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# Finding the Way Home

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Northumbria University



‘If you don’t have a home, you don’t have anything... Home means *love, family and security*. Without a home you can’t invest in your future.’

• • •

Mariam Ahmed, Housing Campaigner

# Classical Approaches to Property

‘In order for a specific form of ownership to exist in society, the rules which define or constitute the relation must be acknowledged [and certain] by the members of the society.’ J Grunebaum, *Private Ownership*

What do we get as owners?

1. The right to use;
2. The right of exclusion; and
3. Absence of term.



# Is it a House or a Home?

- *Semayne's Case* (1604).
- *Entick v Carrington* (1765) places a focus upon the privacy which flows from the physical space of a house and a proprietary interest.
- *Attia v British Gas* (1988) demonstrates the potential effects of a change of position from house to home.
- *Uratemp Ventures v Collins* (2001) 'the home forms the centre of one's existence'.
- *R (On the Application of N) v Lewisham LBC* (2014).



‘This has been her home and her mother's home. There is huge emotional investment in it... there is nothing... to gain from this save the protection of her emotional security *which is, of course, an interest I cannot protect.*’                   •••

Le Foe v Le Foe [2001] EWCA Civ 1870

# What do we associate with the Home?

'The home is... central to the rootedness, continuity, security, social and family relationships, and cultural context that make up the self.' Jessie Hohmann, *The Right to Housing*

According to Fox, the Home involves the following:

1. Financial asset;
2. Physical space;
3. Territory;
4. Identity;
5. Social and cultural unit

# Developing a uniform concept of the Home

The European Court of Human Rights have 'developed an autonomous notion of the "home"... not hindered by classifications under domestic law. Not the legal facade – form of tenure or legality of habitation – but the facts behind it are decisive. Function overrules form.' Antoine Buyse, *Strings Attached* .

'Sufficient and continuing links.' *Gillow v United Kingdom* and *Buckley v United Kingdom*

‘Art.8... concerns rights of central importance to the individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community.’

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*Connors v United Kingdom* (2005) 40 E.H.R.R. 9

# Utilising the European Court of Human Rights Jurisprudence

- Section 2 of the Human Rights Act 1998 requires courts to 'take account' of the judgments and opinions of the European Court of Human Rights.
- Section 3 of the Human Rights Act 1998 requires legislation to be read in a Convention compliant manner 'so far as it is possible'.
- Arriving at a uniform and wide-ranging idea of the Home.

