies of Home' (2011) *Progress in Human Geography* 1, especially at 5-6.

‘exceptional’ contexts. In the third part of the chapter I reconsider established approaches to these issues and try to specify where, in light of my research, they fall short or are problematic. Finally, I suggest how some of the intellectual influences that informed my methodology, which I examined in Chapter Two, as well as the methods I used might contribute to discussions in the field of international law in everyday life.

6.2 Home, international law and everyday life

As I argued in Chapter One, international law is traditionally concerned with, and directs our gaze towards, exceptional and extraordinary events and crises while bypassing, as irrelevant or uneventful, the small things, moments, events and places that together comprise day-to-day life.¹² However, I also pointed to the burgeoning interest among scholars in the everyday life of international law. Contrary to those first impressions then, I suggested that one of the places we might look for the presence of international law in everyday life is the home – a quintessentially ordinary place but which for most people is at the centre of life.

The extensive scholarly literature on home in disciplines outside of law – some of which I surveyed in Chapter One – tells us that home is a complex, layered and multifaceted concept. Home comprises a range of meanings, positive and negative, that are integral to the formation of the self and which constitute individual and collective identity and a sense of belonging in the world. For the purposes of this thesis I proposed a working definition of home based on five key themes drawn from the wider literature: home as being; haven; property; homeland; and nostalgia. In proposing this working definition, my aim was not to define home. Rather, it was to furnish a vocabulary for thinking and talking about home in the thesis. In doing so, the thesis itself provides a language and a preliminary set of ideas with which to start a conversation about home among international lawyers.

My analysis in Chapters Three, Four and Five was informed by those five key home themes. I did not discuss all of these in each case study. More usually, one or two themes were more dominant (such as property in Chapter Three, homeland in Chapter Four and nostalgia/memory in Chapter Five). Often those themes conflicted or were in tension with each other (for example, property and haven in Chapter Three, being and homeland in Chapter Four, property and nostalgia in Chapter Five). This was, however, in keeping with the complex and contested nature of home.

¹² Luis Eslava, ‘Istanbul Vignettes: Observing the Everyday Operation of International Law’ (2014) (2)1 *London Review of International Law* 3, 3.

Indeed, I preferred to adopt a broad working definition of home in the thesis because this would allow me to better illustrate that home is at once a place, an experience and an imaginary; that it can be simultaneously associated with inclusion *and* exclusion, dispossession *and* resistance, exile *and* emancipation; and that even in the face of grave suffering and deprivations of home, the attachment to home often remains strong.

6.3 International law's homemaking work

In a world and condition where home is one way of saying who we are, the destruction of home is all the more devastating. The home studies in Chapters Three, Four and Five – at Boeung Kak Lake, Area C and the Heygate Estate – examined the role of international law in choreographing situations in which homes are compromised, altered, and destroyed. While I have used the term 'homemaking' to describe how international law engages with home, the studies indicate that what international law sometimes (but not always) does might also be characterised as 'home-unmaking' – that is, destructive acts resulting in losses and deprivations of home. In this part of the chapter, I explore international law's homemaking and home-unmaking work more deeply, paying particular attention to the types of loss and destruction of home that result.

The case studies at Boeung Kak Lake and in Area C traced different ways in which international law intervenes at home and constitutes negative experiences of home. At the Boeung Kak Lake, the World Bank's land titling project catalysed the transformation of *home* into *property*. Far from increasing local peoples' security and wellbeing at home, the land titling project left their homes vulnerable to speculation, land grabbing and, ultimately, dispossession. The World Bank's recent emergence as a champion of international regulation for large-scale land deals further exacerbates these risks by legitimating transactions that insert land (and homes located on it) into global circuits of capital and facilitate a dispossessory path of economic growth and development. The lake home study demonstrates that the law of international development is complicit in devastating alterations of home even while (perhaps conveniently) home interests receive little or no attention in its agenda.

In Area C, the international law of occupation authorises Israel as the 'occupying power' to enter into, manage and control the everyday conditions of home for Palestinian residents. This 'duty towards ordinary life' is significant because it draws home within the logics of occupation law – home being at the centre of ordinary life. However, the duty also has problematic effects for home. On the one hand, it is meant to promote the interests of the occupied population, including

Palestinian residents' interest in safety at home and being able to maintain normal home life. On the other hand, the duty gives the occupier extensive scope to interfere with day-to-day life in the occupied territory, including in ways that undermine ordinary home life. We saw this in how Israel uses the duty to justify the destruction of Palestinian homes (through, for example, administrative and punitive demolition, the checkpoints regime and the construction of settlements) as 'security measures' necessary for maintaining ordinary life. It is concerning that international law, through the law of occupation, provides tools that are deployed to legitimate colonial violence. The complicity of international law in the destruction of Palestinian homes in Area C by making available to Israel a justificatory argument based on the duty towards ordinary life is particularly significant where home is at the heart of the Israel-Palestine struggle, symbolizing the promise of a homeland, identity and belonging for both sides. Among other things, the desert home study shows that international law is not removed from, but rather is deeply enmeshed in, the politics of home.

At the Heygate Estate, we see something quite different happening in terms of international law's homemaking work. Here, international law intervened to *redress* (rather than *constitute*) a home problem, in contrast to the two previous case studies. The city home study traced the response from human rights to the financialisation of home in London. The Heygate was demolished as part of a regeneration scheme and has since been replaced by a high-end residential and commercial property development. Most former residents, dispersed from their homes on the estate, cannot afford to return to the area having been 'priced out' of the city. The United Nations Special Rapporteur on the Right to Adequate Housing argued that regeneration schemes in London epitomise financialisation and that the transformation of *home* into *assets* caused by financialisation is a violation of the right to housing which should be remedied. However, the loss of home – unlike housing – is not easily remedied, at least not in the ways envisaged by the Special Rapporteur. For Heygate residents, home on the estate was intimately associated with identity and collective memory, among other meanings of home. Constrained by the framework of rights and remedies, the Special Rapporteur could not articulate the more expansive meaning of home that Heygate residents described. As such, and despite the best efforts of the Special Rapporteur, the city home study reflects on a situation in which home interests are elided in international law.

At Boeung Kak Lake and in Area C, international law's 'homemaking' work involves producing or shaping particular experiences, conditions and meanings of home. I called this *constitutive*

homemaking work. By contrast, at the Heygate international law was involved in *remedial* homemaking work. Nonetheless, we can say that even in its remedial mode, international law still generates particular ideas about home. For example, while attempting to remedy the problem of financialisation the Special Rapporteur at the same time constructed an understanding of *home* as *housing*, as a right and an entitlement, rather than as something with meaning and value in itself. Whether international law engages with home in its constitutive or remedial mode, the case studies I have deployed in this thesis illustrate how the meaning, conditions and experience of home is shaped, mediated and interpreted through international legal concepts, ideas, practices and procedures. This supports the central thesis that international law is *already present* at home and does homemaking work.

My observations here also suggest that there are a number of different starting points I might have chosen for my analysis in the case studies. The lake home and desert home studies, for instance, could have been considered from the perspective of international law's remedial homemaking work, rather than its constitutive work. Many international organisations (including human rights bodies and environmental agencies) and United Nations mandate holders (such as the Special Rapporteurs) have intervened in Cambodia and Palestine to redress and ameliorate problems to do with home and housing. Likewise, my analysis in the city home study might have considered the role of international law in constituting the problem of financialisation for home. This might have, for example, pointed to the operation of international financial law – or the lack of it – in facilitating the privatization of housing provision. Insofar as these alternative approaches to analysing the case studies might have bedded down particular visions of home in international law, this would illustrate just some among other aspects of international law's homemaking work. In sum, I am alert to the fact that there could have been other paths for investigating how international law engages with home than those I have chosen. This in itself reflects the dynamic, productive and problematic nature of international law's homemaking work – and indicates the potential and need for a range of other studies in future.

6.4 Qualifying international law's homemaking work

While classifying homemaking work as either constitutive or remedial is helpful, it tells us little about the type of home that results from international law's interventions. In other words, in what ways exactly is home altered, lost or destroyed when international law does its homemaking work? It seems necessary to address this question – and to go beyond simply classifying

homemaking work as either constitutive or remedial – if what we are ultimately concerned about is home and if we agree that the conditions of home and home life (positive and negative) matter in the broader scheme of human experience, of being and belonging in the world. Of course, addressing that question should also give rise to richer, more detailed insights about the nature of international law’s homemaking work and more generally about the nature and operations of international law in everyday life.

In doing so, I am conscious of the concerns raised by critical geographers about romanticizing time-space when, in examining deprivations of home, we fail to define or qualify the sort of home that is destroyed and the nature of what is lost.¹³ To counter that risk, Brickell suggests that the task of qualifying the home lost or destroyed requires looking ‘beyond its material form’¹⁴ to consider the many dimensions of home, including its sensory and temporal elements.¹⁵ These injunctions from critical geographers are relevant for international law scholars – not only in studies of home, but in any other investigation of international law in everyday life – because they call attention to, and demand examination of, how loss and destruction takes place in ‘everyday’ as well as in ‘exceptional’ contexts. This resonates with the challenge that has been set for international lawyers (and which I discussed in Chapter One) to shift our gaze beyond the exceptional, high-level events, cases and crises that are usually the focus of scholarship and policymaking in the field and to instead consider what the ordinary, everyday life of international law looks like.¹⁶

Taking up the approach from critical geographers, I want to turn now to examine in more detail what types of destruction and what sorts of losses of home were encountered in this thesis. First of all it is clear that each of the three case studies charted situations in which homes were altered, disrupted and/or destroyed. More specifically the studies demonstrated that home destruction takes many forms: from the sheer physical demolition of home (Boeung Kak Lake, Area C and the Heygate Estate) and displacement from home (Boeung Kak Lake, the Heygate Estate) to other more intangible but no less devastating forms of destruction, such as exile at home and the

¹³ For example, Christopher Harker in ‘Spacing Palestine Through the Home’ (2009) *Transactions of the Institute of British Geographers* 320.

¹⁴ Brickell, above n 11, 6.

¹⁵ The sensory includes the haptic elements of home. On the haptic and other sensory dimensions in relation to law, see Linda Mulcahy, Emma Rowden and Kirsten Orr, ‘Introduction: Making Sense of Law – Pungency, Feel and Rhythm’ (2015) *Law, Culture and the Humanities* 1.

¹⁶ Hilary Charlesworth, ‘International Law: A Discipline of Crisis’ (2002) 65(3) *Modern Law Review* 377, 391.

destruction of identity associated with home (Area C) and the severing of connections to family and culture (Boeung Kak Lake), community and urban life (the Heygate).

One thing that emerged out of my analysis of conversations with residents at Boeung Kak Lake and in Area C and the Heygate residents' testimonies, is that home destruction, and losses of home, are not felt as fixed, finite events – with a start and end point – but rather as ongoing experiences. Residents spoke of both the immediate, physical loss and destruction of home as well emotional and psychological suffering that continued long after the event. In the case of Area C, the destruction of many Palestinian homes is an ongoing process under the oppressive conditions of occupation, which are designed to weary, frustrate, undermine and gradually expel Palestinians from their homeland. Their suffering is experienced everyday, and the loss of home is something experienced from inside their homes.

That loss and suffering in relation to home strikes in affective and emotional as well as in physical ways and that the loss can extend over time may be surprising because this is contrary to the way we usually think about a loss as a specific event that is complete and past. However, it is an important detail when thinking about the nature of international law's homemaking (and home-unmaking) work. It says something about the spatiality and temporality of that work – that it is not bound but rather extends over time; and about the dynamism, productivity and heterogeneity of international law – that it leaves its traces in different places, times and scales. Looking more closely at the nature of home destruction and losses of home opens up these insights about the characteristics, qualities and capacities of international law in its homemaking work, beyond whether that work is constitutive or remedial. Indeed, it is possible to imagine that international law might operate in similar ways in relation to other objects or situations, and not just home. This suggests that we need to observe and analyse the spatiality and the temporality of international law's presences (and absences) in everyday life.¹⁷

That losses of home are not fixed is consistent with the complex, layered and multifaceted definition of home I have used in this thesis. On this view, home may be as much as memory drawn from the past as the physical structure of a dwelling experienced in the present. Jansen and Löfving remind us that people whose homes have been destroyed often do not think of them as

¹⁷ Just as socio-legal scholars have begun to do: see seminal work by Mariana Valverde, *Chronotopes of Law: Jurisdiction, Scale and Governance* (Routledge, 2015).

lost homes (that is, irretrievably past) but instead as *previous* homes.¹⁸ Previous homes are those homes from the past that can be powerfully recalled to memory. So too then, can the experience of losing a home and the destruction of home live on in the mind and its effects continue into the present.¹⁹ While such memories of previous homes can haunt and terrorise, they might also be drawn on as a source of identity, as well as a foundation and resource for building a new home. The memory of a lost or destroyed home might also turn wistfully into nostalgic yearnings for home – some that are never meant to be realised, like Bachelard’s dream home,²⁰ and others that are tragically altered on returning home, as in Odysseus’ longed-for but bloody return to Ithaca.²¹ This discussion furnishes the point I made earlier that international law’s homemaking work takes place in different places and at different times, and resonates in multiple forms – physical, affective, imaginary and memorial.

The idea that a previous home continues to exist in memory, and may be just as real as a physical home, became apparent to me during fieldwork. Many Boeung Kak Lake residents have left the housing relocation site at Damnak Trayeong to return to squat at the lake, at considerable risk to their lives. They have done so because, as they perceive it, home is there: their identity and sense of self, family and culture emanate from home at the lake. Even while their previous homes no longer physically exist at the lake, the memory of the lake home continues to ground their everyday lives. In a similar vein, Area C residents, despite the oppressive conditions of the occupation, mostly choose to remain in their homes rather than leave. They do so because – again as they perceive it – this is where home is; and also because for many residents alternatives are either unavailable or worse. Finally, we need only look to the Heygate residents’ campaign cry – ‘Heygate was home’ – as a succinct expression of the idea that a previous home continues to live in memory and exerts a powerful force on the organisation and motivation of daily life.

In these ways, the case studies in this thesis indicate the potential for an empirical approach to investigating the ways international law engages with home across multiple scales and places. More generally, the studies can be used to demonstrate how international law constitutes everyday life in very material ways – such as through the physical destruction of home – but also in more affective ways, for example by shaping how losses of home are understood and how

¹⁸ Stef Jansen and Staffan Löfving, *Struggles For Home: Violence, Home and the Movement of People* (Berghahn, 2009) 15.

¹⁹ Peter King, *The Common Place: The Ordinary Experience of Housing* (Ashgate, 2005).

²⁰ Gaston Bachelard, *The Poetics of Space* (Maria Jolas trans, Beacon, 1962, 1992 ed), 61.

²¹ See my discussion at page 31ff.

memories of home influence the experience of habitation. Deployed as an analytical tool, the concept of home makes visible the homemaking practices of international law that would otherwise remain hidden.

Finally, the task of qualifying the nature of international law's homemaking work, and the loss and destruction of home this involves, highlights that home is as much a legal entity as it is a social, political and cultural one. At Boeung Kak Lake, the World Bank's land titling project re-characterised home in terms of property rights and made home (albeit implicitly) the subject of international regulations on land deals. In Area C, the law of occupation drew home into its logic through the duty towards ordinary life and constructed home against a set of binary oppositions: legal/illegal, permanent/precarious, inside/outside, light/dark, safe/dangerous, settler/Palestinian. At the Heygate, the consideration of home through the lens of the right to housing affirmed that home is a site of legal as well as political and social contestation and debate.

Together, the empirically-informed studies in this thesis indicate that home cannot be – if it is ever was – only associated with the private and intimate, social and cultural domains of everyday life. Instead, home should be understood not only as a site of power, contestation and debate in itself but also as central to wider networks of power – legal and political, social, cultural, historical and geographical. In these networks, the private and intimate is also public and visible, and ideas of the local are bound up with the international, the transnational and the global. International law is part of this unfolding. Through its norms and rules, actors and processes, international law shapes home in specific and visible ways.

6.5 The problem of home for international law

One of the aims of this thesis was to bring international lawyers' attention to home. It did so by investigating, in the context of the case studies, the ways in which international law engages with home and does homemaking work. In this I suggested that home is not only a subject of analysis, but can also be deployed as an analytical tool in itself. That is, when we look through the lens of home, a terrain of experience opens up that is not visible in, or cannot be expressed by, international law. This might invite international law scholars to adopt the concept of home in their work to explore other situations or cases.

However, as I mentioned at the outset of the thesis, up until this point home has been neglected by scholars and policymakers in the field. This raises a number of problems which further work

might seek to resolve. The first is that the vast literature on home in other disciplines has not been brought to bear on international law. I surveyed that literature at some length in Chapter One, drawing it together in five key themes of home, which I then threaded through the analysis in Chapters Three, Four and Five. Yet the absence of other scholarship beyond this thesis bringing home and international law together is problematic precisely because, as the case studies in those chapters show, international law is in the business of homemaking. Making visible the nature, scope and implications of international law's engagement with home, and responding to this, could be done by connecting the wider home literature to international law and deploying the conceptual and analytical framework that literature offers to examine and critique international law's homemaking in many different contexts and situations, beyond those I have explored in this thesis.

A second problem follows from the first. The case studies demonstrate that while international law sees things one way, those same things can appear quite different when we look through the lens of home. The consequences of this dissonance are worrying. At Boeung Kak Lake, in Area C and at the Heygate Estate, international law framed the issues in terms of development, occupation, housing, land, property and territory. It offered solutions in the form of resettlement, replacement, relocation, rehousing and rights. Yet the perspective from home involves dislocation, displacement, dispersal and destruction, the loss of belonging, identity and place in the world, and yearning. This complex conceptual terrain opened up by the concept of home is elided or ignored by scholars and lawmakers in the field. Home interests are not included in discussions about the duties of occupiers or the activities development agencies nor are they part of human rights obligations. Home puts an accent on ordinary life; it poses questions about being, belonging, identity and memory, among others qualities and characteristics that allude to the distinctiveness of home. It raises problems, interests and concerns that are not easily, or ever, 'solved' in the way that international law envisages.

To some extent this is a problem of frame. The Westphalian frame through which international law sees the world is centred on the territorial nation state. This is challenged by – or at least is at odds with – the frame of home, which is not so limited by the territorial or conceptual boundaries of the nation state. As we have seen in this thesis, home is relatively unbounded: it spans the realm of the intimate, as well as the national, the international and the global, and everywhere in between. The definition of home I have adopted in this thesis also dissolves the boundaries traditionally ascribed to home – the binary boundaries of private/public, personal/political,

inside/outside, safety/danger, included/excluded etc. The boundlessness associated with home is also reflected in ideas such as homeland and in the notion that home is both a physical place and a psychological space. In other words, because the frame is so different, the dissonance between home and international law should not surprise us. But it should still worry us, foremost because that dissonance comes at the cost of continuing deprivations of home. But it should also concern us because international law is poorer for lacking the conceptual richness that home could bring to it and, relatedly, because the concept of home can reveal some of the limits of the international legal system by unsettling the assumptions that underlie its ideas and principles.

A third problem is that the absence of any scholarly or other account of home in international law, as well as in international legal policy, makes it easy for home interests to be trivialised, dismissed or ignored where this is convenient.²² This is problematic not least for people affected by problems to do with home. Drawing from her research on home in the United Kingdom context, Fox gives the example of how the focus in national immigration policies on the ‘problem’ of ‘pull factors’ such as housing for asylum seekers has the powerful effect of obscuring and denying the human claim for home.²³ Home interests are also often dismissed where they conflict or compete with claims that carry commercial interest. For example, the crises in the housing and financial sectors have led to disputes between creditors and the occupiers of domestic property following the default of a debtor and a lender’s pursuit of repossession or foreclosure.

The case studies in this thesis reflect how home interests can be set aside, ignored or dismissed when they conflict with other interests within international law. At Boeung Kak Lake, residents’ interests in their homes collided with – and were subordinated to – the World Bank’s agenda for development. In Area C, residents’ interests in their homes are outweighed by Israel’s claims to ‘military necessity’ and the security of settlers, which it uses international law to justify. At the Heygate, residents’ reasons for wanting to stay in their homes on the estate competed with the economic opportunities of regeneration and the pressure on councils to generate income, while the response from human rights focused on financialisation and housing provision, leaving residents’ home interests largely unheard. These are situations in which international law is involved in situations in which home interests are ignored or deprioritized, whether this happens intentionally or otherwise.

²² In the context of UK domestic law, see further Fox O’Mahony, above n 3, 156.

²³ Ibid.

This may have something to do with the fact that home is said to be an intangible phenomenon and thus may be less susceptible to the economic rationalities that increasingly underline the international legal agenda, especially in the context of development and human rights.²⁴ But sometimes it may also simply be convenient to ignore home interests, such as where these are represented as too expensive or trivial, fanciful or difficult, or even too revealing. These reasons in turn support and become part of a justificatory discourse in which home interests can be dismissed or ignored.²⁵ Perhaps it may also be that international law shies away from home in a conscious retreat from the capacity of this concept to encapsulate human experience, and from the difficulty (for international law) of accounting for or explaining the different home situations and problems it is embroiled in.

A final concern relates to the idea that home is always a mediated experience. That is, there is a sense in which there is never unmediated access to home and that the meaning of home is always filtered. Doreen Massey has made this point in the context of her discussion of urban space and transformations. There, she writes that the ‘place called home was never an unmediated experience.’²⁶ While international law’s role in mediating the experience of home is under-acknowledged, I have used the case studies in this thesis to draw attention to the work that it does in casting, shaping and defining home and in other ways intervening at home. The lake home study illustrated how international law is involved in developing land markets in post-conflict and transitional states and in the realignment of territory and authority that results from the international regulation of large-scale land deals, with devastating consequences for home.²⁷ The desert home study showed how international law creates spaces of conflict, affecting where people can (and cannot) make home and in which the day-to-day conditions of home life are

²⁴ On this idea, see further (among others), David Trubek and Alvaro Santos (eds), *The New Law and Economic Development: A Critical Appraisal* (Cambridge University Press, 2006); Bard Andreassen and Stephen Marks (eds.), *Development as a Human Right: Legal, Political and Economic Dimensions* (2007, 2nd ed 2010, Intersentia); Jennifer Beard, *The Political Economy of Desire: International Law, Development and the Nation State* (Routledge-Cavendish, 2007) and Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011), chapter 3. See also Paul Cammack, ‘Attacking the Poor’ (2002) 13 *New Left Review* 125.

²⁵ For example, it is likely that ‘home’ might be considered too vague a concept to be given form and content in human rights norms. This is especially so considering human rights’ current pre-occupation with quantification, in which human rights realization is increasingly a matter of measuring progress towards clear, numerical, fixed goals. ‘Home’ cannot be so easily put into numbers. It is interesting to consider how this reflection on home may in turn give rise to doubt about the objectivity of other human rights indicators. In this way, perhaps we can say that home is ignored because it is too difficult *and* too revealing. See further Engle Merry, above n 8.

²⁶ Doreen Massey, *For Space* (SAGE, 2005), 164.

²⁷ See further Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton University Press, 2006).

oppressive. The city home study explored international law's intervention, through human rights, in debates about how financial processes are reordering home in the city and the exclusion of poor and marginalized residents. These are just some of the settings in which international law mediates the experience of home and contributes to contemporary anxieties about home, but to which little attention has been paid so far. This thesis provides a starting point.

6.6 Studying the small places

As I noted in Chapter One, international law scholars turning to the local have begun tracing how the norms and practices of international law enter into and manifest in the 'small sites' and places of everyday life.²⁸ Studies of international law and everyday life indicate that this body of law is not only concerned with the 'exceptional' and 'extraordinary' cases, crises and events, but that it also operates in the realm of the ordinary, the quotidian and the day-to-day. This challenges traditional perceptions of international law, particularly the idea that home and the domestic arena are irrelevant to it and separate from it. In this thesis I have argued that home *is* central to everyday life and a key site for articulating individual and collective identity. I have shown, through the case studies, that home is also one of the small sites and places in which we can find international law at work. By raising some of the problems of the relationship between home and international law in the previous part of this chapter, we begin to make a case for why critically examining that relationship matters. I elaborate that here. Rather than being a 'chimerical' concept,²⁹ I argue that home raises real questions and presents a set of challenges that scholars should engage with, especially (but not only) those scholars interested in the everyday life of the international legal system.

At a time when home is increasingly insecure, uncertain and contested, and when the conditions for home are being rapidly – and in many cases dramatically – redefined by different phenomena (from the global financial and housing crises to the pressure of development and the persistence of conflict) research on home today matters in a different way, with a different urgency and set of priorities, to in the past. The challenge for researchers, however, is to prove theoretically and empirically the 'intuitively obvious proposition' that our homes are the foundation of our lives and thus warrant our attention.³⁰

²⁸ Sally Engle Merry, 'Anthropology of International Law' (2006) 35 *Annual Review of Anthropology* 99, 111.

²⁹ Lorna Fox, 'The Meaning of Home: A Chimerical Concept or a Legal Challenge?' (2002) 29(4) *Journal of Law and Society* 580.

³⁰ Fox O'Mahony, above n 3, 158.

The wider scholarly literature on home that I discussed in Chapter One indicates how researchers are responding to that challenge. In particular, many recent studies have shown that home is a key determinant of health³¹ and that the embeddedness of people in their homes is linked to wellbeing.³² This has led Fox to argue that:

It is this relationship between the person (the occupier of the home, the “consumer” of housing) and the property (the material physical structure that provides the roof overhead) which marks “home” out as different from other types of property. And it is this concern with the relationship between the person and the property that sets “home” studies apart from property or land law, on the one hand, and even to some extent from housing, with its emphasis on provision, on the other.’³³

National regimes of property law, land law and housing law focus on the competing claims of individuals to the ‘object’ of property. That ‘object’ is usually represented as a neutral space – just as an architect might describe a building as a ‘container’ – rather than a place inscribed with meaning for inhabitants, such as a home.³⁴ Home interests are not present in those legal regimes. At best, they are sidelined or obscured from view. I made a similar observation earlier about how home interests go unnoticed in international law; often, the focus is instead on property, land, housing and territory and issues related to these, such as economic development, military security and housing finance. At Boeung Kak Lake, the World Bank’s land titling project reflects how the international law of development relies heavily on property rights and land marketisation and denies alternative representations of property and land as homes with social and cultural meaning. In Area C, we saw how the international law of occupation can be Janus-faced: both imposing a duty on an occupier to restore or maintain ‘ordinary life’ in the occupied territory and authorising an occupier to act in ways that undermine ordinary life. At the Heygate Estate, we saw how debates about the right to housing, while often sensitive to the social value of having a roof over one’s head, still remain characterised by a concern for provision and managing stock in a world of limited resources. Indeed, even while the work of the Special Rapporteurs and right to housing scholars does much to emphasise the importance of incorporating social and personal meanings

³¹ For example see Mary Shaw, ‘Housing and Public Health’ (2004) *Annual Review of Public Health* vol 25.

³² For example see Rachel Bratt, ‘Housing and Family Well-being’ (2002) 17(1) *Housing Studies* 13

³³ Fox O’Mahony, above n 3, 157.

³⁴ On the distinction between space and place, see Massey, *For Space*, above n 26, 5-6 and generally Tim Cresswell, *Place: A Short Introduction* (Wiley-Blackwell, 2004).

within right to housing discourse,³⁵ the concepts of ‘housing’ and ‘home’ remain neither distinctive nor synonymous in that work.³⁶ Those authors have, so far, missed the opportunity to enrich and extend our understanding and application of the right to housing to the conceptual terrain of home.

Part of the challenge of ensuring that arguments based on home interests have purchase in international legal debate and scholarship lies ‘with the fact that we are dealing with environmental intangibles – attachment, grief, loss – which are immeasurable, difficult to articulate, and thus easy to ignore’.³⁷ To prove the proposition that homes matter to scholars of international law, the vast theoretical and empirical work on home from scholars in other disciplines needs to be brought to bear on international law. That body of work can be applied as an organising framework that is both conceptual and analytical for interrogating international legal doctrines, decisions, actions and operations. Application of this work in the field of international law will help reposition home from being an ‘essentially subjective phenomenon... not easily quantifiable... not readily susceptible to legal proof’ to being an something that has meaning for inhabitants and which cannot be dismissed or ignored by international law scholars and policymakers.³⁸ It will also address the conceptual challenge of articulating the authentic relationship between people and their homes and enfoldng this among the interests and problematics of international law.

One example of how the attention increasingly directed towards home in critical academic work could be harnessed by international law scholars relates to recent work that has brought displacement and dispossession in domestic public housing contexts into focus. In Danny Dorling’s critique of the public housing sell-off in the United Kingdom, Lisa McKenzie’s ethnographic work on the St Ann’s estate in Nottingham, and Matthew Desmond’s granular account of the human experience of repossession, foreclosure and eviction in the United States, all three authors powerfully articulate the personal and social meaning and significance of home

³⁵ Padraic Kenna, *Contemporary Housing Issues in a Globalized World* (Ashgate, 2014); Padraic Kenna, ‘Globalization and Housing Rights’ (2008) 15 *Indiana Journal of Global Legal Studies* 397; and Jessie Hohmann, *The Right to Housing: Law, Concepts, Possibilities* (Hart Publishing, 2013).

³⁶ Fox O’Mahony, above n 3, 157.

³⁷ John Porteous, ‘Domicide: The Destruction of Home’ in David Benjamin and David Stea (eds), *The Home: Words, Interpretations, Meanings and Environments* (Avebury, 1995), 153. See also my comment at n 24 in this chapter.

³⁸ Fox, above n 29.

for public housing tenants.³⁹ In doing so, they rebalance economic analyses of housing and finance with increasing awareness of the costs for individuals, communities and societies of losing home. Work of this nature is especially important for making the reality of home meanings count where they matter – and where they may matter most. As Desmond poignantly illustrates, poverty is a day-to-day struggle for survival in which it is apparently ordinary things like having a home that become the primary focus of peoples’ limited energy and resources, and in which efforts to find and sustain homes are often counteracted by systematic bias and institutional failure.

It is significant that in one of the most recent treatments of the current housing ‘crisis’ in the United States and the United Kingdom, *In Defence of Housing*, David Madden and Peter Marcuse frame their book in terms of *housing* but the concerns that drive the book lie in the concept of *home*. In the closing lines, the authors emphasise this distinction and underline the importance of home:

The contemporary world already possesses the technical capacity and material resources to solve the housing problem. The question is whether all who are badly served by the status quo can unite to create a truly humane system, where housing is not real estate but is, instead, home.⁴⁰

This critical work responding to the local effects of declining welfare states and the broader housing and financial crises indicates that home and home meanings matter in national debates about equality, dignity, rights and the role of the state. These issues also concern international law scholars: the modern international law movement is founded on aspirations to fulfill and respect those same ideas and relies on the commitment of states to them. There is good reason, then, for international law scholars to draw from the debates about home at the national level to inform their work and conversations at the international level. While it would be path-breaking to bring home within international legal debate in this way, at the same time such a move would simply continue the current trajectory of international legal scholarship towards the local and the everyday, attentive to the mutual constitution of the local and international, and how international

³⁹ Daniel Dorling, *All That is Solid: The Great Housing Disaster* (Allen Lane, 2014); Lisa McKenzie, ‘Getting By: Estates, Class and Culture in Austerity Britain’ (Policy, 2015); and Desmond, above n 2.

⁴⁰ David Madden and Peter Marcuse, *In Defence of Housing* (Verso, 2016) 218.

law unfolds as part of – and not removed from – a global legal order that comprises laws, concepts, norms and rules operating at different scales.

There are other reasons why paying attention to home as international law scholars matters. As the case studies in Chapters Three, Four and Five illustrate, looking through the lens of home allows us to ask and to examine questions that are not always visible to, or deemed relevant by, international law; for example, questions about the social and political effects of losing home and the historical precedents of home destruction. Asking questions about home reveals the tension in international law between the stories that are told and those that are not told. We can also start to inform what stories it can tell and what sorts of responses are possible. The concept of home opens up an opportunity to reorient international law in terms of the experiences it can articulate. Importantly, this might expand international law's capacity to acknowledge and respond to important and urgent human experiences of loss, suffering and struggle and to enliven the emancipatory potential of home.

Another reason why home should matter for international law scholars is that this field of law – and in particular, the subfield of human rights – claims to protect citizens against abuses of state power and abuses arising from the alliance of state and private power. Among the founding documents of the modern international law movement, the 1948 *Universal Declaration of Human Rights* (UDHR)⁴¹ committed states to extending human rights and fundamental protections to all persons, with special provisions made to protect vulnerable populations including women, children and the poor. The promises of the UDHR were later enshrined in the twin covenants of 1966, the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*.⁴² Home should matter for international law scholars because deprivations of home fall most heavily on the vulnerable groups identified as requiring special protections in those covenants and because deprivations of home can often be traced to states' overreach and abuse of power. As Leeke Reinders and Marco Vander Land argue:

...disruptions in the physical or social environment seem to hit those with few means the hardest. Because of restricted means and few alternative options, for some social groups such as elderly people and low-income households, home often means a fixed

⁴¹ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

⁴² UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3 and *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

geographically delineated place. Displacement or changes in the social and physical environment have most impact on them, as they cannot move, while others can and do.⁴³

At Boeung Kak Lake, in Area C and at the Heygate Estate, it is the least well-resourced residents who have been most affected by disturbances and deprivations of home and who have the least options (or least desirable options) to act in response.⁴⁴ After their eviction, Boeung Kak Lake residents were relocated to the outskirts of Phnom Penh in extremely poor housing conditions. Few could choose to live elsewhere and those who have returned to the lake face being evicted again, as well as abuse, harassment, imprisonment, and the environmental hazards of living on flood-prone land without clean water and sanitation. Many Heygate residents have struggled to find new homes within reach of their former community, friends, schools and workplaces, having been priced out of central London. Area C residents face a different dilemma: to leave home and homeland would mean exile, while to stay means exile at home. The need for international law to pay attention to, raise questions about, and engage with home in order to adequately respond to those most vulnerable to deprivations of home is impressive. The case for doing so is even more compelling where international law is complicit in deprivations of home, or home-unmaking, as I have called it in this thesis.

Finally, international law scholars should be interested in direct and indirect attacks by states on home, and abuses of home by private persons who are empowered by states, especially where this has historical precedents.⁴⁵ Though the case studies in this thesis are not precisely of that kind, they will for many readers invite parallels with previous twentieth century upheavals and episodes of intensive social reordering in Cambodia, Palestine and London which had the defilement of home as central to their rationale. Under the Khmer Rouge era, thousands of private homes across Cambodia were demolished and replaced by the communal buildings from which Democratic Kampuchea was built. Domestic homes and family life had no place in the vision of

⁴³ Leeke Reinders and Marco Vander Land 'Mental Geographies of Home and Place: Introduction to the Special Issue' (2008) 25(1) *Housing, Theory and Society* 1, 8.

⁴⁴ An important correction to this is that the weakest are not necessarily without defence, and in some cases, have strong defence. The BK13, for example, have been relatively successful in organising and campaigning at the lake. The weakest are not also necessarily the poorest. Evicted Boeung Kak Lake residents for the most part had work, education, family and community support.

⁴⁵ While being cautious not to 'romanticise' time-space by recalling patterns of destruction: see Harker, above n 13.

the new state.⁴⁶ The political geographer James Tyner argues that from the perspective of the Khmer Rouge, Cambodia needed to cease to exist, physically and symbolically, for the new state to be born, and this was achieved by destroying homes.⁴⁷ In Palestine, home has been at the heart of struggle for more than half a century. Palestinian homes since at least the British mandate era have been the object of irredentist strategies and their destruction continues to be powerfully symbolic in the struggle for national identity between Israelis and Palestinians.⁴⁸ Lastly, London's public house building era in the mid twentieth century was pre-empted by a period of slum clearance. This uncompromising and sometimes violent reconfiguration of home for the poor and the working class did benefit many by improving housing conditions.⁴⁹ However many people also suffered from losing home and close-knit community.⁵⁰

International law, and international law scholars, apprised of these histories of the loss and destruction of home, in each case caused directly or indirectly through the actions and decisions of states and national governments, should be interested in and concerned about contemporary attempts by states to effect cultural, economic and ethnic cleansing by using domestic architecture – the home – as its medium. Scholarly research on home in international law matters: it can equip the domain of international legal policy and practice with the conceptual and analytical apparatus it needs to acknowledge and respond to struggles over home, and even, one imagines, to engage in positive homemaking work.

6.7 Methodology for studying international law in everyday life

In Chapter Two, I outlined the three methodological influences that informed my work in this thesis. These were, first, an empirical approach; second, a global socio-legal perspective; and third, the tradition of critical geography. I explained my choice to adopt these influences and why they were suitable for investigating questions about how international law engages with home.

⁴⁶ See Katherine Brickell, 'Geographies of 'Home' and Belonging in Translocal Siem Riep, Cambodia' in Katherine Brickell and Ayona Datta (eds), *Translocal Geographies: Spaces, Places and Connections* (Ashgate, 2011) 23-38.

⁴⁷ James Tyner, *The Killing of Cambodia: Geography, Genocide and the Unmaking of Space* (Ashgate, 2008).

⁴⁸ See especially Michael Fischbach, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (2003).

⁴⁹ For overview see Jim Yelling, 'The Incidence of Slum Clearing in England and Wales 1955-85' (2000) 27(2) *Urban History* 234.

⁵⁰ See seminal work on the effects of slum clearance in London by Michael Young and Peter Willmott, *Family and Kinship in East London* (Penguin, 1969, 2007).

Beyond that specific set of questions, however, how might these methodological influences contribute to wider discussions in the field of international law in everyday life?

Let me begin this part of the chapter by re-emphasising that one of the aims of this thesis was to draw attention to home, having been overlooked by international law scholars. Yet, from that aim others emerged. One of these was to explore the potential for an empirical approach to the study of international law in everyday life. As I indicated in Chapter Two, a number of scholars in the field have used empirical studies to investigate the everyday life of international law, such as Luis Eslava's portrayal of international development in Bogota⁵¹ and Annelise Riles' analysis of the international financial system in the context of the Tokyo stock market.⁵² I noted that while some of these scholars use ethnographic techniques, others do not, preferring for example case studies.

Thus by 'empirical approach' I alluded to the range of different methods available for gathering data that are attentive to the fine-grain of social phenomena, which invite analysis and interpretation of meaning, and which yield detailed insights. In my own study I conducted non-in depth empirical fieldwork, deploying multiple case studies set in different places and involving repeated site visits, which in turn allowed me to notice and trace change over time. Where my methodological design lacked the depth of a traditional ethnographic study (characterised, in particular, by a sustained period of time spent in one place), it benefitted from the breadth of insight garnered by looking across a wider field and taking into account a variety of sources and influences. An empirical approach then, was particularly apt for this study because it helped in the task of opening up home as a complex, layered and multifaceted concept. It was also appropriate for a preliminary study of international law and home where I sought to make connections between the two and to lay the foundations for further enquiries. Future work might involve going into greater depth in one of my case studies, or investigating new case studies, or comparing case studies, among other possibilities.

Many of the features of the empirical approach that I have used to study home and international law lend themselves to other studies of international law in everyday life, beyond the home. 'Everyday life', as I argued in Chapter One, comprises the diversity of places, actors, objects, experiences and processes through which the day-to-day business of living unfolds, as well as

⁵¹ Luis Eslava, *Local Space, Global Life: The Everyday Operation of International Law and Development* (Cambridge University Press, 2015).

⁵² Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (University of Chicago Press, 2011).

being an ideological system in itself.⁵³ Its study consequently demands the sort of agile and dynamic possibilities for gathering data that an empirical approach provides. The relative newness of the field of international law in everyday life means that the scholarship is exploratory. This makes empirical work particularly well-suited, because it is open to an array of sources that extend beyond international law's usual repertory of cases, treaties and reports. By allowing researchers to explore the field in a way that takes into account the presence and operation of law at different scales – local, national, regional, transnational and international – an empirical approach grounds the conceptualisation of international law as one part of a larger system of laws that together comprise a global legal order.⁵⁴ It also disrupts international law's traditional presentation of itself (and some scholars' perception of it) as a law of the 'above and beyond', independent of domestic law and removed from the mundane practices of daily life. These are some of the types of enquiries and moves that a new field of scholarship, such as international law in everyday life, should be oriented towards. Empirical work may assist in developing the scholarship in that direction.

In a similar vein, the global socio-legal perspective I adopted in this thesis could also be deployed in other studies of international law in everyday life. As I explained in Chapter Two, taking a global socio-legal perspective means acknowledging that international law is enmeshed with wider social forces and that it is not an autonomous body of law. While the global socio-legal perspective has primarily been developed by socio-legal scholars, I argued that international law scholars have much to learn from their work.⁵⁵ As socio-legal scholars increasingly turn to the global to take account of legal and social ordering beyond the local and national level, international law scholars are turning to the local to understand how the international legal system is manifest in the local and how it shapes, and is shaped by, the practices of everyday life. While these scholars come at it from different directions, socio-legal scholars and international law scholars are attentive to the same thing – the imbricated nature of law in everyday life, of local, national, transnational, regional, international law and custom entwined.

The global socio-legal perspective was particularly relevant in my study of international law and home. Home is one of the key sites of everyday experience and a place where notions of local and

⁵³ See among others Mariana Valverde, "'Which Side Are You On?'" Uses of the Everyday in Sociolegal Scholarship' (2003) 26(1) *PoLAR* 86 and see references in Chapter One.

⁵⁴ See further William Twining, *General Jurisprudence: Understanding Law from a Global Perspective* (Cambridge University Press, 2000) and my discussion in Chapter Two.

⁵⁵ See further Eve Darian-Smith, *Laws and Societies in Global Contexts* (Cambridge University Press, 2013).

global, public and private, inner and outer, are mutually constituted. Taking a global socio-legal perspective would be equally valuable in other studies of international law in everyday life. It may, in particular, help address some of the concerns of working with the concept of the ‘everyday’ that I raised in Chapter One. One concern is that uncritical accounts of the ‘everyday’ presume a fixity, stability and completeness that fails to reflect the reality of everyday life. Everyday life is, by and large, in flux, unstable and unfinished. The risk is that the tendency to abstraction in the ‘everyday’ flattens – or generalizes – the diversity of human experience. In turn, the ‘everyday’ can conceal important differences, such as peoples’ different experiences of the justice system or of poverty, or the effects of inequality. For international law scholars, there is a temptation to valorise or ennoble the ‘everyday’ – again holding it up as a fixed, secure and unquestionable space that admits no difference and so can be used to obscure or elide imbalance and inequity. It is also arguable that claims to the ‘everyday’ and the ‘local’ by scholars may, consciously or unconsciously, be a way of reacting to the colonial and imperial origins of international law and its pre-occupation with universal ideals. But doing so might in fact only validate and accentuate those associations.

Taking a global socio-legal perspective might address these concerns. First, it compels us to view social phenomena as taking place on a varied and textured landscape and to dissect the legal character of the ‘everyday’ accordingly: that is, as a composite of different laws and legal systems operating simultaneously. As such, the risk of uncritically deploying the ‘everyday’, and generalising everyday experience, may be lessened. Second, taking a global socio-legal perspective may reinforce the growing consensus among interested scholars that international law is a refraction of the complexities of the material and social worlds. On this view, international law enters into, and emerges from, a variety of different contexts – domestic, local, national, regional, global – and has wide-reaching consequences in places that previously were thought to be outside of its jurisdiction. Third, it encourages scholars to develop the field not only by identifying the constitutive links between international law and other laws and legal systems operating in everyday life, but to re-articulate the nature of those links, taking account of contemporary forces and events.⁵⁶

The third methodological influence I drew from in the thesis – the tradition of critical geography – might also contribute to discussions in the field of international law in everyday life. Critical

⁵⁶ On the dynamic between international law and ‘events’, see Fleur Johns, Richard Joyce and Sundhya Pahuja (eds) *Events: The Force of International Law* (Routledge-Cavendish, 2011).

geography involves mapping phenomena across different physical and affective landscapes with a view to critically understanding the catalysts, causes and consequences of those phenomena. It requires unsettling and problematising existing assumptions (such as, in this thesis, the idea of home as a haven) and showing how those assumptions often serve to shield from view negative events and experiences (such as violence in the home).⁵⁷

While I have used a critical geographic approach to investigate some of the ways international law engages with home, it might equally be applied in other enquiries relating to international law in everyday life. One can imagine, for example, doing a critical geography of the international criminal courts or of human rights indicators. These examples concern points of intersections between international law and everyday life and have a geographic component to them, either because they are place-based (the courts) or because they relate to particular spaces of experiences (human rights) or because they involve international law in place-making (both). The tradition of critical geography lends to studies of international law in everyday life a critical perspective that is necessary to resist generalizing the experience of the ‘everyday’ as well as a geographic dimension that brings to light the role of international law as a constitutive force in the social world and the instrumental part it plays in re-ordering and re-distributing power and in creating spaces of rights and authority.

Bringing my discussion in the previous pages together, we can say that the three intellectual influences that informed my methodology work individually to carry forward the aims and arguments of this thesis. However, they also work in concert. For example, taking an empirical approach complements the objectives of a global socio-legal perspective because together these compel a researcher to notice the fine detail of daily life and the subtle ways in which law, operating at different levels, emerges from and shapes the everyday. Another example is how the approach from critical geography ensures that a researcher remains alert to the way terms like the ‘global’, the ‘local’, ‘home’ and the ‘everyday’ can collapse complexity into generalities and thus mask important differences. Finally, all three of these intellectual influences are concerned with recording and analysing iterations of space and place, and so they work together to identify and assess international law’s operations whether in the home, in the everyday or in any other space or place.

⁵⁷ Alison Blunt and Robyn Varley, ‘Geographies of Home: Introduction’ (2004) 11 *Cultural Geographies* 3 and Brickell, above n 11.

The integrated methodological approach I have taken in this thesis – combining three different intellectual influences – has helped me to illustrate the nature and operation of international law in everyday life in a nuanced, sensitive and reflexive manner. This sort of enquiry is needed now more than at any other time because, as Rajagopal Balakrishnan argues, international law is ‘no longer a marginal discipline that figures occasionally in diplomatic disagreements about war and peace. Rather, it is now an ensemble of rules, policies, institutions, and practices that directly and indirectly affects the daily lives of millions of people all over the world, in the areas of economy, environment, family relationships, and governmental performance.’⁵⁸

6.8 Walking home

Finally, I should make a note on walking. As I discussed in Chapter Two, walking was one of the methods I used in the field. I walked wherever possible to move between different locations – for site visits and meetings with research participants – and simply as a way of exploring my field sites in Phnom Penh, Area C of the West Bank, and London. In the past decade there has been a recrudescence of interest in walking as a way of seeing and experiencing the world among nature writers and urban historians,⁵⁹ reviving the tradition of walker-poets and walker-artists past and also drawing from the work of seminal spatial theorists Henri Lefebvre and Michel de Certeau.⁶⁰ Among law scholars, there has been some work on walking as a mode of jurisprudence⁶¹ and an increasing interest in the aesthetics of legal spaces,⁶² such as courtrooms and street art, which might involve walking as a way of viewing and experiencing those spaces. However, little attention has been paid to walking as a legal research method.

In thinking this through further here, it will be helpful to first look at the treatment of walking in other legal scholarship before turning to my own use of walking as method in this thesis. To the best of my knowledge, the only other legal scholar to have written about walking is Olivia Barr.

⁵⁸ Balakrishnan Rajagopal, *International Law From Below: Development, Social Movements and Third World Resistance* (Cambridge University Press, 2003), 2.

⁵⁹ See for example Robert Macfarlane, *The Old Ways: A Journey on Foot* (Penguin, 2013) and Rebecca Solnit, *Wanderlust: A History of Walking* (Penguin, 2001).

⁶⁰ See, for example, William Wordsworth, *Descriptive Sketches: Taken During a Pedestrian Tour in the Italian, Grison, Swiss, and Savoyard Alps* (Joseph Johnson St Paul’s Church Yard 1793); Jean-Jacques Rousseau, *Reveries of the Solitary Walker* (Penguin Books, 1979); Walter Benjamin, *The Arcades Project* (Belknap Press, 1999); Frédéric Gros, *A Philosophy of Walking* (John Howe trans, Verso, 2015); Henri Lefebvre, *The Production of Space* (Donald Nicholson-Smith trans, Blackwell, 1991); and Michel de Certeau, *The Practice of Everyday Life* (University of California Press, 1984).

⁶¹ See Olivia Barr, *A Jurisprudence of Movement: Common Law, Walking, Unsettling Place* (Routledge, 2016) and ‘Walking With Empire’ (2013) 38 *Australian Feminist Law Journal* 59.

⁶² Mulcahy et al, above n 15.

Her project traces the movement of common law in colonial Australia through a re-description of the walk of a burial party through a frontier settlement to bury the dead.⁶³ In this work Barr argues that walking is a ‘basic technology of humankind’⁶⁴ but that it is also a technology of the common law and its movements.⁶⁵ She describes the members of the burial party as ‘carrying’ the common law as they walk, instituting the common law through their movement.⁶⁶ This is explained further:

‘For as a common law subject walks, more than simply material movements, including techniques of human biology and proprioception, there are also lawful movements as the subject carries common law. This demands a shift in register from appreciating walking as mere physical action to walking as legal form; an activity that belongs to law. This places walking as a material practice of common law, and a jurisdictional device that authorises common law’s movements.’⁶⁷

Thus, for Barr, walking is as much a physical and material practice as a jurisprudential practice. Following the Lefebvrian account of space as constituted by social action,⁶⁸ Barr argues that common law comes to be *in place* and to *produce* space through practices of legal movement. As an ‘intimate technical and practical action’, and a ‘productive activity’, common law movement sees the common law move through both space and time.⁶⁹

Barr’s work on walking is founded on a jurisprudential concern with legal technologies and ‘how’ – as opposed to ‘why’ – law (and specifically the common law) comes to be in place and to shape space. As she notes, this contrasts with a geographer’s concern with space per se and a critical legal geographer’s concern with legal place.⁷⁰ Similar to Barr, in this thesis my interest is in how

⁶³ Ibid; see also Barr, above n 61.

⁶⁴ Barr *ibid*, citing David Wills, *Dorsality: Thinking Back through Technology and Politics* (University of Minnesota Press, 2008).

⁶⁵ Barr *ibid* 63.

⁶⁶ Ibid 63.

⁶⁷ Ibid.

⁶⁸ Lefebvre, above n 60.

⁶⁹ Barr, above n 61, 63.

⁷⁰ See for example, Nicholas Blomley, *Law, Space and the Geographies of Power* (Guildford, 1994); Nicholas Blomley, David Delaney and Richard Ford (eds), *The Legal Geographies Reader: Law, Power, and Space* (Blackwell, 2001); Antonia Layard, ‘Shopping in the Public Realm: A Law of Place’ (2010) 37(3) *Journal of Law and Society* 412; Austin Sarat, Lawrence Douglas and Martha Merrill (eds), *The Place of Law* (University of Michigan Press, 2003); David Delaney, *The Spatial, The Legal and the Pragmatics of World-Making: Nomospheric Investigations* (Routledge, 2010); and Andreas

international law is present and becomes present in the space of home as well as how it produces home spaces – what I have called international law’s homemaking work. However, while Barr focuses on how the operation of walking produces common law spaces and the way in which walking, as a legal technology, reflects the movement of law across space, my concern is with walking as a method for exploring the spaces in which international law moves. Nonetheless, Barr’s work on walking as jurisprudence remains enriching for my own work, not least because it stands for the bold and simple point that law is involved in the production of space and place, and that it does so through movement (whether by walking, or some other form of movement, such as the movement of ideas⁷¹). One of the main claims I have made in this thesis is that international law shapes and constitutes home places, and that this comes about through the operations (or ‘movements’) of international law intervening in the space of everyday life and its interaction with a variety of other laws and norms at different scales. Barr’s work is also a useful reference point for my work in how it connects the walking body with legal space and examines the dynamic between these.

By choosing to walk in the research for this thesis I was able to immerse myself more fully in the field site at a human scale – with my feet on the ground, moving slowly, exposed to the haptic qualities of everyday life: the sounds, smells, tastes, temperatures and the cries of the street, the village, the city and the desert. Through walking I explored how home places are shaped by international law as its norms, practices, concepts and procedures travel from the global to the local through a variety of different operations: specifically, the land titling project at Boeung Kak Lake, the duties of occupation in Area C, and the right to housing in London. Walking as legal method is, as Barr argues, more than a physical activity. It is a way to experience, understand and participate in the production of international law places and to view the movements of international law between different spaces and scales. In walking those spaces, the researcher confirms or ‘authorises’ international law’s movements and its place-making activity. However, by revealing international law’s involvement in the construction of negative experiences of space (such as home destruction), walking as method can also be a way to resist and to critique its interventions in space.

Philippopoulos-Mihalopoulos, ‘Law’s Spatial Turn: Geography, Justice and a Certain Fear of Space’ (2011) 7(2) *Law, Culture and the Humanities* 1.

⁷¹ On the movement of human rights ideas, see further Mark Goodale and Sally Engle Merry, *The Practice of Human Rights: Tracking Law between the Global and the Local* (Cambridge University Press, 2007).

Walking also complemented the methodological orientation I took in this thesis. Walking sits comfortably with the empirical approach because it allows a researcher to ‘get down and dirty’ in the field and to notice and attend to the fine details that might otherwise go unnoticed if one was, for example, simply driving through. The operation of walking heightens awareness of one’s surroundings, not least because of the physical and psychic connection to the environment, but also because walking throws up problems that the walker must resolve, such as which route to take or how to pass by an obstacle. Walking thus encourages a deeper knowledge of a place, its structures and layers. It is, then, a method that is also well-suited to taking a global socio-legal perspective to investigations of international law in everyday life because this necessitates an understanding of the everyday as composed of a number of overlapping elements, practices and processes, as well as seeing international law as one among other systems of law operating at different scales. Walking is also, of course, one way of following out the concerns of critical legal geography because it allows us to examine the production of legal place. As I discussed in Chapter Two, taking a critical geographic approach to home involves ‘mapping’ and ‘doing’ international law’s operations at home in a particular place.⁷² These activities require close inspection of home and attendance at home in the field (‘mapping’), as well as interaction with inhabitants and research participants, and critical reflection (‘doing’), for which research on foot is ideally suited.

Walking also offered an important viewpoint onto home by bringing me physically close to homes in the field. Nonetheless, I am aware of the potential for misunderstanding arising from the delusions of proximity. That is, the way in which it is possible to feel physically close but not really be close, considering the gulf of experience and understanding between myself as the researcher and the people living in the homes I visited or passed. Similarly, while walking brought me in temporal proximity to homes in the field, my experience was defined by short-termness (my visits lasted for only days at a time). As such, even while I was physically there, I could not claim to be part of the texture of life in each place I visited. Time, and the breach in knowledge and understanding, thus interrupt the proximity that walking offers.

Despite these concerns and disadvantages, there are other things that can be said about walking which reflect its usefulness as a research method in this study. By participating in the life of street as one pedestrian among many others, I was approachable and could talk to residents, giving rise to informal opportunities to listen, learn and understand. This sort of interaction and encounter,

⁷² Brickell, above n 11.

combined with the physical and sensory connection to place and environment that is made possible by walking, in turn stimulates thought and compels reflexivity: *where* is international law here, *how* is it operating, *what* is its effect, and how does my own experience situate and mediate what I see. It is possible to imagine walking to explore other international legal places, such as the United Nations buildings in Geneva, a village selected for an international food aid program, or a port where the comings and goings of container ships are beacons by the international law of the sea. In this discussion I have suggested some of the ways walking as method may contribute to developing research in the wider field of international law in everyday life.

6.9 Conclusion

Though earth holds many splendours,
Wherever I may die,
I know to what brown country
My homing thoughts will fly.⁷³

The concept of home has long arrested the imagination of poets and philosophers. Perhaps this has to do with the way home lingers as an autochthonic yearning in the human condition. Simone Weil described this as *enracinement*, the need to put down roots, without which one cannot live.⁷⁴ Whether home is a boat or a box, a shanty or a shadow of memory, its importance to dwelling, being and belonging in the world is difficult to exaggerate.

In this thesis I have proceeded from an awareness that home is more than a roof and four walls. Instead, I have characterised it as a complex, layered and multifaceted phenomenon, a sort of gestalt for a range of affective, material and imaginary experiences. Homes are something that most people have or hope to have, and we see ourselves as harmed if we do not have them. Our homes are quintessentially ordinary places in the way they merge into the backdrop of our daily journeys and are filled with familiar things, people and talismans, yet they are no less important for that ordinariness. Indeed, this seems only to make the attachment to home stronger. Our homes have a lapidary quality into which the stories of our peregrinations are engraved, our struggles are recorded, and our dreams are sketched. Home is:

⁷³ Dorothea Mackellar, *My Country* (1908, Scholastic, 2010).

⁷⁴ Simone Weil, *The Need for Roots: Prelude to a Declaration of Duties Towards Mankind* (Routledge, 2nd ed, 1952, 2001).

...a sacred place, a secure place, a place of certainty and stability. ... To be at home means to know where you are; it means to inhabit a secure centre and to be oriented in space.⁷⁵

Yet, as we have seen, home is not always certain and secure. It might never have been. Home destruction, losses of home and suffering to do with home, including the experience of violence, alienation and domination within the home, are today frequent and widespread. Nonetheless, even in the face of deprivations, dreams of home are often still held on to and the longing for an authentic home persists. Rather than simply as somewhere to live, we might think about home as a landscape we navigate in search of ethos and tradition; to recover new homelands and never return to others; and to forge identity in the present while preserving continuity with the past.

Like the poets and the philosophers before us, as scholars we would do well to look to home in academic debates and discourses. In this thesis I have explored several contemporary situations in which international law is involved in the loss and destruction of home, in compromises and alterations of home, and in both the struggle and resistance which accompany these. I have tried to show that home has a place within international legal problematics. Home – intimate and immanent – offers a lens for seeing and seeking to critically understand international law in everyday life, operating at the interface of the local and the global.

And the poets build homes with clouds

Then move on...⁷⁶

⁷⁵ Kim Dovey, 'Home and Homelessness' in Irwin Altman and Carol Werner, *Home Environments* (Plenum, 1985), 36.

⁷⁶ Mahmoud Darwish, 'Don't Apologize for What You've Done' in *The Butterfly's Burden* (Fady Joudah trans, CopperCanyon, 2007).



Figure 38: Oren Yiftachel speaking through barbed wire

BIBLIOGRAPHY

Articles, Books, Book Chapters, Reports

Aalbers, Manuel, 'The Financialisation of Home and the Mortgage Market Crisis' (2008) 12 *Competition and Change* 148

- 'Housing and the Right to the City: Introduction to the Special Issue' (2014) 14(3) *International Journal of Housing Policy* 207
- 'The Great Moderation, the Great Excess and the Global Housing Crisis' (2015) 15(1) *International Journal of Housing Policy* 43
- 'The Potential for Financialization' (2015) 5 *Dialogues in Human Geography* 214
- 'Financialization and Housing: Between Globalization and Varieties of Capitalism' (2016) (20)2 *Competition & Change* 71
- *The Financialization of Housing: A Political Economy Approach* (Routledge, 2016)

Abu Hussein, Hussein and Fiona McKay, *Access Denied: Palestinian Lands Rights in Israel* (Zed Books, 2003)

Abujidi, Nurhan, 'The Palestinian States of Exception and Agamben' (2009) 2(2) *Contemporary Arab Affairs* 272-291

Aeschylus, *The Orestes Plays of Aeschylus: The Agamemnon; the Libation Bearers; the Eumenides* (Paul Roche trans, New English Library, 1962)

- *Oresteia* (Hugh Lloyd-Jones trans, Duckworth, 2008)

Affordable Homes Programme 2011-2015: Guidance and Allocations (Homes and Communities Agency, 31 October 2014, UK)

Agamben, Giorgio, *Homo Sacer: Sovereign Power and Bare Life* (Stanford University Press, 1998)

'Aggressive Urbanism: Urban Planning and the Displacement of Palestinian Within and From Occupied East Jerusalem', Civic Coalition for Defending Palestinians' Rights in Jerusalem 2009

Ahrentzen, Sherry, 'A Place of Peace, Prospect and ... a PC: The Home as Office' (1989) 6(4) *Journal of Architectural and Planning Research* 271

'Aid Effectiveness 2011: Progress in Implementing the Paris Declaration - Volume II Country Chapters', Organisation for Economic Co-operation and Development, 2001

Akram, Susan, Michael Dumper, Michael Lynk and Iain Scobbie (eds), *International Law and the Israeli-Palestinian Conflict: A Rights-based Approach to Middle East Peace* (Routledge, 2011)

Al Hussein, Jalal and Riccardo Bocco, 'The Status of the Palestinian Refugees in the Near East: The Right of Return and UNRWA in Perspective (2010) 28(2-3) *Refugee Survey Quarterly* 260

Allan, Graham and Graham Crow (eds), *Home and Family: Creating the Domestic Sphere* (Palgrave Macmillan, 1989)

Alexopoulou, Marigo, 'Nostos and the Impossibility of 'A Return to the Same': From Homer to Seferis' (2006) (1) *New Voices in Classical Reception Studies* 1

Alston, Philip, 'The Myopia of the Handmaidens: International Lawyers and Globalization' (1997) 3 *European Journal of International Law* 435

Altman, Irwin and Carol Werner, *Home Environments* (Plenum Press, 1985)

Amara, Ahmad, Alexandre Kedar and Oren Yiftachel, 'Questioning the "Dead (*Mawat*) Negev Doctrine": Property rights in Arab Bedouin space', prepared for workshop, *Socio-legal Perspectives on the Passage to Modernity in the Middle East*, Ben-Gurion University of the Negev, Beersheba, 4-6 June 2012

Andreassen, Bard and Stephen Marks (eds.), *Development as a Human Right: Legal, Political and Economic Dimensions* (2007, 2nd ed 2010, Intersentia)

Anghie, Antony, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2007)

Appadarai, Arjun, 'Introduction: Place and Voice in Anthropological Theory' (1998) 3(1) *Cultural Anthropology* 16

- *Fear of Small Numbers: An Essay on the Geography of Anger* (Duke University Press, 2006)

Asher, Robert and Edward Mason, *The World Bank Since Bretton Woods* (Brookings Institution, 1973)

Atkinson, Paul and Amanda Coffey, *Making Sense of Qualitative Data* (SAGE, 1996)

- and Martyn Hammersley, *Ethnography: Principles in Practice* (3rd ed, Routledge, 2007)

Atkinson, Rowland, 'The Evidence on the Impact of Gentrification: New Lessons for the Urban Renaissance?' (2004) 4(1) *European Journal of Housing Policy* 107

Bachelard, Gaston, *The Poetics of Space* (Maria Jolas trans, Beacon Press, 1962, 1992 ed)

Badcock, Blair and Andrew Beer, *Home Truths: Property Ownership and Housing Wealth in Australia* (Melbourne University Press, 2000)

Baliga, Anitra, Sofia Garcia, Jenna Keyes, Boying Lyu, Ahmad Osman, 'Negotiating Regeneration', LSE Cities Resourceful Cities Project Report, 2013-2014

Banville, John, *The Sea* (Picador, 2005)

Barr, Olivia, 'Walking With Empire' (2013) 38 *Australian Feminist Law Journal* 59

- *A Jurisprudence of Movement: Common Law, Walking, Unsettling Place* (Routledge, 2016)

Barros, Benjamin D (ed), *Hernando De Soto and Property in a Market Economy* (Ashgate, 2010)

Barthes, Roland, 'Writers, Intellectuals, Teachers' in Susan Sontag (ed), *A Roland Barthes Reader* (Vintage, 1971)

- *Camera Lucida: Reflections on Photography* (Vintage, 1980, 2000)

Bassett, Keith, 'Walking as an Aesthetic Practice and a Critical Tool: Some Psychogeographic Experiments' (2004) 28(3) *Journal of Geography in Higher Education* 397

Bayoumi, Moustafa and Andrew Rubin (eds), *The Edward Said Reader* (Granta Books, 2001)

Jennifer Beard, *The Political Economy of Desire: International Law, Development and the Nation State* (Routledge-Cavendish, 2006)

Jennifer Beard and Anne Orford, 'Making the State Safe for the Market: The World Bank's World Development Report 1997' (1998) 22 *Melbourne University Law Review* 196

Beauvoir, Simone de, *The Second Sex* (Howard Madison Parshley trans, Penguin, 1949, 1972 ed)

Ben-Naftali, Orna, 'PathoLAWgical Occupation: Normalizing the Exceptional Case of the Occupied Palestinian Territory and Other Legal Pathologies', in Orna Ben-Naftali (ed), *International Humanitarian Law and International Human Rights Law* (Oxford University Press, 2011)

Ben-Naftali, Orna, Aeyal Gross and Keren Michaeli, 'Illegal Occupation: Framing the Occupied Palestinian territory' (2005) 23(3) *Berkeley Journal of International Law* 551

Ben-Naftali, Orna, Aeyal Gross and Keren Michaeli, 'The Illegality of the Occupation regime: The Fabric of Law in the Occupied Palestinian Territory' in Adi Ophir, Michal Givoni, and Sāriḥ Hanafī, *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (Zone, New York, 2009)

Benda-Beckmann, Franz von, Keebet von Benda-Beckmann and Anne Griffiths (eds), *The Power of Law in a Transnational World: Anthropological Enquiries* (Berghahn Books, 2009)

- Benda-Beckmann, Franz von, Keebet von Benda-Beckmann and Anne Griffiths (eds), *Spatializing Law: An Anthropological Geography of Law in Society* (Ashgate, 2009)
- Benda-Beckmann, Keebet von, 'Anthropological Perspectives on Law and Geography' (2009) 32(2) *PoLAR: Political and Legal Anthropology Review* 265
- Benham, Sally and Ben Caddis, 'Boeung Kak Area Drainage and Flooding Assessment', 2008
- Benjamin, David and David Stea, *The Home: Words, Interpretations, Meanings and Environments* (Avebury, 1995)
- Benjamin, Walter, 'Theses on the Philosophy of History' (1940) in Hannah Arendt (ed), *Illuminations: Essays and Reflections* (Harry Zohn trans, Schocken Books, 1968)
- *The Arcades Project* (Belknap Press, 1999)
- Benvenisti, Eyal, *The International Law of Occupation* (Oxford University Press, 2nd ed, 2012)
- Berger, John, *And Our Faces, My Heart, Brief as Photos* (Writers and Readers Publishings Cooperative, 1984)
- *Hold Everything Dear: Dispatches on Survival and Resistance* (Verso, 2007)
 - *About Looking* (Bloomsbury, 2009)
- Bhabha, Homi, 'The World and the Home' (1992) 31-2 *Social Text* 141
- 'Halfway House' (1997) 35(9) *Artforum International* 11
- Biddulph, Robin, 'Tenure Security Interventions in Cambodia: Testing Bebbington's Approach to Development Geography' (2011) 93(3) *Geografiska Annaler: Series B, Human Geography* 223
- Birch, Maxine, Melanie Mauthner, Tina Miller and Julie Jessop (eds), *Ethics in Qualitative Research* (2nd ed, SAGE, 2012)
- Bird, Rose, Deborah and Sharon D'Amico, 'Country of the Heart: An Indigenous Australian Homeland', Aboriginal Studies for the Australian Institute of Aboriginal and Torres Strait Islander Studies, 2002

Blandy, Sarah, Jennifer Dixon and Ann Dupuis, "Theorising Power Relationships in Multi-owned Residential Developments: Unpacking the Bundle of Rights" (2006) 43 *Urban Studies* 2365

Blandy, Sarah and David Sibley, 'Law, Boundaries and the Production of Space' (2010) 19(3) *Social & Legal Studies* 275

Blank, Yishai, 'The City and the World' (2006) 44(3) *Columbia Journal of Transnational Law* 875

- 'Localism in the New Global Legal Order' (2006) 47(1) *Harvard Journal of International Law* 263

Blomley, Nicholas, *Law, Space and the Geographies of Power* (Guildford Press, 1994)

- and David Delaney and Richard Ford (eds), *The Legal Geographies Reader: Law, Power and Space* (Blackwell, 2001)
- 'From "What?" to "So what?": Law and Geography in Retrospect' in Jane Holder and Carolyn Harrison (eds), *Law and Geography* (Oxford University Press, 2003)
- 'Law, Property, and the Geography of Violence: The Frontier, the Survey and the Grid' (2003) 93(1) *Annals of the Association of American Geographers* 121
- 'Enclosure, Common Right and the Property of the Poor' (2008) 17(3) *Social & Legal Studies* 311

Blumen, Orna, Tovi Fenster and Chen Misgav, 'The Body Within the Home and Domesticity: Gendered Diversity' (2013) 11(1) *Hagar Studies in Culture, Policy and Identities* 6

Blunt, Alison, *Domicile and Diaspora: Anglo-Indian Women and the Spatial Politics of Home* (Blackwell, 2005)

- 'Cultural Geographies of Home' (2005) 29(4) *Progress in Human Geography* 505
- 'Cultural Geographies of Migration: Mobility, Transnationality and Diaspora' (2007) 31(5) *Progress in Human Geography* 684

Blunt, Alison and Ann Varley, 'Geographies of Home' (2004) 11(1) *Cultural Geographies* 3

Blunt, Alison and Robyn Dowling, *Home* (Routledge, 2006)

- Bondi, Liz, 'Feminism, Postmodernism, and Geography: Space for Women?' (1990) 22(2) *Antipode* 156
- Borras, Saturnino, Jennifer Franco and Chunyu Wang, 'The Challenge of Global Governance of Land Grabbing: Changing International Agricultural Context and Competing Political View and Strategies' (2013) 10(1) *Globalizations* 161
- Borras, Saturnino, Christobal Kay, Sergio Gómez and John Wilkinson, 'Land Grabbing and Global Capitalist Accumulation: Key Features in Latin America' (2012) 33(4) *Canadian Development Studies Journal* 402
- Botton, Alain de, *The Architecture of Happiness* (Penguin, 2007)
- Bourdieu, Pierre, 'The Genesis of the Concepts of "Habitus" and "Field"' (1985) 2(2) *Sociocriticism* 11
- 'The Force of Law: Towards a Sociology of the Juridical Field' (1987) 38 *Hastings Law Journal* 814
- Bourdieu, Pierre, Jean-Claude Chamboredon and Jean-Claude Passeron, *The Craft of Sociology: Epistemological Preliminaries* (Aldine De Gruyter, 1991)
- Bouwers, Holden, 'Review of Adolescent Violence in the Home: Restorative Approaches to Building Healthy, Respectful Family Relationships' (2016) 45 *Journal of Youth and Adolescence* 1041
- Bowlby, Sophie, Susan Gregory and Linda McKie, "'Doing Home": Patriarchy, Caring and Space' (1997) 20(3) *Women's Studies International Forum* 343
- Boys Smith, Nicholas and Alex Morton, 'Create Streets: Not Just Multi-Storey Estates', Policy Exchange and Create Streets, 2013

Bradlow, Daniel and Andria Fourie, 'The Operational Policies of the World Bank and the International Finance Corporation: Creating Law-Making and Law-Governed Institutions?' (2014) 10(1) *International Organizations Law Review* 3

Brah, Avtar, *Cartographies of Diaspora – Contesting Identities* (Routledge, 1st ed, 1996)

Brenner, Neil and Nikolas Theodore (eds), *Spaces of Neoliberalism: Urban Restructuring in North America and Western Europe* (Wiley, 2002)

- 'Neoliberalism and the Urban Condition' (2005) 9(1) *City* 101

Brickell, Katherine, 'Geopolitics of Home' (2010) 6(10) *Geography Compass* 575

- "'Mapping" and "Doing" Critical Geographies of Home' (2011) *Progress in Human Geography* 1
- 'Geographies of 'Home' and Belonging in Translocal Siem Riep, Cambodia' in Katherine Brickell and Ayona Datta (eds), *Translocal Geographies: Spaces, Places and Connections* (Ashgate, 2011)
- 'Plates in a Basket Will Rattle': Marital Dissolution and Home 'Unmaking' in Contemporary Cambodia' (2013) *Geoforum* 262
- "'The Whole World Is Watching": Intimate Geopolitics of Forced Eviction and Women's Activism in Cambodia' (2014) 104(6) *Annals of the Association of American Geographers* 1256

Bridges, David, 'The Ethics of Outsider Research' (2001) 35 *Journal of Philosophy of Education* 371

Brink, Stefan, 'Home: The Term and the Concept from a Linguistic and Settlement Historical Viewpoint' in David Benjamin (ed), *The Home: Words, Interpretations, Meanings and Environments* (1995)

Brinkmann, Svend, *Qualitative Inquiry in Everyday Life* (SAGE, 2012)

Bromley, Daniel, 'Formalising Property Relations in the Developing World: The Wrong Prescription for the Wrong Malady' (2008) 26(1) *Land Use Policy* 20

Bromley, Ray, *The Urban Informal Sector: Critical Perspectives on Employment and Housing Policies* (Pergamon, 1979)

Bryman, Alan, *Social Research Methods* (5th ed, Oxford University Press, 2008)

Buchanan, Ruth, Stewart Motha and Sundhya Pahuja (eds), *Reading Modern Law: Critical Methodologies and Sovereign Formations* (Routledge-Cavendish, 2012)

Bunkse, Edward, *The Geography and Art of Life* (John Hopkins University Press, 2004)

Burgess, Robert, 'Interviews as Conversations' in Robert Burgess, *In the Field: An Introduction to Field Research* (Unwin Hyman, 1984)

Brindley, Tim, 'The Modern House in England: An Architecture of Exclusion' in Chapman, Tony and Hockey, Jenny (eds), *Ideal Homes? Social Change and Domestic Life* (Routledge, 1999) 30

Burgos, Sigfrido and Sophal Ear, 'China's strategic interests in Cambodia: Influence and resources' (2010) 50(3) *Asian Survey* 615

Butler, Judith, *Bodies That Matter: On the Discursive Limits of "Sex"* (Routledge, 2011)

Butler, Tim and Garry Robson, 'London Calling: The Middle Classes and the Remaking of Inner London' (Berg 3PL, 2003)

'By Hook and By Crook: Israeli Settlement Policy in the West Bank', B'Tselem, 2010

Byrne, Bridget, 'Qualitative Interviewing' in Clive Seale (ed), *Researching Society and Culture* (2nd ed, SAGE, 2004)

Caluya, Gilbert, 'Domestic Belongings: Intimate Security and The Racial Politics of Scale' (2011) 4(4) *Emotion, Space and Society* 203

Cambodia Development Watch, 'Boeung Kak Lake Lease Agreement Discussion Paper', 2007

'Cambodia: Land in Conflict, An Overview of the Land Situation', Cambodian Center for Human Rights, December 2013

'Cambodia Land Management and Administration Project - Enhanced Review Report', World Bank, 2009

'Cambodia Land Study Project – Participation in Land Reform', Oxfam Great Britain, 1999

Cammack, Paul, 'Attacking the Poor' (2002) 13 *New Left Review* 125

Campkin, Ben, *Remaking London: Decline and Regeneration in Urban Culture* (I B Tauris, 2013)

Camus, Albert, 'Summer in Algiers' in *Noces (Nuptials)* (Penguin, 1938, 2013)

Careri, Francesco, *Walkscapes: Walking as an Aesthetic Practice* (Editorial Gustavo Gili, 2002)

Carney, Timothy Michael and Lian Choo Tan, *Whither Cambodia? Beyond the Election* (Institute of Southeast Asian Studies, 1993)

Carothers, Thomas, 'The End of the Transition Paradigm' (2002) 13(1) *Journal of Democracy* 5

Carr, Helen, 'The Right to Buy, The Leaseholder, and the Impoverishment of Ownership' (2011) 38(4) *Journal of Law and Society* 519

- and David Cowan, 'The Social Tenant, the Law and the UK's Politics of Austerity' (2015) 5(1) *Oñati Socio-legal Series – Indignation, Socio-economic Inequality and the Role of Law* 73

Carsten, Janet and Stephen Hugh-Jones (eds), *About the House: Levi-Strauss and Beyond* (Cambridge University Press, 1995)

Cascardi, Michele, 'From Violence in the Home to Physical Dating Violence Victimization: The Mediating Role of Psychological Distress in a Prospective Study of Female Adolescents' (2016) 45(4) *Journal of Youth and Adolescence* 777

Cassese, Antonio, 'Powers and Duties of an Occupant in Relation to Land and Natural Resources' in Emma Playfair (ed), *International Law and the Administration of Occupied Territory* (Oxford University Press, 1992)

- 'On the Current Trends towards Criminal Prosecution and Punishment of Breaches of International Humanitarian Law', Symposium: The Changing Structure of International Law Revisited (Part 3) (1998) 9 *European Journal of International Law* 2
- *International Law* (Oxford University Press, 2nd ed, 2005)

de Certeau, Michel, *The Practice of Everyday Life* (University of California Press, 1984)

Chandler, David, *Facing the Cambodian Past: Selected Essays 1971-1994* (Silkworm, Chang Mai, 1996)

- *A History of Cambodia* (Westview Press, 2007)

Chapman, Tony, "'You've Got Him Well Trained": The Negotiation of Roles in the Domestic in Tony Chapman and Jenny Hockey (eds), *Ideal Homes? Social Change and Domestic Life* (Routledge, 1999)

Chapman, Tony and Jenny Hockney, *Ideal Homes? Social Change and Domestic Life* (Routledge, 1999)

Charlesworth, Hilary, 'International Law: A Discipline of Crisis' (2002) 65(3) *Modern Law Review* 377

Chatterjee, Partha, *The Politics of the Governed: Reflections on Popular Politics in Most of the World* (Columbia University Press, 2004)

Chimhowu, Admos and Phil Woodhouse, 'Customary vs Private Property Rights? Dynamics and Trajectories of Vernacular Land Markets in sub-Saharan Africa (2006) 6(3) *Journal of Agrarian Change* 346

Chinkin, Christine, 'The Legality of NATO's Action in the Former Republic of Yugoslavia (FRY) under International Law' (1999) 49(4) *International and Comparative Law Quarterly* 910

'Chinese Linked to Filling of Lake', *Phnom Penh Post*, 29 January 2010 (online)

Cieraad, Irene (ed), *At Home: An Anthropology of Domestic Space* (Syracuse University Press, 1999)

Claeys, Priscilla and Vanloqueren, Gaëtan, 'The Minimum Human Rights Principles Applicable to Large-Scale Land Acquisitions or Leases' (2013) 10(1) *Globalizations* 193

Clapham, David, *The Meaning of Housing: A Pathway Approach* (Policy Press, 1995)

Cole, Harry, 'Exclusive: Leaked Emails Reveal United Nations Fury at 'Bedroom Tax' Report', *The Spectator*, 16 September 2013

Cole, Ian, and Robert Furbey, *The Eclipse of Council Housing* (Routledge, 1993)

Collins, Darryl and Helen Grant Ross, *Building Cambodia: New Khmer Architecture, 1953-1970* (Key Publishers, 2006)

Coolen, Henny and Janine Meesters, 'Editorial Special Issue: House, Home and Dwelling' (2012) 27(1) *Journal of Housing and the Built Environment* 1

Coon, Anthony, *Town Planning Under Military Occupation* (Dartmouth, 1992)

Cotula, Lorenzo, 'Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa', International Institute for Environment Development and Food Agriculture Organization of the United Nations, 2009

- *Human Rights, Natural Resource and Investment Law in a Globalised World: Shades of Grey in the Shadow of the Law* (Routledge, 2012)
- 'The International Political Economy of the Global Land Rush: A Critical Appraisal of Trends, Scale, Geography and Drivers' (2012) 39(3-4) *The Journal of Peasant Studies* 649

'Country for Sale', Global Witness, 2009

Coutin, Susan Bibler, Bill Maurer and Barbara Yngvesson, 'In the Mirror: The Legitimation Work of Globalization' (2002) 27(4) *Law & Social Inquiry* 801

- *Legalizing Moves: Salvadoran Immigrants' Struggle for U.S. Residency* (University of Michigan Press 2003)

Cowan, David, 'Legal Consciousness: Some Observations' (2004) 67(6) *Modern Law Review* 928

- *Housing Law and Policy* (Cambridge University Press, 2011)

Cowan, David, Caroline Hunter and Hal Pawson, 'Jurisdiction and Scale: Rent Arrears, Social Housing, and Human Rights' (2012) 39(2) *Journal of Law and Society* 269

Cowan, David and Caroline Hunter, '“Yeah But, No But” - Pinnock and Powell in the Supreme Court' (2012) 75(1) *Modern Law Review* 78

Cowan, David and Emma Hitchings, 'Pretty Boring Stuff: District Judges and Housing Possession Proceedings' (2007) 16(3) *Social and Legal Studies* 363

Cowen, Deborah, 'From the American Lebensraum to the American Living Room: Class, Sexuality, and the Scaled Production of “Domestic” Intimacy' (2004) 22 *Environment and Planning D: Society and Space* 755

Crawford, James, *Brownlie's Principles of Public International Law* (Oxford University Press, 8th ed, 2012)

Cresswell, Tim, *Place: A Short Introduction* (Wiley-Blackwell, 2004)

Crewe, Tom, 'The Strange Death of Municipal England', *London Review of Books*, volume 38, issue 24, 15 December 2016

Crouch, Colin, *Post-Democracy* (Polity, 2004)

- 'Privatised Keynesianism: An Unacknowledged Policy Regime' (2009) 11 (3) *The British Journal of Politics & International Relations* 382

D'Aspremont, Jean, 'Martti Koskeniemmi, the Mainstream and Self-Reflexivity' (2016) 29 *Leiden Journal of International Law* 625

Darian-Smith, Eve, *Bridging Divides: The Channel Tunnel and English Legal Identity in the New Europe* (University of California Press, 1999)

- 'Ethnographies of Law' in Austin Sarat (ed), *The Social Organization of Law: Introductory Readings* (Oxford University Press, 2004)
- *Laws and Societies in Global Contexts* (Cambridge University Press, 2013)
- 'Locating a Global Perspective' (2013) 4(4) *Transnational Legal Theory* 524

Darke, Jane, 'Women and the Meaning of Home' in Rose Gilroy and Roberta Woods (eds), *Housing Women* (Routledge, 1994)

Darwish, Mahmoud, *The Butterfly's Burden* (Fady Joudah trans, CopperCanyon Press, 2007)

Davidhoff, Leonora and Catherine Hall, *Family Fortunes: Men and Women of the English Middle Class 1780-1850* (Routledge, 2002)

Debord, Guy, 'Introduction à une critique de la géographie urbaine' *Les Lèvres Nues* #6 (September 1955) in *Situationist International Anthology* (Ken Knabb ed, trans, Bureau of Public Secrets, revised ed 2007)

Delaney, David, *The Spatial, The Legal and the Pragmatics of World-Making: Nomospheric Investigations* (Routledge, 2010)

DeLillo, Don, *Underworld* (Stacey Ulster ed, Continuum, 2011)

'Demographic and Social Consequences of the Separation Barrier on the West Bank', Palestinian Central Bureau of Statistics, 2004

'Demolition for Alleged Military Purposes: Collective Punishment', B'Tselem, 2011

Dennis, Michael, 'Application of human rights treaties extraterritorially in times of armed conflict and military occupation' (2005) 99(1) *The American Journal of International Law* 119

Norman Denzin and Yvonna Lincoln (eds), *Handbook of Qualitative Research* (2nd ed, SAGE, 2000)

- and Yvonna Lincoln (eds), *The SAGE Handbook of Qualitative Research* (4th ed, SAGE, 2011)

Desmond, Matthew, *Evicted: Poverty and Profit in the American City* (Allen Lane, 2016)

Després, Carole, 'The Meaning of Home: Literature Review and Direction for Future Research and Theoretical Development' (1991) 8(2) *Journal of Architectural and Planning Research* 96

Dickens, Charles, *Great Expectations* (Everyman's Library, 1992)

Dickinson, Gordon, *Maps and Air Photographs: Images of the Earth* (Edward Arnold, 1979)

Diergarten, Yorck and Tim Krieger, 'Large-Scale Land Acquisitions, Commitment Problems and International Law' (2015) 8(1) *Law and Development Review* 217

Dinstein, Yoram, 'The International Law of Belligerent Occupation and Human Rights' (1978) 8 *Israel Yearbook on Human Rights* 104

- *War, Aggression and Self-defence* (Cambridge University Press, 4th ed, 2005)

Dominiczak, Peter, 'UN Stands By 'Bedroom Tax' Protestor After Shapps Complaint', *The Daily Telegraph*, 26 September 2013

Dorling, Daniel, *All That is Solid: The Great Housing Disaster* (Allen Lane, 2014)

Doshi, Sapana and Casolo, Jennifer, 'Domesticated Disposessions? Towards a Transnational Feminist Geopolitics of Development' (2013) 18(4) *Geopolitics* 800

Douglas, Mary, 'The Idea of a Home: A Kind of Space' (1991) 58(1) *Social Research* 287

Dovey, Kim, 'HOME: An Ordering Principle in SPACE' (1978) 22 *Landscape* 27

- 'Home and Homelessness' in Irwin Altman and Carol M. Werner (eds), *Home Environments* (Plenum Press, 1985) 33
- 'Model Houses and Housing Ideology in Australia' (1991) 7(3) *Housing Studies* 177

Doyle, Michael, *UN Peacekeeping in Cambodia: UNTAC's Civil Mandate* (Colorado, Lynne Rienner, 1995)

- 'Peacebuilding in Cambodia: The Continuing Quest for Power and Legitimacy' in Brown F and D Timberman (eds), *Cambodia and International Community: The Quest for Peace, Development and Democracy* (1998, Institute of Southeast Asian Studies)

Dupuis, Ann and Thorns, David, 'Home, Home Ownership and the Search for Ontological Security' (1998) 46(1) *Sociological Review* 24

- and Jean-Christophe Diepart, 'The Peasants in Turmoil: Khmer Rouge, State Formation and the Control of Land in Northwest Cambodia' (2014) 41(4) *The Journal of Peasant Studies* 445

Dyck, Isabel, Pia Kontos, Jan Angus and Patricia McKeever, 'The Home as a Site For Long-term Care: Meanings and Management of Bodies and Spaces' (2005) 11(2) *Health and Place* 173

Ear, Sophal, *Aid Dependence in Cambodia: How Foreign Assistance Undermines Democracy* (Columbia University Press, 2013)

Earle, Lucy, 'Stepping Out of the Twilight? Assessing the Governance Implications of Land Titling and Regularization Programmes' (2014) 38(2) *International Journal of Urban and Regional Research* 628-45

Easthope, Hazel, 'A Place Called Home' (2004) 21(3) *Housing, Theory and Society* 128

- 'Making a Rental Property Home' (2014) 29(5) *Housing Studies* 579

Edelman, Marc, 'Messy Hectares: Questions about the Epistemology of Land Grabbing Data' (2013) 40(3) *Journal of Peasant Studies* 485

Edelman, Marc and Carlos Oya and Saturnino Borrás, *Global Land Grabs: History, Theory and Method* (Routledge, 2016)

'The Effects of House Demolitions on the Family', Israeli Committee Against House Demolitions, 2015

Eide, Asbjørn, 'Adequate Standard of Living' in Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran (eds), *International Human Rights Law* (Oxford University Press, 2010)

Eigler, Friederike, 'Critical Approaches to Heimat and the "Spatial Turn"' (2012) 39(1) *New German Critique* 27

El-Ajou, Fatmeh, Victor Kattan, Max du Plessis, John Reynolds, Rina Rosenberg, Iain Scobbie and Virginia Tilley, 'Occupation, Colonialism, Apartheid? A Reassessment of Israel's Practices in the Occupied Palestinian Territories under International Law' (Democracy and Governance Programme, Middle East Project, Human Sciences Research Council 2009)

El-Ajou, Fatmeh, Victor Kattan, Max du Plessis, John Reynolds, Rina Rosenberg, Iain Scobbie and Virginia Tilley (eds), *Beyond Occupation: Apartheid, Colonialism and International Law in the Occupied Palestinian Territories* (University of Chicago Press, 2012)

Elden, Stuart, 'Missing the Point: Globalization, Deterritorialization and The Space of The World' (2005) 30 *Transactions of the Institute of British Geographers* 8

Eliade, Mircea, *The Myth of the Eternal Return, or, Cosmos and History* (Arkana, first published 1954, 1989)

Eliot, T S, 'East Coker' in *Four Quartets* (Faber and Faber, first published 1943, 2001)

Ellickson, Robert, 'The Untenable Case for an Unconditional Right to Shelter' (1992) 15 *Harvard Journal of Law and Public Policy* 17

Engel, David, 'Law in the Domains of Everyday Life: The Construction of Community and Difference ' in Austin Sarat and Thomas Kearns (eds), *Law in Everyday Life* (University of Michigan Press, 1993) 123

'Environmental and Social Guidelines - Land Management and Administration Project Cambodia', World Bank, 2001

Escobar, Arturo, *Encountering Development: The Making and Unmaking of the Third World* (Princeton University Press, 1995)

Eslava, Luis, *Local Space, Global Life: The Everyday Operation of International Law and Development* (Cambridge University Press, 2015)

- 'Istanbul Vignettes: Observing the Everyday Operation of International Law' (2014) (2)1 *London Review of International Law* 3

Essaid, Aida, *Zionism and Land Tenure in Mandate Palestine* (Routledge, 2014)

Esteva, Gustavo, 'Development' in Wolfgang Sachs (ed), *The Development Dictionary: A Guide to Knowledge as Power* (Zed Books, 1997)

'EU Guidelines to Support Land Policy Design and Reform Processes in Developing Countries', European Union, 2004

Evans, Malcolm, *International Law* (4th ed, Oxford University Press, 2014)

Ewick, Patricia, 'Law and Everyday Life' in James Wright (ed), *International Encyclopedia of the Social and Behavioral Science* (Elsevier, 2015)

- 'Embracing Eclecticism' in Austin Sarat (ed), Special Issue: Law and Society Reconsidered (2008) 41 *Studies in Law, Politics and Society* 1

Ewick, Patricia and Susan Silbey, 'Conformity, Contestation and Resistance: An Account of Legal Consciousness' (1992) 26(3) *New England Law Review* 749

- Ewick, Patricia and Susan Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago University Press, 1998)
- Falk, Richard, *Law in an Emerging Global Village: A Post-Westphalian Perspective* (Transnational Publishers, 1998)
- Falah, Ghazi, 'The 1948 Israeli-Palestinian War and its Aftermath: The Transformation and De-Signification of Palestine's Cultural Landscape' (1996) 86(2) *Annals of the Association of American Geographers* 256
- Farha, Leilani, 'Housing, Financialization and Human Rights', presentation with David Madden and Bruce Porter, LSE Sociology Department Seminar, 6 March 2017.
- Fassbender, Bardo, Anne Peters, Simone Peter and Daniel Högger, *The Oxford Handbook of the History of International Law* (Oxford University Press, 2012)
- Fawcett, Louise, *International Relations of the Middle East* (University of Oxford Press, 2005)
- Feely, Malcolm, *The Process is Punishment* (Russell Sage, 1979)
- Felstiner, William and Austin Sarat, *Divorce Lawyers and their Clients: Power and meaning in the legal process* (Oxford University Press, 1995)
- Fenster, Tovi, 'Moving Between Addresses: Home and Belonging for Jewish Migrant and Indigenous Palestinian Women Over Seventy in Israel' (2013) 10(2) *Home Cultures* 159
- Fernandez, Rodrigo and Manuel Aalbers, 'Financialization and Housing: Between Globalization and Varieties of Capitalism' (2016) 20(2) *Competition & Change* 71
- Fields, Gary, '"This Is Our Land": Collective Violence, Property Law, and Imagining the Geography of Palestine' (2012) 29(4) *Journal of Cultural Geography* 267
- Findlay, Trevor, *Cambodia: The Legacy and Lessons of UNTAC* (Oxford University Press, 1994)

Fischbach, Michael, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (2003)

Fitzpatrick, Peter, *The Mythology of Modern Law* (Routledge, 1992)

Flick, Uwe, *Managing Quality in Qualitative Research* (SAGE, 2007)

- *An Introduction to Qualitative Research* (5th ed, SAGE, 2014)

Flick, Uwe and Ernst von Kardoff, Ines Steinke (eds), *A Companion to Qualitative Research* (1st ed, SAGE, 2004)

Flood, John, 'Socio-legal Ethnography' in Reza Banakar and Max Travers, *Theory and Method in Socio-legal Research* (Hart, 2005)

'Forced Evictions: Global Crisis, Global Solutions', UN-Habitat, 2011

'Foreign Direct Investment (FDI) in Land in Cambodia', Federal Ministry for Economic Cooperation and Development, Germany, 2009

Foucault, Michel, *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977* (Harvester Press, 1980)

Fox, Lorna, 'The Meaning of Home: A Chimerical Concept or a Legal Challenge?' (2002) 29(4) *Journal of Law and Society* 580

- *Conceptualising Home: Theories, Laws and Policies* (Hart, 2006)

- 'The Meaning of Home: From Theory to Practice' (2013) 5(2) *International Journal of Law in the Built Environment* 156

Fox, Lorna and James Sweeney (eds), *The Idea of Home in Law: Displacement and Dispossession* (Ashgate, 2011)

Franco, Jennifer and Saturnino Borrás, 'From Threat to Opportunity? Problems with the Idea of a "Code of Conduct" for Land-Grabbing' (2010) 13 *Yale Human Rights and Development Journal* 507

- 'Contemporary Discourses and Contestations around Pro-Poor Land Policies and Land Governance' (2010) 10(1) *Journal of Agrarian Change* 1

Fraser, Nancy, 'Can Society Be Commodities All the Way Down? Post-Polyanian Reflections on Capitalist Crisis' (2012) 43(4) *Economy and Society* 541.

French, Shaun, Andrew Leyshorn and Thomas Wainwright, 'Financializing Space, Spacing Financialization' (2011) 35(6) *Progress in Human Geography* 798

Friedman, Lawrence, 'The Law and Society Movement' (1986) *Stanford Law Review* 763

Frug, Gerald, *City Making Building Communities Without Building Walls* (Princeton University Press, 2001)

Frug, Gerald and David Barron, 'International Local Government Law' (2006) 38(1) *Urban Lawyer* 1

'Geo-Demographic Analysis of Area C', Applied Research Institute-Jerusalem, 2013

George, Rosemary, *Burning Down the House: Recycling Domesticity* (Westview, 1999).

George, Susan and Fabrizio Sabelli, *Faith and Credit: The World Bank's Secular Empire* (Penguin, 1994)

Geertz, Clifford, *The Interpretation of Cultures: Selected Essays* (Basic Books, 1973)

Giddens, Anthony, *The Constitution of Society* (Polity, 1984)

Ginsberg, Robert, 'Meditations on Homelessness and Being at Home: In the Form of a Dialogue' in G. Abarro, John (ed), *The Ethics of Homelessness: Philosophical Perspectives* (Rodopi, 1999)

Gobo, Giampietro, *Doing Ethnography* (SAGE, 2008)

Godfrey, Martin, Chan Sophal, Toshiyasu Katu, Long Vou Piseth and Pon Durina, 'Technical assistance and capacity development in an aid-dependent economy: the experience of Cambodia' (2000) *Working Paper 15*, Cambodian Development Resource Institute

Goffman, Erving, *The Presentation of Self in Everyday Life* (Doubleday, 1959)

Golan, Arnon, 'The Transfer to Jewish Control of Abandoned Arab Lands During the War of Independence' in Ilan Troen and Noah Lucas (eds) *Israel: The first decades of independence* (State University of New York Press, 1995)

Goldsack, Laura, 'A Haven in a Heartless World? Women and Domestic Violence' in Tony Chapman and Jenny Hockey (eds), *Ideal Homes? Social Change and Domestic Life* (Routledge, 1999) 121

Goldsmith, Jack and Eric Posner, *The Limits of International Law* (Oxford University Press, 2007)

Goodale, Mark and June Starr, *Practicing Ethnography in Law: New Dialogues, Enduring Methods* (Palgrave Macmillan, 2002)

Goodale, Mark and Sally Engle Merry, *The Practice of Human Rights: Tracking Law between the Global and the Local* (Cambridge University Press, 2007)

Gottesman, Evan, *Cambodia after the Khmer Rouge: Inside the Politics of National Building* (Yale University Press, 2004)

Graham, Stephen, 'Constructing Urbicide By Bulldozer in The Occupied Territories' in Stephen Graham (ed), *Cities, War and Terrorism: Towards an Urban Geopolitics* (Blackwell, Oxford, 2004) 192–213

Gray, Kevin and P. D. Symes, *Real Property and Real People: Principles of Land Law* (Butterworths, 1981)

Greenspan, Morris, *The Modern Law of Land Warfare* (University of California Press, 1959)

Greve, Hanne Sophie, 'Land Tenure and Property Rights in Cambodia' (United Nations, 1993)

Gros, [Frédéric](#), *A Philosophy of Walking* (John Howe trans, Verso, 2015)

Gross, Aeyal, 'Human proportions: Are human rights the emperor's new clothes of the international law of occupation?' (2007) 18(1) *European Journal of International Law* 1

Grossman, David, *Sleeping on a Wire: Conversations with Palestinians in Israel* (Cape, 1993)

Greenhouse, Carol, Elizabeth Mertz and Kay Warren, *Ethnography in Unstable Places: Everyday Lives in Contexts of Dramatic Political Change* (Duke University Press, 2002)

Guillou, Anne Yvonne, 'The Question of Land in Cambodia' (2006) 9-10 *The Agriculture in Southeast Asia: An Update* 299

Guimbert, Stephane, 'World Bank Policy Research Working Paper 5271' (April 2010)

Gurney, Craig, "' . . . Half of Me Was Satisfied": Making Sense of Home through Episodic Ethnographies' (1997) 20(3) *Women's Studies International Forum* 373

Haber, Hanan, 'Regulation as Social Policy: Home Evictions and Repossessions in the UK and Sweden' (2015) 93 *Public Administration* 806

Hage, Ghassan, 'A Not So Multi-Sited Ethnography of a Not So Imagined Community' (2005) (5) *Anthropological Theory* 463

Halabi, Usama, 'Israel's Absentees' Property Law: A tool for taking control of Palestinian land', Civic Coalition for Palestinian Rights in Jerusalem, 2013

Hall, Ruth, Marc Edelman, Saturnino Borrás, Ian Scoones, Ben White and Wendy Wolford, 'Resistance, Acquiescence or Incorporation? An Introduction to Land Grabbing and Political Reactions from Below' (2015) 42(3-4) *Journal of Peasant Studies* 467

- Halliday, Simon, Celia Kitzinger and Jenny Kitzinger, 'Law in Everyday Life and Death: A Socio-Legal Study of Chronic Disorders of Consciousness' (2015) 35(1) *Legal Studies* 55
- Halliday, Terence and Gregory Shaffer (eds), *Transnational Legal Orders* (Cambridge University Press 2015)
- Halper, Jeff, 'The 94 Per Cent Solution: A Matrix of Control' (2000) 216 *Middle East Report* 14
- *Obstacles to Peace: A Re-framing of the Palestinian-Israeli Conflict* (3rd ed, Israeli Committee Against House Demolitions, 2005)
 - 'The Message of the Bulldozers' (2006) 26 *Forced Migration Review* 28
- Hammersley, Martyn, *What is Qualitative Research?* (Bloomsbury, 2013)
- Hanley, Lynsey, *Estates: An Intimate History* (Granta, 2008)
- Hannam, Kevin, Mimi Sheller and John Urry, 'Editorial: Mobilities, Immobilities and Moorings' (2006) 1(1) *Mobilities* 1
- Harker, Christopher, 'Spacing Palestine Through the Home' (2009) *Transactions of the Institute of British Geographers* 320
- Harpaz, Guy and Yuval Shany, 'The Israeli Supreme Court and the Incremental Expansion of the Scope of Discretion under Belligerent Occupation Law' (2010) 43 *Israel Law Review* 514
- Harper, Douglas, 'Talking About Pictures: A Case for Photo Elicitation' (2002) 17(1) *Visual Studies* 13
- Harvey, David, *The Limits to Capitalism* (Blackwell, 1982)
- *The Urbanization of Capital: Studies in the History and Theory of Capitalist Urbanization* (Blackwell, 1985)
 - *The Condition of Postmodernity* (Blackwell, 1989)
 - 'The Right to the City' (2003) 27(4) *International Journal of Urban and Regional Research* 939

Hassan, Ihab, *Rumors of Change: Essays of Five Decades*. (University of Alabama Press, 1995)

Hayden, Dolores, *Building Suburbia: Green Fields and Urban Growth, 1820-2000* (Pantheon Books, 2003)

Heathcote, Edwin, *The Meaning of Home* (Francis Lincoln, 2012)

Hegel, Georg Wilhelm Friedrich, *Lectures on the History of Philosophy: The Lectures of 1825-26* (University of California Press, 1990)

Heidegger, Martin, *Basic Writings: From Being and Time (1927) to the Task of Thinking (1964)* (David Farrell Krell trans, Routledge, 2nd ed, 1993)

Helu, Musallam, 'Urban Sprawl in Palestinian Occupied Territories' (2012) 3(1) *Environment and Urbanization Asia* 121-41

Henderson, Nick and Mark Grimsditch, 'Untitled - Tenure Insecurity and Inequality in the Cambodian Land Section' (Bridges Across Borders Southeast Asia, Centre on Housing Rights and Eviction, Jesuit Refugee Service, 2009)

Hepworth, Mike, 'Privacy, Security and Respectability: The Ideal Victorian Home' in Chapman, Tony and Hockey, Jenny (eds), *Ideal Homes? Social Change and Domestic Life* (Routledge, London, 1999) 17

Hertzberger, Herman, *Lessons for Students in Architecture* (010 Publishers, 4th ed, 2001)

Hilber, Christian, 'UK Planning and Housing Policies: The Evidence From Economic Research', Centre for Economic Performance, The London School of Economics and Political Science, May 2015

Hill, Hal and Jayant Menan, 'Trade Policy Challenges in a Small, Open, Fragile, Postconflict Economy: Cambodia', Asian Development Bank, October 2014

Hill-Cawthorne, Lawrence, 'The Role of Necessity in International Humanitarian and Human Rights Law' (2014) 47(2) *Israel Law Review* 225

- 'Humanitarian Law, Human Rights Law, and the Bifurcation of Armed Conflict' (2015) 64(2) *International and Comparative Law Quarterly* 293

Hine, Christine, *Virtual Ethnography* (SAGE, 2000)

Hirsch, Susan, *Pronouncing and Preserving: Gender and the Discourses of Disputing in an African American Court* (University of Chicago Press, 1998)

Hochberg, Gil, *Visual Occupations: Violence and Visibility in a Conflict Zone* (Duke University Press, 2015)

Hohmann, Jessie, *The Right to Housing: Law, Concepts, Possibilities* (Hart Publishing, 2013)

Hohmann, Jessie and Daniel Joyce (eds), *International Law's Objects: Emergence, Encounter and Erasure through Object and Image* (Oxford University Press, 2017)

Hollander, John, 'It All Depends' (1991) 58(1) *Social Research* 31

Holstein, James and Jaber Gubrium, *The Active Interview* (SAGE, 1996)

Holtermann, Jakob and Mikael Rask Madsen, 'Toleration, Synthesis or Replacement? The 'Empirical Turn' and its Consequences for the Science of International Law' (2016) 29 *Leiden Journal of International Law* 1001

Honig, Bonnie, 'Difference, Dilemmas, and the Politics of Home' (1994) 61(3) *Social Research* 563

hooks, bell, 'Homeplace: A Site of Resistance' in bell hooks (ed), *Yearning: Race, Gender, and Cultural Politics* (South End Press, 1990)

Horelli, Liisa, *Psychosocial and Socio-Cultural Meanings of Dwelling* (Psychosocial and Socio-Cultural Meanings of Dwelling in the Context of a Self-Planned Community Series, 1990)

‘Housing: Enabling Markets to Work’, World Bank, 1993

'Housing Finance Policy in Emerging Markets', World Bank, 2009

‘Housing Projections Up to 2017 - Projected Housing Units in the Palestinian Territory Using Average of Head of Households Hypothesis by Region and Year’, Palestine Central Bureau of Statistics, 2012

Hughes, Katherine and Elisabeth Wickeri, ‘A Home in the City: Women’s Struggle to Secure Adequate Housing in Urban Tanzania’ (2011) 34 *Fordham International Law Journal* 788

Humphrey, Stephen, *The Elephant & Castle: A History* (Amberley, 2013)

Hyndman, Jennifer, 'Towards a Feminist Geopolitics' (2001) 45(2) *Canadian Geographer* 210

‘Implementation Completion Report, Cambodia, Emergency Rehabilitation Project’, World Bank, 1997

Ingold, Tim, and Jo Lee Vergunst, *Ways of Walking: Ethnography and Practice on Foot* (Ashgate, 2008)

'Investigation Report - Cambodia: Land Management and Administration Project', World Bank Inspection Panel, 2010

Irigaray, Luce, *An Ethics of Sexual Difference* (Athlone Press, 1993)

‘Israel’s punitive house demolitions policy: Collective punishment in violation of international law’, Al-Haq, 2003

Jabr, Ferris, ‘Why Walking Helps Us Think’, *The New Yorker*, 3 September 2014

Jacobs, Jane, *The Death and Life of Great American Cities* (Random House, 1961, 2002)

Jacobs, Keith and Jeff Malpas, 'Material Objects, Identity and the Home: Towards a Relational Housing Research Agenda' (2013) 30(3) *Housing, Theory and Society* 281

Jamal, Amal, 'Place, Home and Being: The Dialectics of the Real and Imagined in the Conception of Palestinian Domesticity' in Azoulay, Ariela (ed) *Homeless Home* (Museum on the Seam, 2009)

Jansen, Stef and Staffan Löfving, *Struggles For Home: Violence, Home and the Movement of People* (Berghahn, 2009)

Jasanoff, Sheila, 'Subjects of Reason: Goods, Markets and Competing Imaginaries of Global Governance' (2016) 4(3) *London Review of International Law* 361

Jeanneret, Charles-Édouard (Le Corbusier), Letter to Madame Savoy, 1935

Johns, Fleur, Richard Joyce and Sundhya Pahuja, *Events: The Force of International Law* (Routledge, 2011)

Johns, Fleur, Ben Boer, Philip Hirsch, Ben Saul and Natalia Scurrah (eds), *The Mekong: A Socio-Legal Approach to River Basin Development* (Earthscan/Routledge, 2016)

Johnson, Chalmers, 'The Developmental State: Odyssey of a Concept' in Meredith Woo-Cumings (ed), *The Developmental State* (Cornell University Press, 1999)

Judt, Tony, 'The Rootless Cosmopolitan', *The Nation*, 1 July 2004

Kanafani, Ghassan, 'Returning to Haifa' (2008) 15(1/2) *Palestine - Israel Journal of Politics, Economics, and Culture* 213

Kaplan, Allan, *The Development of Capacity* (United Nations Non-Government Liaison Service, 1999)

Kaplan, Amy, 'Homeland Insecurities: Reflections on Language and Space' (2003) 85 *Radical History Review* 82

Kapur, Devesh, John Lewis and Richard Webb (eds), *The World Bank: Its First Half Century* (Brookings Institution, 1997)

Kemeny, Jim, *The Myth of Home Ownership: Private Versus Public Choices in Housing Tenure* (Routledge, 1981)

Kenna, Padraic, 'Globalization and Housing Rights' (2008) 15(2) *Indiana Journal of Global Legal Studies* 397

- *Contemporary Housing Issues in a Globalized World* (Ashgate, 2014)

Khalidi, Walid, *All That Remains: The Palestinian Villages Occupied and Depopulated by Israel in 1948* (The Institute for Palestine Studies, 1992).

Khazindar, Waleed, *Houses* (2013) 19(12) *Palestine-Israeli Journal of Politics, Economics, and Culture* 172, translated by Lena Jayyusi and reprinted from W.S. Merwin, from *Anthology of Modern Palestinian Literature*

Kiernan, Ben, *How Pol Pot Came to Power: Colonialism, Nationalism, and Communism in Cambodia, 1930-1975* (Yale University Press, 2nd ed, 2004)

- *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975-79* (Yale University Press, 3rd ed, 2008)

Kelsen, Hans, *Principles of International Law* (Rinehart and Winston, 2nd ed, 1966)

'Key Indicators for Asia and Pacific', Asian Development Bank, 2009

King, David, *The Common Place: The Ordinary Experience of Housing* (Ashgate, 2005)

- *In Dwelling: Implacability, Exclusion and Acceptance* (Routledge, 2008)

King, Peter, *Housing Policy Transformed: The Right to Buy and the Desire to Own* (Policy Press, 2010)

Kingsbury, Benedict, 'Operational Policies of International Institutions as Part of the Law-making Process: The World Bank and Indigenous Peoples', in Guy Goodwin-Gill and Stefan

Talmon, *The Reality of International Law: Essays in Honour of Ian Brownlie* (Oxford University Press, 1999)

Kingsbury, Benedict and Nico Krisch, Richard Stewart and Jonathan Wiener, 'Foreword: Global Governance as Administration - National and Transnational Approaches to Global Administrative Law' (2004) 68(3-4) *Law and Contemporary Problems* 1

Kleinman, Mark, *Housing, Welfare, and the State in Europe: A Comparative Analysis of Britain, France, and Germany* (Edward Elgar, 1996)

Knoblauch, Hubert, 'Focused Ethnography' (2005) 3(6) *Qualitative Social Research* 44

Kotef, Hagar, 'Ba'it (Home / Household)' (2010) *Maft'e'akh* 3

Koudelka, Josef, *Wall: Israeli and Palestinian Landscape 2008-2012* (Aperture, 2013)

Koskeniemmi, Martti, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press, 2005)

- *The Politics of International Law* (Hart, 2011)

Kretzmer, David, *Occupation of Justice* (State of New York University Press, 2012)

- 'The Law of Belligerent Occupation in the Supreme Court of Israel' (2012) 94 (885) *International Review of the Red Cross* 207
- 'The Law of Belligerent Occupation as a System of Control: Dressing Up Exploitation in Respectable Garb' in Daniel Bar-Tel and Izhak Schnell, *The Impacts of Lasting Occupation: Lessons From Israeli Society* (Oxford University Press, 2012)

Kritzer, Herbet, 'Conclusion: Research is a Messy Business – An Archaeology of the Craft of Sociolegal Research' in Simon Halliday and Patrick Schmidt (eds), *Conducting Law and Society Research: Reflections on Methods and Practice* (Cambridge University Press, 2009)

Künnemann, Rolf and Sofia Monsalve Suárez, 'International Human Rights and Governing Land Grabbing: A View from Global Civil Society' (2013) 10(1) *Globalizations* 123

- Kurst-Swanger, Karel and Jacqueline Petcosky, *Violence in the Home: Multidisciplinary Perspectives* (Oxford University Press, 2003)
- Kvale, Steinar, *Doing Interviews* (SAGE, 2007)
- ‘Lake Inferior: The Poor Pay for a Property Boom’, *The Economist*, 29 January 2009 (online)
- Lang, Andrew, 'New Legal Realism, Empiricism, and Scientism: The Relative Objectivity of Law and Social Science' (2015) 28 *Leiden Journal of International Law* 231
- Lang, Robert, *Boomburbs: The Rise of America's Accidental Cities*, James A. Johnson Metro Series (Brookings Institution Press, 2007)
- Langley, Paul, *The Everyday Life of Global Finance: Saving and Borrowing in America* (Oxford University Press, 2008)
- Lapidoth, Ruth, ‘The Right of Return in International Law With Special Reference to the Palestinian Refugees’ (1986) 16 *Israel Yearbook on Human Rights* 103
- Langhamer, Claire, 'The Meanings of Home in Postwar Britain' (2005) 40(2) *Journal of Contemporary History* 341
- Lauretis, Teresa de, 'Eccentric Subjects: Feminist Theory and Historical Consciousness' (1990) 16(1) *Feminist Studies* 115
- Law, John, *After Method: Mess in Social Science Research* (Routledge, 2004)
- Layard, Antonia, ‘Shopping in the Public Realm: A Law of Place’ (2010) 37(3) *Journal of Law and Society* 412
- ‘Law and Localism: The Case of Multiple Occupancy Housing’ (2012) 32(4) *Legal Studies* 551
- Leckie, Scott, ‘The Justiciability of Housing Rights’ (1994) *SIM Special Issue* 18

Lee, Jo and Tim Ingold, 'Fieldwork on Foot: Perceiving, Routing, Socialising' in Simon Coleman and Peter Collins (eds), *Locating the Field: Space, Place and Context in Anthropology* (Berg, 2006) 67

Lee, Raymond, *Doing Research on Sensitive Topics* (SAGE, 1993)

Leech, Beth, 'Asking Questions: Techniques for Semistructured Interviews' (2002) 35(2) *Political Science and Politics* 665

Lees, Loretta, 'Gentrification and Social Mixing: Towards an Inclusive Urban Renaissance?' (2008) 45(120) *Urban Studies* 2449

- 'The Urban Injustices of New Labour's 'New Urban Renewal': The Case of the Aylesbury Estate in London' (2014) 46(4) *Antipode* 921-947
- 'Resisting Gentrification on its Final Frontiers: Learning from the Heygate Estate in London (1974–2013)' (2016) 57 *Cities* 14

Lees, Loretta, Tom Slater and Elvin Wyly, *The Gentrification Reader* (Routledge, 2010)

Lefebvre, Henri, *Le Droit à La Ville* [The right to the city] (1968; 3rd ed, Anthropos-Economica, 2009)

- *The Production of Space* (Donald Nicholson-Smith trans, Blackwell, 1991)
- *Writings on Cities* (E. Kofman and E. Lebas trans, Blackwell, 1996)
- *Key Writings* (Continuum, 2003)

Levy, Gideon, 'The Lowest Points in Israel' in Rafi Segal and Eyal Weizman (ed), *A Civilian Occupation, the Politics of Israeli Architecture* (Verso, revised ed 2003)

Liberti, Stefano, *Land Grabbing: Journeys in the New Colonialism* (Verso, 2013)

Likhovski, Assaf, *Law and Identity in Mandate Palestine* (University of North California Press, 2014)

Linz, Juan and Alfred Stepan, *Problems of Democratic Transition and Consolidation* (John Hopkins University Press, 1996)

Littlejohn, James, 'The Temne House' (1960) 14 *Sierra Leone Studies* 63

Lizee, Pierre, *Peace, Power, and Resistance in Cambodia: Global Governance and the Failure of International Conflict Resolution* (Macmillan, 2000)

Llewellyn, Karl and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence* (William S Hein & Co, 1941)

London Assembly, 'Knock It Down or Do It Up: The Challenge of Estate Regeneration', February 2015

Lowe, Stuart and Sasha Tsenkova, *Housing Change in East and Central Europe: Integration or Fragmentation?* (Ashgate, 2003)

Luckmann, Thomas, 'On Meaning in Everyday Life and Sociology' (1989) 37 *Current Sociology* 17

Lund, Christian and Nancy Lee Peluso, 'New Frontiers of Land Control: Introduction' (2011) 38(4) *The Journal of Peasant Studies* 667

Lustick, Ian, *Unsettled states, disputed lands: Britain and Ireland, France and Algeria, Israel and the West Bank-Gaza* (1993)

Luxton, Meg, 'The UN, Women and Household Labour: Measuring and Valuing Unpaid Work' (1997) 20(3) *Women's Studies International Forum* 431

Macfarlane, Robert, *The Old Ways: A Journey on Foot* (Penguin, 2013)

Mack, Arien, 'Home: A Place in the World – Editor's Introduction' (1991) 51(1) *Social Research* 5

- *Home: A Place in the World* (NYU Press, 1993)

Malpass, Peter, *Reshaping Housing Policy: Subsidies, Rents and Residualisation* (Routledge, 1989)

- *Housing and the Welfare State: The Development of Housing Policy in Britain* (Palgrave Macmillan, 2005)

Maurer, Peter, 'Challenges to International Humanitarian Law: Israel's Occupation Policy' (2012) 888(94) *International Review of the Red Cross* 1503

Mayor of London, *Homes for Londoners: Affordable Housing and Viability Supplementary Planning Guidance*, consultation draft, February 2017

McCargo, Duncan, 'Cambodia: Getting Away with Authoritarianism?' (2005) 16(4) *Journal of Democracy* 98-112

McCartan, Kieran and Colin Robson, *Real World Research* (4th ed, Wiley, 2016)

McClintock, Anne, 'Family Feuds: Gender, Nationalism and the Family' (1993) 44 *Feminist Review* 61

McKenzie, David and Suresh de Mel, 'Getting Credit to High Return Microentrepreneurs: The Results of an Information Intervention' (2011) 25(2) *World Bank Economic Review* 456

McKenzie, Lisa, 'Getting By: Estates, Class and Culture in Austerity Britain' (Policy, 2015)

McMichael, Philip, 'Land Grabbing as Security Mercantilism in International Relations' (2013) 10(1) *Globalizations* 47

McRae, Andrew, 'To Know One's Own: Estate Surveying and the Representation of Land in Early Modern England' (1993) 56(4) *The Huntington Library Quarterly* 333

Mabbett, Ian and David Chandler, *The Khmers* (Wiley-Blackwell, 1995)

Macfarlane, Robert, *The Old Ways: Journeys on Foot* (Penguin, 2013)

- Mackellar, Dorothea, *My Country* (1908, Scholastic, 2010)
- Mackenzie, Emily and Simon Gardner, *An Introduction to Land Law* (Hart Publishing, 3rd ed, 2012)
- Madden, David and Peter Marcuse, *In Defence of Housing* (Verso, 2016)
- Madigan, Ruth, Moira Munro and Susan Smith, 'Gender and the meaning of home' (1990) 14(4) *International Journal of Urban and Regional Research* 625
- Maffesoli, Michel, 'Editorial Preface: The Everyday Perspective' (1989) 37 *Current Sociology* V-VI
- 'The Sociology of Everyday Life (Epistemological Elements)' (1989) 37 *Current Sociology* 1
- Mallett, Shelley, 'Understanding Home: A Critical Review of the Literature' (2004) 52(1) *The Sociological Review* 62
- Malpas, Jeff, *Heidegger's Topology: Being, Place, World* (MIT Press, 2006)
- Manderson, Desmond, 'A Review of Eve Darian-Smith, *Laws and Societies in Global Contexts – Contemporary Approaches*' (2014) 8(1) *Law and Humanities* 77
- Mangin, William, 'Squatter settlements' (1967) 217 *Scientific American* 21
- and John Turner, 'Benavides and the *Barriada* Movement' in Paul Oliver (ed), *Shelter and Society* (1969)
- Manning, Erin, *Ephemeral Territories: Representing Nation, Home, and Identity in Canada* (University of Minnesota Press, 2003)
- Marcus, George, 'Mass Toxic Torts and the End of Everyday Life' in Austin Sarat and Thomas Kearns (eds), *Law in Everyday Life* (University of Michigan Press, 1993)
- 'Ethnography in/of the World System: The Emergence of Multi-Sited Ethnography' (1995) 24 *Annual Review of Anthropology* 95

- *Ethnography Through Thick and Thin* (Princeton University Press, 1998)

Margalit, Alon and Sarah Hibbin, 'Unlawful Presence of Protected Persons in Occupied Territory? An analysis of Israel's Permit Regime and expulsions from the West Bank Under the Law of Occupations' (2011) 13 *Yearbook of International Humanitarian Law* 245

Margulis, Matias, Nora McKeon and Saturnino Borrás, 'Land Grabbing and Global Governance: Critical Perspectives' (2013) 10(1) *Globalizations* 1

Marks, Susan, (ed), *International Law on the Left: Re-Examining Marxist Legacies* (Cambridge, 2008)

- 'Backlash: The Undeclared War Against Human Rights' (2014) 4 *European Human Rights Law Review* 319

Marom, Nathan, 'The Planning Deadlock, House Demolitions in the Palestinian Neighbourhoods of East Jerusalem' in Philipp Misselwitz and Tim Rieniets, *City of Collision: Jerusalem and the Principles of Conflict Urbanism* (Birkhäuser, 2006)

Martineau, Anne-Charlotte, 'Overcoming Eurocentrism? Global History and the Oxford Handbook of the History of International Law' (2014) 25(1) *European Journal of International Law* 329

Martin, Randy, *Financialization of Daily Life* (Temple University Press, 2002)

Masalha, Nur (ed), *Catastrophe Remembered: Palestine, Israel and the Internal Refugees – Essays in Memory of Edward W Said, 1935-2003* (Zed Books, 2005)

Massey, Doreen, *World City* (Polity, 2007)

- *For Space* (SAGE, 2005)
- 'A Place Called Home' (1991) 17 *New Formations* 3

Meade, Terry, 'Violence and Domestic Space: Demolition and Destruction of Homes in the Occupied Palestinian Territories' (2011) 16(1) *The Journal of Architecture* 71

- 'Destruction of Homes, Erasure of History' in Chiara Certomà, Nicola Clewer and Doug Elsey (eds) *The Politics of Space and Place* (Cambridge Scholars Publishing, 2012)

'Memorandum of the President of the International Development Association and the International Finance Corporation to the Executive Directors on a Country Assistance Strategy of the World Bank Group for the Kingdom of Cambodia', World Bank, 2000

Merrill, Thomas, 'Property and the Right to Exclude' (1998) 77(4) *Nebraska Law Review* 730

Merry, Sally Engle, *Getting Justice and Getting Even: Legal Consciousness Among Working-class Americans* (University of Chicago Press, 1990)

- 'Crossing Boundaries: Ethnography in the Twenty-First Century' (2000) 23(2) *PoLAR: Political and Legal Anthropology Review* 127
- 'Rights Talk and the Experience of Law: Implementing Women's Human Rights to Protection from Violence' (2003) 25(2) *Human Rights Quarterly* (343)
- and Rachel Stern, 'The Female Inheritance Movement in Hong Kong: Theorizing the Local/Global Interface' (2005) 46(3) *Current Anthropology* 387
- *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago Press, 2006)
- 'Transnational Human Rights and Local Activism: Mapping the Middle' (2006) 108(1) *American Anthropologist* 38
- and Summer Wood, 'Quantification and the Paradox of Measurement: Translating Children's Rights in Tanzania' (2015) 56(2) *Current Anthropology* 205
- 'Anthropology and International Law' (2006) 35 *Annual Review of Anthropology* 99
- *The Seductions of Quantification: Measuring Human Rights, Gender Violence, and Sex Trafficking* (University of Chicago Press, 2016)

Mian, Atif and Amir Sufi, *House of Debt: How They (and You) Caused the Great Recession and How We Can Prevent it From Happening Again* (University of Chicago Press, 2015)

Miller, Daniel, 'Behind Closed Doors' in Daniel Miller (ed), *Home Possessions: Material Culture Behind Closed Doors* (Oxford University Press, 2001)

Minton, Anna, *Ground Control: Fear and Happiness in the Twenty-First Century City* (Penguin, 2012)

Mishler, Elliot, *Research Interviewing – Context and Interview* (Harvard University Press, 1986)

Mitchell, Timothy, 'The Properties of Markets: Informal Housing and Capitalism's Mystery', Cultural Political Economy Working Paper Series, Working Paper No. 2, Institute for Advanced Studies in Social and Management Sciences, University of Lancaster, 2006

Mohanty, Bidy Martin and Chandra Talpade, 'Feminist Politics: What's Home Got to Do with It?' in Teresa de Lauretis (ed), *Feminist Studies/Critical Studies* (Indiana University Press, 1986)

Montgomerie, Johnna and Mirjam Büdenbender, 'Round the Houses: Homeownership and Failures of Asset-Based Welfare in the United Kingdom' (2015) 20(3) *New Political Economy* 386

Montgomery, Will, 'Sounding the Heygate Estate' (2011) 15 *City* 3-4, 443

Moore, Jeanne, 'Placing Home in Context' (2000) *Journal of Environmental Psychology* 207

Moore, Rowan, *Slow Burn City: London in the Twenty First Century* (Picador, 2016)

Moore, Sally Falk, 'Introduction: Moralizing States and the Ethnography of the Present' (1993) 5 *American Ethnological Society Monograph Series* 1

- 'Certainties Undone: Fifty Turbulent Years of Legal Anthropology, 1949-1999' (2001) 7 *Journal of Royal Anthropology Institute* 95

Morley, David, *Home Territories: Media, Mobility and Identity* (Routledge, 2000)

Morris, Tim, 'Just a Wall?' (2006) 26(1) *Forced Migration Review* 30

Mulcahy, Linda, Emma Rowden, Kirsten Orr, 'Introduction: Making Sense of Law: Pungency, Feel and Rhythm' (2015) *Law, Culture and the Humanities* 1

Munro, Moira and Ruth Madigan, 'Privacy in the Private Sphere' (1993) 8(1) *Housing Studies* 29

Munro, Moira and Ruth Madigan, 'Negotiating Space in the Family Home' in I Cieraad (ed), *At Home: An Anthropology of Domestic Space* (Syracuse University Press, 1999)

Munro, Moira and Ruth Madigan, 'The More We are Together: Domestic Space, Gender and Privacy' in Chapman and Hockey (eds), *Ideal Homes? Social Change and Domestic Life* (Routledge, London, 1999) 61

Myers, Misha, 'Walking Again Lively: Towards an Ambulant and Conversive Methodology of Performance and Research' (2011) 6(2) *Mobilities* 183

Nader, Laura and Tim Plowman, 'Anthropology and Everyday Scholarship: Legal Anthropology' (1996) 98(3) *American Anthropologist* 624

Nath, Vann, *A Cambodian Prison Portrait: One Year in the Khmer Rouge's S21* (White Lotus, 1999)

Neslen, Arthur, *Occupied Minds: A Journey through the Israeli Psyche* (University of Chicago Press, 2006)

Nettleton, Sarah and Roger Burrows, 'When a Capital Investment Becomes an Emotional Loss: The Health Consequences of the Experience of Mortgage Possession in England' (2000) 15(3) *Housing Studies* 463

Nielsen, Kenneth and Alf Gunvald Nilsen, 'Law Struggles and Hegemonic Processes in Neoliberal India: Gramscian Reflections on Land Acquisition Legislation' (2015) 12(2) *Globalizations* 203-216

Nussbaum, Martha, 'Human Rights and Human Capabilities' (2007) 20 *Harvard Human Rights Journal* 21

Oldenburg, Christoph and Andreas Neef, 'Reversing Land Grabs or Aggravating Tenure Insecurity: Competing Perspectives on Economic Land Concessions and Land Titling in Cambodia' (2014) 7(1) *Law and Development Review* 49

Oliver, Paul, *Dwellings: The Vernacular House World Wide* (Phaidon, 2003)

‘Operational Policy 4.12 on Involuntary Resettlement’, World Bank, 2001, revised 2013

Ophir, Adi, Michal Givoni, and Sārī Ḥanafī, *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (Zone, 2009)

Oppenheim, Lassa, ‘The Science of International Law: Its Tasks and Method’ (1908) 2 *American Journal of International Law* 313

Oppenheim, Louis, *International Law: A Treatise – Volume II: Disputes, War and Neutrality* (Hersch Lauterpacht ed, Longman, 7th ed, 1952)

Orford, Anne, (ed), *International Law and Its Others* (Cambridge University Press, 2006)

- ‘Constituting Order’ in James Crawford and Martti Koskenniemi (eds), *The Cambridge Companion to International Law* (Cambridge University Press, 2012)
- ‘In Praise of Description’ (2012) 25(3) *Leiden Journal of International Law* 609
- ‘On International Legal Method’ (2013) 1 *London Review of International Law* 166

Orwell, George, *Nineteen Eighty-four* (Penguin, 2003)

Osborne, Milton, *Phnom Penh: A Cultural and Literary History* (Signal Books, 2008)

‘Oslo: Before and After: The Status of Human Rights in the Occupied Territory’, B’Tselem, 1999

Ottaway, Marina, ‘Rebuilding State Institutions in Collapsed States’ (2002) 33(5) *Development and Change* 1001-1023

- *Democracy Challenged: The Rise of Semi-Authoritarianism* (Carnegie Endowment for International Peace, 2003)

Owen, Roger and Martin Bunton, *New Perspectives on Property and Land in the Middle East* (Harvard University Press, 2000)

Ozel, Oktay, 'Limits of the Almighty: Mehmed II's 'Land Reform' Revisited' (1999) 42(2) *Journal of the Economic and Social History of the Orient* 226

Paglione, Giulia, 'Domestic Violence and Housing Rights: A Reinterpretation of the Right to Housing' (2006) 20 *Human Rights Quarterly* 120

Pahuja, Sundhya, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011)

Pahuja, Sundhya and Luis Eslava, 'Beyond the (Post)Colonial: TWAIL and the Everyday Life of International Law' (2012) 45(2) *Journal of Law and Politics in Africa, Asia and Latin America* 195

Pahuja, Sundhya and Luis Eslava, 'Between Resistance and Reform: TWAIL and the Universality of International Law' (2011) 3(1) *Trade Law and Development* 103

Pain, Rachel, 'Social geographies of women's fear of crimes' (1997) *Transactions* 22, 231

'Palestinian Village Khirbet Susiya Under Imminent Threat of Demolition and Expulsion', B'Tselem, 7 May 2015

Paranjape, Anuradha, Giselle Corbie-Smith, Nancy Thompson and Nadine Kaslow, 'When Older African American Women Are Affected by Violence in the Home' (2009) 15(8) *Violence Against Women* 977.

Paris, Roland, *At War's End – Building Peace after Civil Conflict* (Cambridge University Press, 2004)

Parmenter, Barbara, *Giving Voice to Stones: Place and Identity in Palestinian Literature* (University of Texas Press, 1994)

Pateman, Carole, 'House, Home and Homeland' (2008) 4(2) *Politics & Gender* 341

- Patton, Bruce, Michael Ignatieff, Brian Mandell, Eric Berger, David Matz and Yishai Blank, 'Legal Issues and Human Rights Dimensions of the Israeli Settlements Issue: Victims and Spoilers' (2005) 21(2) *Negotiations Journal* 221
- Payne, Geoffrey, Alain Durand-Lasserve and Carole Radoki, 'The limits of land titling and home ownership' (2009) 21(2) *Environment and Urbanization* 443
- Peck, Jamie, 'Neoliberalizing States: Thin Policies/Hard Outcomes' (2001) 27(2) *Progress in Human Geography* 445
- Peck, Jamie and Adam Tickell, 'Neoliberalizing Space' (2002) 34(3) *Antipode* 380
- Peet, Richard, *Unholy Trinity: The IMF, World Bank and WTO* (Zed Books, 2003)
- Peil, Tina, 'Home' in Nigel Thrift and Kitchin, Rob (eds), *International Encyclopedia of Human Geography* (Oxford Elsevier, 2009)
- Pell, Susan, 'Radicalizing the Archive: An Ethnographic Reading of an Activist Archive' (2015) 80 *Archivaria: Journal of the Association of Canadian Archivists* 33
- Peou, Sorpong, 'Cambodia' in Shepherd Forman and Stewart Patrick (eds), *Good Intentions: Pledges of Aid for Post-conflict Recovery* (Lynne Rienner, 2000)
- Perkins, Harvey and David Thorns, 'House and Home and Their Interaction with Changes in New Zealand's Urban System, Households and Family Structures' (1999) 16(3) *Housing, Theory and Society* 124
- Philippopoulos-Mihalopoulos, Andreas, 'Law's Spatial Turn: Geography, Justice and a Certain Fear of Space' (2011) 7(2) *Law, Culture and the Humanities* 1
- Pictet, Jean, 'The Principles of International Humanitarian Law' (1966) 6 (66) *International Review of the Red Cross* 455

Pierdet, Céline, 'Private Investors in Phnom Penh (Cambodia) and the Reconfiguration of the City Center in Relation to the Periphery Since the 1990s' (2001) 5(681) *Annales de Géographie* 486 (2011)

Pinder, David, 'Errant Paths: The Poetics and Politics of Walking' (2011) 29(4) *Environment and Planning D* 672

Plessis, Jean Du, 'The Growing Problem of Forced Evictions and the Crucial Importance of Community-Based, Locally Appropriate Alternatives' (2005) 17(1) *Environment and Urbanization* 123

Pogge, Thomas, *World Poverty and Human Rights* (Cambridge, Polity Press, 2002)

Porter, Matias and Tony Margulis, 'Governing the Global Land Grab: Multipolarity, Ideas, and Complexity in Transnational Governance' (2013) 10(1) *Globalizations* 65

Porteous, John Douglas and Sandra Smith, *Domicide: The Global Destruction of Home* (McGill-Queens University Press, 2001)

Pratt, Geraldine and Victoria Rosner, 'Introduction: The Global and the Intimate' (2006) 34(1-2) *Women's Studies Quarterly* 13

Pratt, Minnie Bruce, 'Identity: Skin Blood Heart' in Minnie Bruce Pratt Elly Bulkin, Barbara Smith (ed), *Yours in Struggle: Three Feminist Perspectives on Anti-Semitism and Racism* (Firebrand Books, 1988)

Pred, David and Natalie Bugalski, 'Land Titling in Cambodia: Formalizing Inequality' (Bridges Across Borders, Cambodia, 2009)

'Principles for Responsible Agricultural Investment That Respects Rights, Livelihoods and Resources', World Bank, 2010

'Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources - Extended Version', World Bank, 2010

'Project Appraisal Document - Cambodia Land Management and Administration Project', World Bank, 2001

Proust, Marcel, *Swann's Way – Volume 1 of In Search of Lost Time* (L Davis trans, Penguin, 2003)

Pugh, Cedric, 'A New Approach to Housing Theory: Sex, Gender and the Domestic Economy' (1990) 5(2) *Housing Studies* 112

Pullan, Wendy and Britt Bailie (eds), *Locating Urban Conflicts: Ethnicity, Nationalism and the Everyday* (Palgrave, 2013)

Punch, Keith, *Introduction to Social Research: Qualitative and Quantitative Approaches* (SAGE, 1998)

Quigley, John, *The statehood of Palestine: International law in the Middle East conflict* (Cambridge University Press, 2010)

Quintana, Isabela and Seong Leong, 'Making Do, Making Home' (2015) 41(1) *Journal of Urban History* 47

Rakoff, R M, 'Ideology in Everyday Life: The Meaning of the House' (1977) 7 *Politics and Society* 85

Rajagopal, Balakrishnan, *International Law from Below: Development, Social Movements, and Third World Resistance* (Cambridge University Press, 2003)

- 'International Law and Social Movements: Challenges of Theorizing Resistance' (2003) 41(2) *Columbia Journal of Transnational Law* 397
- 'Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy' (2006) 27(5) *Third World Quarterly* 767

Ramsamy, Edward, *The World Bank and Urban Development: From Projects to Policy* (Routledge, 2006)

Rapley, Tim, 'Interviews' in Clive Seale, Giampietro Gobo, Jaber Gubrium and David Silverman (eds), *Qualitative Research Practice* (SAGE, 2004)

Rapoport, Amos, 'Towards a Cross-Culturally Valid Definition of Housing' in R Stough and A Wandersman (eds), *Optimizing Environments – Research, Practice and Policy* (Environmental Design Research Association, 1980) 310

- 'A Critical Look at the Concept "Home"' in David Benjamin and David Stea (eds), *Home: Words, Interpretations, Meanings, and Environments* (Avebury, 1995)

Ratner, Steven and Anne-Marie Slaughter, 'Appraising the Methods of International Law: A Prospectus for Readers' (1999) 93 *American Journal of International Law* 291

Ravanera, Roel and Vanessa Gorra, 'Commercial Pressures on Land in Asia: An Overview, IFAD Contribution to ILC Collaborative Research Project on Commercial Pressures on Land ' (2011)

Reinders, Leeke and Marco Vander Land 'Mental Geographies of Home and Place: Introduction to the Special Issue' (2008) 25(1) *Housing, Theory and Society* 1

Rendell, Jane, 'West End Rambling: Gender and Architectural Space in London 1800–1830' (1998) 17(2) *Leisure Studies* 108

- *Site-Writing: The Architecture of Art Criticism* (IB Tauris, 2006)

'Resettling Phnom Penh – 54 and Counting?', Sahmakum Teang Tnaut, 2012

Resolution Foundation, 'The Housing Headwind: The Impact of Rising Housing Costs on UK Living Standards', 28 June 2016

Rich, Bruce, *Mortgaging the Earth: The World Bank, Environmental Impoverishment, and the Crisis of Development* (Beacon Press, 1994)

Richards, Lyn, *Nobody's Home: Dreams and Realities in a New Suburb* (Oxford University Press, 1990)

Ricklefs, Merle Calvin, 'Land and the Law in the Epigraphy of Tenth-Century Cambodia' (1967) 26 *Journal of Asian Studies* 411

'The Right to Life and the Right to Housing', Presentation to the Human Rights Council, Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of living, and on the Right to Non-discrimination in this Context, Ms Leilani Farha, 11 July 2016

Riles, Annelise, 'The View From the International Plane: Perspective and Scale in the Architecture of Colonial International Law' (1995) 6 *Law and Critique* 39

- *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (University of Chicago Press, 2011)

Roberts, Adam, 'Prolonged Military Occupation: The Israeli Occupied Territories Since 1967' (1990) 84 *American Journal of International Law* 55

- 'Transformative Military Occupation: Applying the Laws of War and Human Rights' (2006) 100(3) *The American Journal of International Law* 580

Roberts, Marion, *Living in a Manmade World: Gendered Assumptions in Modern Housing Design* (Routledge, 1991)

Robinson, John, 'Welfare as Wrecking Ball: Constructing Public Responsibility in Legal Encounters Over Public Housing Demolition' (2016) 41(3) *Law & Social Enquiry* 670

Rogers, Dallas, 'The Poetics of Cartography and Habitation: Home as a Repository of Memories' (2013) 30(3) *Housing, Theory and Society* 262

Rolnik, Raquel, 'Territorial Exclusion and Violence: The Case of the State of São Paulo Brazil' (2001) 32 *Geoforum* 471

- 'Late Neoliberalism: The Financialization of Homeownership' (2013) 37(3) *International Journal of Urban and Regional Research* 1058
- 'Place, Inhabitation and Citizenship: The Right to Housing and the Right to the City in a Contemporary Urban World' (2014) 14(3) *International Journal of Housing Policy* 293

Ronald, Richard, *The Ideology of Home Ownership: Homeowner Societies and the Role of Home Ownership* (Palgrave Macmillan, 2008)

Rose, Carol, *Property as Persuasion: Essays on the History, Theory and Rhetoric of Ownership* (Westview Press, 1994)

Rosset, Peter, Rajeev Patel and Michael Courville, Michael, *Promised Land: Competing Visions of Agrarian Reform* (Land Research Action Network, Oakland, 2006)

Rouner, Leroy, *The Longing For Home* (University of Notre Dame Press, 1996)

Rousseau, Jean-Jacques, *Reveries of the Solitary Walker* (Penguin Books, 1979)

Rushdie, Salman, *Imaginary Homelands: Essays and Criticism 1981-1991* (Granta, 1991)

Rybczynski, Witold, *Home: A Short History of an Idea* (Penguin Books, 1986)

- *The Most Beautiful House in the World* (Penguin, 1990)

Rykwert, Joseph, 'House and Home' (1991) 58(1) *Social Research* 51

Said, Edward, 'Zionism From the Standpoint of its Victims' (1979) 1 *Social Text* 7

- *Culture and Imperialism* (Vintage, 1994)

- 'Invention, Memory and Place' (2000) 26(2) *Critical Inquiry* 175

- 'Reflections on Exile' in *Reflections on Exile, and Other Literary and Cultural Essays* (Harvard University Press, 2000)

- *From Oslo to Iraq and the Road Map* (Pantheon Books, 1st ed, 2004)

Sandelowski, Margarete, 'Qualitative Research' in Michael Lewis-Beck, Alan Bryman and Tim Liao (eds), *The SAGE Encyclopedia of Social Science Research Methods* (SAGE, 2004)

Santos, Alvaro, 'The World Bank's Uses of the "Rule of Law" Promise in Economic Development' in David Trubek and Alvaro Santos (eds), *The New Law and Economic Development: A Critical Appraisal* (Cambridge University Press, 2006) 253-300.

Sarat, Austin, ‘‘The Law is All Over’’: Power, Resistance, and the Legal Consciousness of the Welfare Poor’ (1988) 2 *Yale Journal of Law and Humanities* 343

Sarat, Austin, Lawrence Douglas and Martha Merrill (eds), *The Place of Law* (University of Michigan Press, 2003)

Sarat, Austin and Marianne Constable, David Engel, Valerie Hans and Susan Lawrence (eds), *Everyday Practices and Trouble Cases* (Northwestern, 1998)

Sarat, Austin and Thomas Kearns (eds), *Law in Everyday Life* (University of Michigan Press, 1993)

Sassen, Saskia, *The Global City: New York, London, Tokyo* (2nd ed, Princeton University Press, 2001)

- *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton University Press, 2006)
- ‘A Savage Sorting of Winners and Losers: Contemporary Versions of Primitive Accumulation’ (2010) 7(2) *Globalizations* 23
- *Cities in a World Economy* (4th ed, SAGE, 2012)
- ‘Land Grabs Today: Feeding the Disassembling of National Territory’ (2013) 10(1) *Globalizations* 25
- *Expulsions - Brutality and Complexity in the Global Economy* (Belknap Press, 2014)

Sassòli, Marco, ‘Article 43 of the Hague Regulations and Peace Operations in the Twenty-First Century’, *Background Paper Prepared for Informal High-Level Expert Meeting on Current Challenges in International Humanitarian Law* (Cambridge, 25 June 2004)

- ‘Legislation and Maintenance of Public Order and Civil Life by Occupying Powers’ (2005) 16 *European Journal of International Law* 661

Saunders, Peter, ‘Beyond Housing Classes: The Sociological Significance of Private Property Rights in Means of Consumption’ (1984) 8(2) *International Journal of Urban and Regional Research* 202

Saunders, Peter and Peter Williams, 'The Constitution of the Home: Towards a Research Agenda' (1988) 3(20 *Housing Studies* 81

Sayigh, Rosemary, 'A House is Not a Home: Permanent Impermanence of Habitat for Palestinian Expellees in Lebanon' (2005) 4(1) *Holy Land Studies* 17

Scanlon, Kath, Christine Whitehead and Peter Williams, 'Taking Stock: Understanding the Effects of Recent Policy Measures on the Private Rental Sector and Buy-to-Let', The London School of Economics and Political Science, 1 April 2016

Sen, Amartya, *Development as Freedom* (Oxford University Press, 1999)

Scheidel, Arnim, 'Tactics of Land Capture Through Claims of Poverty Reduction in Cambodia' (2016) 75 *Geoforum* 110

Schneider, Alison Elizabeth, 'What Shall We Do Without Our Land? Land Grabs and Resistance in Rural Cambodia' (Paper presented at the International Conference on Land Grabbing, 6-8 April 2011, University of Sussex)

Schutter, Olivier De, 'Large-Scale Land Acquisitions and Leases: A Set of Core Principles and Measures to Address the Human Rights Challenge' (11 June 2009)

- 'How Not to Think About Land-Grabbing', *International Land Coalition, Commercial Pressures on Land* 12 January 2011
- 'The Emerging Human Right to Land' (2010) 12(3) *International Community Law Review* 303

Scobbie, Ian, 'Natural resources and belligerent occupation: perspectives from international humanitarian and human rights law' in Susan Akram, Michael Dumper, Michael Lynk and Iain Scobbie (eds), *International Law and the Israeli-Palestinian Conflict: A Rights-based Approach to Middle East Peace* (Routledge, 2011)

Scott, James (ed), *The Hague Peace Conventions and Declarations of 1899 and 1907* (Oxford University Press, 3rd edn, 1918)

- Sebald, Winfried Georg, *On the Natural History of Destruction* (Modern Library, 1999)
- *The Emigrants* (Vintage, 2002)
- Segal, Rafi and Eyal Weizman (eds), *A Civilian Occupation: The Politics of Israeli Architecture* (Verso Books, 2004)
- Semple, Ellen, *Influences of Geographic Environment* (1911 [1968])
- Sennett, Richard, 'Civility', *Urban Age Bulletin* 1, LSE Cities (2005)
- *Together* (Yale University Press, 2012)
- Seufert, Philip, 'The Fao Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests' (2013) 10(1) *Globalizations* 181
- Shaffer, Gregory and Tom Ginsburg, 'The Empirical Turn in International Legal Scholarship' (2012) 106(1) *American Journal of International Law* 1
- Shalhoub-Kevorkian, Nadera, 'Counter-Spaces as Resistance in Conflict Zones: Palestinian Women Recreating a Home' (2005) 17(3-4) *Journal of Feminist Family Therapy* 109
- *Security Theology, Surveillance and the Politics of Fear* (Cambridge University Press, forthcoming 2017)
- Shalhoub-Kevorkian, Nadera and Sarah Ihmoud, 'Exiled at Home: Writing Return and the Palestinian Home' (2014) 37(2) *Biography* 377
- Shamgar, Meir (ed), 'The Observance of International Law in the Administered Territories' (1971) 1 *Israeli Yearbook on Human Rights* 262
- *Legal Concepts and Problems of the Israeli Military Government – The Initial Stage in Military Government in the Territories Administered by Israel 1967-1980 – The Legal Aspects* (Hebrew University Press, 1982)
- Sharon, Ariel, 'Address to the High Level Plenary Meeting of the 60th Session of the General Assembly of the United Nations' (September 15, 2005)

Shaw, Malcolm, *International Law* (Cambridge University Press, 7th ed, 2014)

Shehadeh, Raja, 'The Land Law of Palestine: An Analysis of the Definition of State Lands' (1982) 11(2) *Journal of Palestine Studies* 82

- *Palestinian Walks: Notes on a Vanishing Landscape* (Profile, 2008)

Shen, Xiaofang and Russell Muir, 'Land Markets: Promoting the Private Sector by Improving Access to Land' (2005)

Sherwood, Harriet, 'Population of Jewish Settlements in West Bank up 15,000 in a Year', *The Guardian*, 26 July 2012

Shlaim, Avi, 'The rise and fall of the Oslo peace process' in Louise Fawcett (ed), *International relations of the Middle East* (Oxford University Press, 2005)

Silbey, Susan and Austin Sarat, 'Critical Traditions in Law and Society Research' (1987) *Law and Society Review* 165

Silverman, David, *Interpreting Qualitative Data: Methods for Analysing Talk, Text and Interaction* (4th ed, SAGE, 2011)

- *Doing Qualitative Research* (4th ed, SAGE, 2013)

Simon, Dan, 'The Demolition of Homes in the Israeli Occupied Territory' (1994) 19(1) *Yale Journal of International Law* 1

Singer, Joseph, 'Property and Social Relations: From Title to Entitlement' in Charles Geisler and Gail Daneker, *Property and Values: Alternatives to Public and Private Ownership* (Island Press, Washington DC, 2000) 3

Sivan, Emmanuel, 'The Lights of Netzarim', *Ha'aretz*, 7 November 2003

Sixsmith, Judith, 'The Meaning of Home: An Exploratory Study of Environmental Experience' (1986) 6(4) *Journal of Environmental Psychology* 281

Slocomb, Margaret, *An Economic History of Cambodia in the Twentieth Century* (National University of Singapore Press, 2010)

Slyomovics, Susan, *The Object of Memory: Arab and Jew Narrate the Palestinian Village* (University of Pennsylvania Press, 1998)

Smith, Neil, *The New Urban Frontier: Gentrification and the Revanchist City* (Routledge, 1996)

Smith, Sarah, 'The Domestication of Geopolitics: Buddhist-Muslim Conflict and the Policing of Marriage and the Body in Ladakh, India' (2009) 14(2) *Geopolitics* 197

Soaita, Adriana Mihaela, 'The Meaning of Home in Romania: Views from Urban Owner-occupiers' (2015) 30 *Journal of Housing and Built Environment* 69

Soederberg, Susanne, *Debtfare States and the Poverty Industry: Money, Discipline and the Surplus Population* (Routledge, 2014).

Soja, Edward W, *Postmodern Geographies: The Reassertion of Space in Critical Social Theory* (Verso, 1989)

Solnit, Rebecca, *Wanderlust: A History of Walking* (Penguin, 2001)

Somerville, Peter, 'Homelessness and the Meaning of Home: Rooflessness or Rootlessness?' (1992) 16(4) *International Journal of Urban and Regional Research* 529

- 'The Social Construction of Home' (1997) 14(3) *Journal of Architectural and Planning Research* 226

Sontag, Susan, *On Photography* (Picador, 1977, 2001)

Sophocles, *Trachiniae* (Clarendon Press, 1991)

Sornarajah, Muthucumaraswamy, 'A law for need or a law for greed?: Restoring the lost law in the international law of foreign investment' (2006) 6(4) *International Environmental Agreements: Politics, Law and Economics* 329-357

Soto, Hernando de, *The Other Path: The Invisible Revolution in the Third World* (Harper & Row, 1989)

- *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (Basic Books, 2000)

de Sousa Santos, Boaventura, *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition* (Routledge, 1995)

- *Towards a New Legal Common Sense: Law, Globalisation and Emancipation* (2nd ed, Butterworth, 2002)
- 'Globalizations' (2006) 23(2-3) *Theory, Culture and Society* 393

de Sousa Santos, Boaventura and Cesar Rodriguez-Garavito, *Law and Globalisation From Below: Towards a Cosmopolitan Legality* (Cambridge University Press, 2005)

Springer, Simon, 'Violent Accumulation: A Postanarchist Critique of Property, Dispossession, and the State of Exception in Neoliberalizing Cambodia' (2013) 103(3) *Annals of the Association of American Geographers* 608

St John, Ronald, 'Democracy in Cambodia – One Decade, US\$5 Billion Later: What Went Wrong?' (2005) 3(27) *Contemporary Southeast Asia* 406-428

Stake, Robert, *The Art of Case Study Research* (SAGE, 2000)

- *Multiple Case Study Analysis* (Guildford, 2006)

'Statistics on Punitive House Demolitions', B'Tselem, 2011

'Statistics on Settlements and Settler Population', B'Tselem, 2013

Steadman, Ian, 'Look to the Heygate Estate For What's Wrong With London's Housing', *The New Statesman*, 6 November 2013

Steinberg, Richard and Jonathan Zasloff, 'Power and International Law' (2006) 100(1) *American Journal of International Law* 64

Stiglitz, Joseph, *Globalization and Its Discontents* (Penguin, 2003)

Strauss, Anselm and Juliet Corbin, *Basics of Qualitative Research* (2nd ed, SAGE, 1998)

'Structural Policy Challenges for Southeast Asian Countries, Structural Policy Country Notes - Cambodia', Organisation for Economic Co-operation and Development, 2013

Sullivan, Jenny, 'Is the McMansion Dead?' (2009) 32(11) *Builder* 46

Tanizaki, Junichiro, *In Praise of Shadows* (Vintage, 1934)

'Technical Assistance to the Kingdom of Cambodia for Implementation of Land Legislation', Asian Development Bank, 2000

Therborn, Göran, 'A New Class Landscape' (2012) 78 *New Left Review* 5

Thion, Serge, *Watching Cambodia* (White Lotus, 1992)

Thorne, Barry, "'You Still Takin Notes?'" Fieldwork and Problems of Informed Consent' (1980) 27(3) *Social Problems* 284

Tilley, Virginia, *The one-state solution* (University of Michigan Press, 2005)

'Toolkit and Guidance for Preventing and Managing Land and Natural Resources Conflict: Land and Conflict', United Nations Interagency Framework Team for Preventative Action, 2012

Toulmin, Camilla, 'Securing Land and Property Rights in Sub-Saharan Africa: The Role of Local Institutions' (2008) 26(1) *Land Use Policy* 10

Toynbee, Polly, 'Housing is the Next Target in David Cameron's Dismantling of the Welfare State', *The Guardian* (online), 10 November 2015

Trubek, David, 'Developmental States and the Legal Order: Towards a New Political Economy of Development and Law' (2009) Paper No 1075 *University of Wisconsin Law School, Legal Studies Research Paper Series*

Trubek, David, and Alvaro Santos (eds) *The New Law and Economic Development: A Critical Appraisal* (Cambridge University Press, 2006)

Trzcinski, Leah and Frank Upham, 'Creating Law From the Ground Up: Land Law in Post-Conflict Cambodia' (2014) 1 *Asian Journal of Law and Society* 55

Tuan, Yi-Fu, 'Humanistic Geography' (1976) 66(2) *Annals of the Association of American Geographers* 266

- *Space and Place: The Perspectives of Experience* (University of Minnesota Press, 1977)

Tuedio, James, 'Thinking About Home: An Opening for Discovery in Philosophical Practice' in Henning Herrestad, Anders Holt and Helge Svare (eds) *Philosophy in Society* (Unipub Forlag, 2002) 201

Tully, John, *France on the Mekong : A History of the Protectorate in Cambodia, 1863-1953* (Lanham, Md.: U of America, 2002)

Turner, John, 'Housing priorities, settlement patterns, and urban development in modernizing countries' (1968) 34 *American Institute of Planners Journal* 354

Twining, William, *Globalisation and Legal Theory* (Cambridge University Press, 2000)

- *The Great Juristic Bazaar: Jurists' Texts and Lawyers' Stories* (Routledge, 2002)

- *General Jurisprudence* (Cambridge University Press, 2009)

- *Globalisation and Legal Scholarship* (Wolf Legal Publishers, 2011)

Tyner, James, *The Killing of Cambodia: Geography, Genocide and the Unmaking of Space* (Ashgate, 2008)

The UN and Cambodia 1991-1995 (United Nations, 1996)

'Under the Guise of Legality: Israel's Declarations of State Land in the West Bank', B'Tselem, 2012

Valverde, Mariana, "'Which Side Are You On?'" Uses of the Everyday in Sociolegal Scholarship' (2003) 26(1) *PoLAR* 86

- *Chronotopes of Law: Jurisdiction, Scale and Governance* (Routledge, 2015)
- *Everyday Law on the Street: City Governance in an Age of Diversity* (University of Chicago Press, 2012)

VanEvery, Jo, *Heterosexual Women Changing the Family: Refusing to Be a 'Wife'!* (Taylor & Francis, 1995)

Venzke, Ingo, 'International Law and its Methodologies: Introducing a New *Leiden Journal of International Law* Series' (2015) 28 *Leiden Journal of International Law* 185

Waetjen, Themبisa, 'The 'Home' in Homeland: Gender, National Space, and Inkatha's Politics of Ethnicity' (1999) 22(4) *Ethnic and Racial Studies* 653

Van Waeyenberge, Elisa, 'Crisis? What Crisis? The World Bank and Housing Finance for the Poor', SOAS Department of Economics Working Paper Series, No. 191, The School of Oriental and African Studies, 2015

Waldron, Jeremy, 'Homelessness and the Issue of Freedom' (1991-92) 39 *UCLA Law Review* 295

Walsh, Katie, 'British Expatriate Belongings: Mobile Homes and Transnational Homings' (2006) 3(2) *Housing, Theory and Society* 123

Walker, Lynne, 'Home Making: An Architectural Perspective' (2002) 27(3) *Signs: Women in Culture and Society* 823

Walters, William, 'Secure Borders, Safe Haven, Domopolitics' (2004) 8 *Citizenship Studies* 237

Wacquant, Loic, 'Ethnografeast: A Progress Report on the Promise and Practice of Ethnography' (2003) 4(1) *Ethnography* 5.

Wardaugh, Julia, 'The Unaccommodated Woman: Home, Homelessness and Identity' (1999) 47(1) *The Sociological Review* 91

Weil, Simone, *The Need for Roots: Prelude to a Declaration of Duties Towards Mankind* (Routledge, 2nd ed, 2001)

Weir, Allison, 'Home and Identity: In Memory of Iris Marion Young' (2008) 23(3) *Hypatia* 4

Weizman, Eyal, 'Lethal Theory' (Winter/Spring 2006) *Log* 7 53

- *Hollow Land: Israel's Architecture of Occupation* (Verso Books, 1st ed, 2007)

Weizman, Eyal and Rafi Segal (eds), *A Civilian Occupation: The Politics of Israeli Architecture* (Verso, 2003)

'West Bank and Gaza, Area C and the Future of the Palestinian Economy', World Bank, 2013

'What is Area C?', B'Tselem, 2013

White, Ben, Saturnino Borrás, Ruth Hall, Ian Schoones and Wendy Wolford, 'The New Enclosures: Critical Perspectives on Corporate Land Deals' (2012) 39(3-4) *The Journal of Peasant Studies* 619

White Paper, *Housing: The Government's Proposals* (Cm 214, Department of Environment, 1987)

Williams, Peter Saunders and Peter, 'The Constitution of Home: Towards a Research Agenda' (1988) 3(2) *Housing Studies* 81

Wills, David, *Dorsality: Thinking Back Through Technology and Politics* (University of Minnesota Press, 2008)

Wily, Liz Alden, 'Looking Back to See Forward: The Legal Niceties of Land Theft in Land Rushes' (2012) 39(3-4) *The Journal of Peasant Studies* 751

- 'The Law and Land Grabbing: Friend or Foe?' (2014) 7(2) *Law and Development Review* 207

Winstanley, Ann, David Thorns and Harvey Perkins, 'Moving House, Creating Home: Exploring Residential Mobility' (2002) 17(6) *Housing Studies* 813

Wittgenstein, Ludwig in David Pears and Brian McGuinness (eds), *Tractatus Logico-philosophicus* (Routledge, 2001)

Wollstonecraft, Mary, *Maria or the Wrongs of Woman* (Norton, 1994)

Woo-Cumings, Meredith (ed), *The Developmental State* (Cornell University Press, 1999)

Woolf, Virginia, *Three Guineas* (Harcourt Brace Jovanovich, 1938, 1966)

- *The Diary of Virginia Woolf* (Anne Olivier Bell ed, Harcourt Brace, 1980)

Wordsworth, William, *Descriptive Sketches: Taken During a Pedestrian Tour in the Italian, Grison, Swiss, and Savoyard Alps* (Joseph Johnson St Paul's Church Yard 1793)

'World Development Report 1997: The State in a Changing World' (Oxford University Press, 1997)

'Written Statement to Parliament: Affordable Homes Programme', Minister for Housing and Local Government, the Right Hon Grant Shapps, 14 February 2011

Wuan, Julian and Camilla Toulmin, 'Evolving Land Rights, Policy and Tenure in Africa', Natural Resources Institute, 2000

Yelling, Jim, 'The Incidence of Slum Clearing in England and Wales 1955-85' (2000) 27(2) *Urban History* 234

Yiftachel, Oren, 'Planning and Social Control: Exploring the Dark Side' (1998) 12(4) *Journal of Planning Literature* 395

- 'Critical Theory and 'Gray Space': Mobilization of the Colonized' (2009) 13(2-3) *City* 246

Yiftachel, Oren and Margo Huxley, 'Debating Dominance and Relevance: Notes on the 'Communicative Turn' in Planning Theory' (2000) 24(4) *International Journal of Urban and Regional Research* 907

Yin, Robert, *Case Study Research: Design and Methods* (4th ed, SAGE, 2009)

Young, Iris Marion, 'House and Home: Feminist Variations on a Theme' in *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton University Press, 1997)

- 'The Logic of Masculinist Protection: Reflections on the Current Security State' (2003) 29(1) *Signs: Journal of Women in Culture and Society* 1

Young, Julian, 'Heidegger's Heimat' (2011) 19(2) *International Journal of Philosophical Studies* 285

Young, Katherine G, 'The Minimum Core of Economic and Social Rights: A Concept in Search of Content' (2008) 33(1) *Yale Journal of International Law* 113

Young, Michael and Peter Willmott, *Family and Kinship in East London* (Penguin, 1969, 2007)

Zureik, Elia, Lyon, David and Abu-Laban, Yasmeeen, (eds), *Surveillance and Control in Israel/Palestine: Population, Territory and Power* (Routledge, 2013)

National Legislation

Homelessness Reduction Bill (HL Bill 96, 30 January 2017)

Housing Act 1935 (UK)

Housing Act 1980 (UK)

Housing Act 1985 (UK)

Housing Act 1988 (UK)

Housing Act 2004 (UK)

Housing and Planning Act 1986 (UK)

Land Law 2001 (Kingdom of Cambodia)

Law on Investment in the Kingdom of Cambodia 1994 (Kingdom of Cambodia)

Law on Amendment to the Law on Investment of the Kingdom of Cambodia 2004 (Kingdom of Cambodia)

The Laws of Palestine (Palestine)

Local Government and Housing Act 1989 (UK)

Local Government, Planning and Land Act 1980 (UK)

International Norms and Documents

Agreement on a Comprehensive Political Settlement of the Cambodia Conflict 1991

Articles of Agreement of the International Development Association, 26 January 1960, 439 UNTS 249

Commentary on the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, International Committee of the Red Cross (Jean Pictet ed, 1958)

Declaration of Principles on Interim Self-Government Arrangements, 13 September 1993

‘Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security’, Committee on World Food Security and the United Nations Food and Agriculture Voluntary, 2012

Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land, 18 October 1907

Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), International Committee of the Red Cross, 12 August 1949, 75 UNTS 287

Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II), 28 September 1995

Tirana Declaration 2011

United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI

United Nations, *Statute of the International Court of Justice*, 18 April 1946

United Nations Commission on Human Rights, *Situation of Human Rights in Cambodia*, 4 March 1994, E/CN.4/Res/1994/61

United Nations Commission on Human Rights, *Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights*, 17 April 2000, E/CN.4/Res 2000/9

UN Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23

UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 7: The Right to Adequate Housing (Art.11.1): forced evictions*, 20 May 1997, E/1998/22

UN Committee on Economic, Social and Cultural Rights, 'Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant - Concluding Observations of The Committee on Economic, Social and Cultural Rights – Cambodia', E/C.12/KHM/CO/1, 2009

UN Committee on Economic, Social and Cultural Rights, 'Concluding Observation on Cambodia', 22 May 2009, E/C.12/2009/3

UN Economic and Social Council, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari - Addendum - Mission to Cambodia, E/CN.4/2006/41/Add.3, 21 March 2006

UN Economic and Social Council, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari - Addendum - Mission to Cambodia', E/CN.4/2006/41/Add.3, 2006

UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III)

UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p171

UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p.3

UN General Assembly, *International Convention on the Suppression and Punishment of the Crime of Apartheid*, 30 November 1973, A/RES/3068(XXVIII)

UN General Assembly and United Nations Security Council, A/36/341 and S/14566, *Letter dated 19 June 1981 from the Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People to the Secretary-General* (1981)

UN General Assembly, A/HRC/7/17, *Human Rights Situation in Palestine and Other Occupied Arab Territories, Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967, John Dugard* (2008)

UN General Assembly, *The Crime of Aggression*, Resolution ICC-ASP/8/Res.6 (11 June 2010)

UN-Habitat, *The Right to Adequate Housing*, Fact Sheet No.21 (Rev. 1)

UN-Habitat OPT, (2014), *UN Habitat Approach to Spatial Planning in “Area C” of the occupied West Bank*, Ramallah: UN Habitat

UN General Assembly, *Vienna Declaration and Programme of Action*, 12 July 1993, A/CONF.157/23

UN General Assembly, Human Rights Council, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, Miloon Kothari, ‘Promotion and Protection of all Human Rights, Civil, Political, Economic Social and Cultural Rights, Including the Right to Development’ [sic], A/HRC/7/16, 13 February 2008

United Nations Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights in Cambodia*, 16 July 2012, A/HRC/21/63

United Nations Human Rights Council, *Addendum to Report of the Special Rapporteur on the Situation of Human Rights in Cambodia – Surya Subedi*, A/HRC/21/63/Add.1, September 2012

UN Human Rights Council, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination in this Context*, Leilani Farha, UN Doc A/HRC/34/51, 24 February 2017

UN Human Rights Council, *Report of the Independent International Factfinding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian People Throughout the Occupied Palestinian Territory, including East Jerusalem*, 7 February 2013, A/HRC/22/63

UN Human Rights Council, *Mission to the United Kingdom of Great Britain and Northern Ireland – Report of the Special Rapporteur on adequate housing as a component of the right to*

an adequate standard of living and on the right to non-discrimination in this context, Raquel Rolnik, UN Doc A/HRC/25/54/Add.2, 30 December 2013

UN Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights in Cambodia*, 15 August 2014, A/HRC/27/70

UN Human Rights Council, *Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination in this Regard, Ms Leilani Farha*, 'The Right to Life and the Right to Housing: Presentation to the Human Rights Council', 11 July 2016

UN High Commissioner for Refugees, *Global Trends: Forced Displacement in 2015*, 20 June 2016

UN Office for the Coordination of Humanitarian Affairs, OCHA Special Focus Occupied Palestinian Territory, 'Three years later: The humanitarian impact of the barrier since the International Court of Justice decision', July 2007

UN Office for the Coordination of Humanitarian Affairs OPT, (2011), *Displacement and Insecurity in Area C of the West Bank*, East Jerusalem, UN OCHA OPT

UN Office of the High Commissioner for Human Rights 'Portugal: UN Experts to Assess Impact of Economic Crisis on Housing, Water and Sanitation', press release, 30 November 2016

UN Security Council, *Resolution 242 (Land for Peace Resolution)*, S/RES/242 (1967)

UN Security Council, *Resolution 338*, S/RES/338 (1973)

UN Security Council, *Security Council Resolution 1515 (2003) on Endorsement of the Quartet Performance-Based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict*, 19 November 2003, S/RES/1515 (2003)

Films

Burnat, Emad and Guy Davidi, *Five Broken Cameras* (Burnat Films, 2011)

Gitai, Amos, *House (Bait)* (Channel 1 TV, 1980)

Trintignant-Corneau, Vincent and Christine Chansou, *Even a Bird Needs a Nest* (Divali Films, 2012)

Websites

Better Elephant, Elephant & Castle Regeneration Timeline,
<<http://betterelephant.org/images/strategic24June.pdf>>

Heygate Was Home <<http://heygatewashome.org/>>

Southwark Notes <<https://southwarknotes.wordpress.com/heygate-estate/>>

35% Campaign <<http://35percent.org/>>

Weizman, Eyal, *Archives of Destruction*, <<http://www.forensicarchitecture.org/archives/archive-of-destruction-intro/>>

ANNEX

Textual Analysis of Heygate Residents' Testimonies

Below is my textual analysis of Heygate residents' testimonies used in Chapter Five. As the testimonial data is freely available in the public domain (<http://heygateshome.org/testimonials.html>), I have not de-identified residents in this Annex. This enables readers to authenticate the data in this instance. Residents' names and the years they resided at the Heygate are identified in the first column and their responses are organised in the second column across three categories reflecting the common and consistent themes in the residents' testimonies, as follows:

1. Remembrance and other notions of individual and collective memory, including the importance of time passing, as a way of framing meanings of home;
2. The positioning of the habitual, the subjective and the imaginary over the material to articulate a sense of identity in relation to home; and
3. Fears and anxieties about home arising from the regeneration, including feelings of belonging and not belonging.

Category 1: Remembrance and other notions of individual and collective memory, including the importance of time passing, as a way of framing meanings of home.

Resident	Testimonial data
John Colfer, 1974-2008	<p>'They can't take away our memories and our accomplishments, and there will never ever be another special place like the Heygate Estate.'</p> <p>'Right from the start life was great in our little village in the heart of the city.'</p> <p>'Many of us in our own relationships then moved into our own first homes on the estate, keeping the family and friendship bond alive; and then went onto having children of our own who had the pleasure of growing up on the Heygate estate and have their own personal memories of life on the estate.'</p> <p>'Our parents never even contemplated leaving their family home, as did many other long term residents and it broke many hearts.'</p> <p>'I for one will be very sad when the decision is finally made to demolish our homes and an era comes to an abrupt end.'</p>

<p>Ian Redpath, 1977-2007</p>	<p>‘My parents and sister moved onto the Heygate Estate in 1974 and I was born in 1977. The Heygate estate I grew up on was certainly not the estate that Southwark Council would have the outside world believe: one of anti-social elements and stricken with poverty.’</p> <p>‘I am happy and proud to have lived for the first 33 years of my life on the estate.’</p> <p>‘I have nothing but happy and fond memories of the estate right up until I had to reluctantly moved from it [in] 2007.’</p>
<p>Angela Ampomah 1983-2008</p>	<p>‘Even when they have moved and gone into other places they have lived about a year afterwards and then died: because they wish they were back at the Heygate – they missed it.’</p> <p>‘Many were old and worried about where they were going to go and what was going to happen to them’</p>
<p>Elizabeth Grace 1974-2009</p>	<p>[as to moving out] ‘My daughter didn’t want to: she said ‘<i>mum they’re my memories.</i>’ ... And to this day my daughter cannot bear to talk about [address of Heygate home], and she is in her forties. I certainly won’t be visiting [address of Heygate home] again, that’s for sure’</p> <p>‘The not knowing of if you’re going to get a suitable property – not knowing are you going to be here right to the end. And there were a couple of times that I thought what’s life all about? You know – I’d be better off dead.’</p> <p>‘Most people only spend a short period of time in their home: they might buy 3 or 4 houses in their lifetime, but we lived there for 35 years, four months, and twenty days. That’s a lifespan to a lot of people, and then to be forcibly moved out.’</p>
<p>Doreen Gee 1974-2010</p>	<p>‘people started to be moved out and properties were left empty. People started thinking ‘well I don’t like it like this, I’d rather move somewhere with a nice settled community again.’</p>
<p>Barry 1974-2008</p>	<p>‘I don’t want to keep being moved away anyway.’</p>
<p>Liz Joseph 1973-2007</p>	<p>‘I was brought up in this area and it was all I knew. My family has been here since 1955 and all my friends are here.’</p>

Demetrius 1974-2012	<p>‘I was 7 years old when we moved onto the Heygate. ... We were one of the first families to move into the estate in 1974 and I remember us being excited about the hot running water, central heating and inside toilets.’</p> <p>‘We also ended up being one of the last families to move out of the estate in 2012.’</p>
Nicola Redpath 1974-2000	‘I am still in contact with many of my old neighbours and friends from the estate.’
Helen O’Brien 1974-2009	[re ‘notice to quit’] ‘We had dreaded getting this letter, even though we had been expecting it. Having lived on the estate for so many years, we couldn’t believe that Southwark Council were forcing us to give up our homes’

Category 2: The positioning of the habitual, the subjective and the imaginary over the material to articulate a sense of identity in relation to home.

Resident	Testimonial data
John Colfer, 1974-2008	<p>‘The people on the Estate all rallied around after each other and the camaraderie was second to none.’</p> <p>‘you felt very safe and back then you could rely on your neighbours to watch over each other’s properties and belongings.’</p> <p>[the regeneration] ‘has scattered families and friends far and wide, and has destroyed their idea of unity and community spirit.’</p>
Ian Redpath, 1977-2007	‘The estate was an oasis of greenery amidst the hurly burly world outside.’
Angela Ampomah, 1983-2008	<p>[as to new home] ‘I have been there 4 years now, but there is no communication with neighbours, and when nobody wants to mix then you don’t know what’s going on with people, I like to mix and I like to know – at least you had that warm feeling on the Heygate, like a communal spirit.’</p> <p>‘Someone will move in and then they stay 3 months before moving out – I am not used to that. It’s like a dos house the way they are coming in and out. I didn’t have that on the Heygate, people moving in and out; the majority of people had been there over 30 years. They had their children there, the children grew up there, their grannies were there.’</p>

Dylan Parfitt 1997-2008	‘I was quite happy living on the estate and didn’t want to move.... My Heygate flat was spacious with large windows and lots of sunlight. I lived on the 10 th floor with a great view over the City and St.Paul’s’
Elizabeth Grace 1974-2009	‘It was lovely because you could see the children play happily outside.’ ‘It was like moving into a village: there was a great sense of community and you knew all your neighbours. You knew everybody and you got to know them by name. You had a huge sense of being one big happy family.’
Doreen Gee 1974-2010	‘So it was nice and everybody seemed to be there for one another to keep an eye on one another.’ ‘I used to be able to walk through this estate at 2 or 3 o’clock in the morning on my own in the dark and not have a single worry.’
Gregory Sanziri 1993-2009	‘Friends and family used to come and visit me at the Elephant more often.’
Helen O’Brien 1974-2009	[reflecting on the 1977 Queen’s Jubilee] ‘There was a true sense of community spirit that day, with everyone mucking in. And what of that spirit now? What was once a thriving community has now been scattered all over Southwark.’
Orho Okorodudu 1989-2008	‘I moved into the estate the 17 th April 1989. It was my home: my family was there, my friends were there – I had several very good friends on the estate. Other members of my family lived nearby on the Aylesbury estate, and my mother-in-law lives on East Street. My Aunty lives at the Elephant, my mother and sister in New Cross, and my cousins live in Peckham. I had my whole community within close reach’ ‘moving meant we had to remove our children from the care of loved ones and put them in the care of strangers – the council cannot replace the cost of that’ ‘We used to have friends and family just drop in when we lived at the Elephant. ... Now we miss this contact and we miss most of the social gatherings, simply because it is such a long drive away from our network’ ‘Because of moving away from home, we no longer have a cohesive social structure, and are not as close to our families as we used to be.’

<p>Terry Redpath 1974-2008</p>	<p>[in moving out] ‘I had to move away from friends and family and lose my social life and other interests.’</p>
<p>Larry and Janet Colfer 1974-2009</p>	<p>‘So it was a real community: nearly everyone knew everyone else; you weren’t in each others pockets but you knew people.’</p> <p>‘It’s so sad when you lose the sense of community in a place’</p> <p>‘It’s a concrete jungle to some people, but when I looked out of my kitchen window when I was busy washing I could see all the pink blossoms. It was like being in the country when you look out of your window. So it has never been a concrete jungle to me.’</p> <p>‘It has really affected us. Everybody here looked after their own backgrass and the neighbours.’</p> <p>‘The truth is that’s probably why the community as it was liked this area: because it was central to everything; you had all your shops, the tubes, the trains, the buses. We didn’t have to go far for anything.’</p>
<p>Barry 1974-2008</p>	<p>‘There were always neighbours I could call upon if I needed help... there was always somebody there, they we like family.’</p> <p>‘Now I’ve moved away I don’t see them anymore, we all got separated. ... I don’t know why we couldn’t all move to the same place’</p>
<p>Liz Joseph 1973-2007</p>	<p>‘I would tell them to come in and if I had food ready I would sit them down, that’s how close we were.’</p> <p>‘We knew all our neighbours’</p> <p>‘It’s very sad to see the place like this, to see the state of it. That was my garden and look at it now.’</p>
<p>Demetrius 1974-2012</p>	<p>‘Mum is still really unsettled and Dad gets the bus every day to the Elephant to hang out with his friends at the shopping centre. The shopping centre was always like a second home to him, they’ll meet and sit on the benches there chatting for hours. It’s like a social centre for them, I don’t know what he is going to do when they knock that down too.’ [how the home and homelife is experienced is integral to sense of self – here, even the surrounding neighbourhood is understood as home, ‘a second home’, because home means more than the building but the meanings associated with it formed through habitation, such as meeting friends]</p>

<p>John Colfer, 1974-2008</p>	<p>‘I have returned to the Heygate Estate to see how things are on many occasions and it is very upsetting to see what was once a thriving, busy fun filled environment is now a run down, vandalized ‘Ghost Town’ with its heart ripped out.’ [depiction of home as body, as self, the death of the home is the death of identity]</p>
<p>Angela Ampomah 1983-2008</p>	<p>‘All this community of people it destroyed their spirit – they have lost hope’ [it is not the destruction of buildings that mattered as much as the ‘spirit’ that was destroyed; imaginative meanings of home constitute knowledge of the world]</p> <p>‘This regeneration has been a crime against the people who lived here: it has killed their livelihoods, their moral and their spirit.’ [cf RtH – does not recognise this]</p>
<p>Elizabeth Grace 1974-2009</p>	<p>‘It was like heaven and I mean that.’ [the ‘point of collision’ causes reflection on the past in order to understand the present: here, the past was an ideal that is no longer available]</p>
<p>Gregory Sanziri 1993-2009</p>	<p>‘If I were to say that all this hasn’t deeply affected me then I would be lying. I don’t think I will ever fully recover from the effect of what has happened.’ [replacement housing – material – cannot remedy the actual harm suffered – a harm to identity based on home as constituting the self]</p>
<p>Helen O’Brien 1974-2009</p>	<p>‘When should we start to pack all of our treasured belongings, books, paintings etc? What about our furniture? What should we leave behind?’ [it is not so much the materiality of the objects that matter to the resident, but that they embody the spirit of the home that in turn defines the individual – see Bachelard]</p>
<p>Orho Okorodudu 1989-2008</p>	<p>‘So the move has not just affected us financially, but emotionally, socially and spiritually’ [home meanings are integrally connected to an individual’s inner self-consciousness and identity, and these meanings are linked to that individual’s experience of the material world]</p> <p>‘They [the council] would have realised that it is not just a financial transaction but one that has affected everyone – both physically and mentally, but above all, as a community.’</p>
<p>Larry and Janet Colfer</p>	<p>‘I think the bones will be stripped by then and I think we’ll all be gone by then.’ [depiction of home as a body brought to life by experience and</p>

1974-2009	memory and meaning – without that life, it is just bones, a carcass. The moment of death of the home is the loss of home meanings, and part of the self.]
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Category 3: Fears and anxieties about home arising from the regeneration, including feelings of belonging and not belonging.

Resident	Testimonial data
Mojisola Ojeikere 1996-2014	<p>‘The move has been very difficult for the whole family, especially my children who their friends. Their schooling has been disrupted and they had had difficulty integrating here. My husband now spends less time at home and is constantly tired because of all the commuting.’</p> <p>‘We have been harassed and intimidated out of our homes in a scheme that was supposed to make our lives better.’</p>
John Colfer, 1974-2008	<p>‘Their so called regeneration scheme has failed to even get off the ground and left many people unhappy’</p> <p>‘I am really angry at the amount of lies and mistruths that have been put out by various council officials.’</p>
Terry Redpath 1974-2008	<p>‘my Heygate experience was a feeling of being totally duped, misled and lied to.’</p> <p>‘I was coerced into participating in many forums and stakeholder groups in the belief that myself and others would have an input into the Heygate regeneration. At the end of ten years of consultation I felt I had wasted hundreds of hours by taking part in these groups. Consultation was a sham.’</p> <p>‘I very reluctantly sold my property to the council as I was being pressurized into settling. I felt really intimidated.’</p> <p>‘We have been forced to give up our central London homes at a totally unrealistic price, in order to enable a private developer to build luxury private properties that none of us will ever be able to afford.’</p> <p>‘The TRA [Tenants & Residents Association] complained to the council that the survey was an area-wide postcard survey and hadn’t been aimed at residents on the estate, many of whom hadn’t received it. We complained that this was undemocratic and demanded that all residents be balloted on the future of their homes.’</p>

<p>Larry and Janet Colfer 1974-2009</p>	<p>‘Finding a new place has been a terrible, stressful nightmare. Because when you bid for a place you’re bidding against the whole of the borough, plus there are about 300 people on the estate here, and for the best flats in the book you had about 200 people bidding for them. Then when you phone up you’re number one on the list, but you look an hour later and you’re number 5 or number 27 – it’s a real waste of time.’</p> <p>‘Then they came and offered us a property and said this is your final offer. We received a threatening letter and we had only been offered one place.’</p> <p>‘When they did the survey about people wanting to move off the Heygate, they only did the survey of the people living in the tower blocks. Nobody ever came to us in the masionettes and asked if we wanted to move.’</p> <p>‘I think the new places will be for city people: people that can afford it, but I don’t think we’ll live long enough to see.’</p>
<p>Barry 1974-2008</p>	<p>‘It’s prime land here, when you think about it.’</p> <p>[as to homes on the new development] ‘I don’t think they will be affordable to us. I think they will be sky-high rents and I don’t want to keep being moved away anyway. I don’t think they care much for the working class like us.’</p>
<p>Liz Joseph 1973-2007</p>	<p>‘And why did we have to move out? We don’t know. What was wrong with the places for them to want to knock it down? There was nothing wrong with them. The flats are a good size, nice big kitchen, decent size front room, decent size bedrooms – we were happy here.’</p>
<p>Demetrius 1974-2012</p>	<p>‘The turning point in our struggle came when the council turned the heating and hot water off without warning in winter 2010. They came and dropped off some portable fan heaters, but we were left to spend two years heating our bath water on the stove; they bullied us out.’</p> <p>‘With my parents in their seventies and other pensioners on the estate in the same position, I asked myself what kind of council does this to its tenants? There are laws against this kind of thing, but they get away with it because no-one can afford to take the council to court.’</p>
<p>Nicola Redpath 1974-2000</p>	<p>‘I am fed up of reading that the estate was a hotbed of crime and deprivation by the media and local politicians. The estate was a great place to grow up and provided lots of activities for young people; something that the regeneration appears not to be doing.’</p> <p>‘Now it is destined to become nothing but an investment opportunity for big corporations.’</p>

Ian Redpath, 1977-2007	<p>‘Southwark Council systematically ran down the estate, and broke up probably one of the strongest and friendliest communities in the borough.’</p> <p>‘I am really angry at the amount of lies and mistruths that have been put out by various council officials.’</p> <p>‘I am angry that tenants and residents have been duped into believing that this regeneration would benefit them.’</p>
Angela Ampomah 1983-2008	<p>‘I don’t think there will be many working class people in this area in the future, because they want people struggling on pensions or low paid work, they want to push us out. We won’t be able to afford the rent. We will have to move outside London because they want London as a rich domain now like in certain parts of America.’</p> <p>‘People didn’t fight because a lot of the community were elderly and the communication wasn’t there to stand up together and fight.’</p>
Dylan Parfitt 1997-2008	<p>‘The council has been unscrupulous since the outset of the regeneration in everything it has done. This whole scheme has been a shambolic act of deception on a grand scale.’</p>
Elizabeth Grace 1974-2009	<p>‘The only reason, in my opinion, that this estate is coming down is that this land is worth millions.’</p> <p>[speaking of former neighbours at the Heygate] ‘To see them in their early 80s completely destroyed by this enforced move. They’re leaseholders; now at the age of 83 who is going to give you a mortgage? Nobody!’</p>
Doreen Gee 1974-2010	<p>‘When it’s rebuilt it’s going to be drastically different because – I said this many years ago: you will either have people with a lot of money living here, who can afford to buy, or you will have people who are on full housing, council tax state benefits... But other people in between that bracket won’t be able to stay; so you’ll basically get rich people and poor people but nobody in between.’</p> <p>‘And what they’re trying to do – what we were told once at the beginning of the regeneration – what they are trying to do is ‘introduce a better class of people to the Elephant and Castle.’ ... Well I said ‘you can’t get a better class of people than us.’</p>

<p>Gregory Sanziri 1993-2009</p>	<p>‘I think they put financial gain, - no, personal interest above the interests of residents and people who live in the borough.</p> <p>‘his language [a Southwark councilor] was that of the private sector – it was all about profit and economy not people.’</p>
<p>Orho Okorodudu 1989-2008</p>	<p>‘Problems on the estate started after the regeneration plans had been announced, and when the council started moving temporary residents in.’</p> <p>‘They had stopped all repairs and maintenance on the estate some time before the scheme was announced.’</p> <p>‘For us the decision to move outside London, it was as a last resort, it wasn’t something that we wanted or planned – but we didn’t have a choice.’</p> <p>‘I remember attending all of the meetings at the beginning when the regeneration plans were being drawn up. We were told that provision would be made for everyone to remain living at the Elephant & Castle. ... After a while they said this was no longer an option, they said the only option available was for them to buy us out. Their attitude was – ‘this is what we are offering, take it or leave it’ – there was no compromise.</p> <p>‘Their attitude was more or less ‘We don’t want the ‘new poor’ like you here anymore, we want overseas investors’, and this is what London is becoming. As Tavis Smiley and Cornel West have so aptly put it, “the middle class has become the new poor” – God knows what the poor has become. We were being forced outside London to make way for the world’s wealthy elite.’</p> <p>‘They said ‘this is what we are offering, our valuer will value your home and that is what we will pay.’</p> <p>‘I don’t think the council understands what a community is. They look at things from a purely financial perspective, but the social and cultural consequences of dispersing a community are beyond measure.’</p>

