



## Book review: **Radically Legal: Berlin Constitutes the Future** Joanna Kusiak, 2024

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### **Abstract**

In *Radically Legal: Berlin Constitutes the Future* (Cambridge University Press, 2024), Joanna Kusiak examines the Deutsche Wohnen & Co. Enteignen (DWE) movement's use of Article 15 of the German Constitution to contest corporate dominance in Berlin's housing market. Winner of the 2023 Nine Dots Prize, Kusiak situates the DWE campaign within broader debates on law, democracy, and neoliberalism, arguing that legal systems are sustained by "legal fictions" that can be reimagined for emancipatory ends. Combining ethnography, historical analysis, and personal reflection, she traces the constitutional, corporate, and activist terrains through which the DWE movement pursued the socialization of housing. Drawing a parallel between Poland's Solidarność movement and Berlin's contemporary housing struggles, Kusiak positions radically legal politics as a form of practical revolution that reclaims law as a democratic and collective tool. Her work contributes to critical legal geography and urban studies by demonstrating how grassroots legal mobilization can expose and transform the political power embedded in property regimes.

### **Keywords**

Housing, Berlin, radical movements, German Constitutional Law, Solidarność

Winner of the 2023 Nine Dots Prize, Joanna Kusiak's book, *Radically Legal: Berlin Constitutes the Future* (Cambridge University Press, 2024) is a masterful account of the Deutsche Wohnen & Co. Enteignen (DWE) housing movement that employed Article 15 of the German constitution to promote the socialization of housing in Berlin. Personal, hopeful, and whimsical in narrative style, Kusiak's account seamlessly weaves together multiple discussions around law, democracy, grassroots social movements, property, global finances

and geography to create a fascinating account of the struggle for housing justice in Berlin starting in 2015 until the present.

Born and raised in Poland, Kusiak draws on her knowledge of the *Solidarność* (Solidarity) movement,<sup>1</sup> examining the movement's unlikely origins and the audacity of what they were able to achieve. She parallels this movement to the much different but equally audacious DWE movement. This shift from Poland and the past to Berlin and the present is also representative of her own journey and connection with the research and the movement's ideologies and actions. Unlike more traditional research approaches, Kusiak's style is intentionally personal: she includes her family in the stories she tells and is clearly deeply embedded in the DWE movement herself. Kusiak also includes a playlist with songs to accompany each of the seven chapters of the book.

A social scientist by training, Kusiak employs the concept of 'legal fictions' to frame her analysis. These fictions are not portrayed as positive or negative, but rather, Kusiak presents them as inherent to the law, stating that 'inventing legal fictions is a standard legal procedure' (p. 27). To reveal these 'fictional' characteristics, Kusiak engages in social and historical analyses that deconstruct the origins, conditions, and power relations of the law and its legal domains on which her book is based. The law she focuses on include: the German Constitution (the *Grundgesetz*); Corporate Law and the rise of global finance and corporate landlords, and Article 15 of the *Grundgesetz*, including the DWE movement's interpretation and use of the article to struggle for socialization of housing in Berlin. Her multi-sited analysis seeks to 'explore and democratize the discreet politics of legal fictions' (p. 60) and to 'postulate *radically legal politics* as a path for deepening our democracies and renewing the rule of law' (p. 150).

The book is a storytelling of the social, economic and political conditions and contexts in which each of these fictions emerged and how they come to a head in the context of the DWE movement, the Berlin referendum (2021), and political resistance to its outcome. Jumping between time periods, chapter four provides a historical account of the moment when sixty-five politicians came together to produce the *Grundgesetz* after Germany's defeat in WWII. Kusiak argues that the *Grundgesetz* 'was written with the humility that comes from humiliation' and explains that, 'this humility put the human at the centre of the nineteen fundamental rights...' (p. 77). Internationally this was also a period in which humans and human rights were at the front of most politicians and legal scholars' minds as they reflected on what had just occurred in Europe and what this meant for the future.

Kusiak juxtaposes this discussion of the *Grundgesetz* with one that centers on an analysis of our current political and economic context in which corporations and corporate law now dominate and determine what is politically and legally prioritized. She argues that this legal fiction prioritizes shareholder profits over social welfare and produces conditions in which corporations, corporate property and ownership become 'depersonalized and geographically

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<sup>1</sup> The *Solidarność* (Solidarity) movement was an independent trade union founded in 1980 that grew into a nationwide social movement challenging Communist rule. It broadly united workers, intellectuals, and citizens in pushing for labor rights, political freedoms, and played a central role in the collapse of communism in Poland.

detached' (p. 29). Important in her analysis is the way in which corporations are discussed. Employing the metaphor of Lewis Carroll's the Jabberwock, she argues, 'Hovering over Berlin, corporations were the Jabberwock – a beast that can only be so large and powerful *because* it is fictional' (p. 33). In her analysis, corporations are the quintessential legal fiction 'made by the law and living in the law'. So much so that they eventually '*become* the law' (p. 33). In Carroll's poem, the Jabberwock's power can only be defeated by the vorpal sword, because it shares the fictional nature of the Jabberwock. In Kusiak's book, the vorpal sword is DWE's employment of Article 15 of the *Grundgesetz* – the third legal fiction and main focus of her book. Kusiak dissects how the DWE movement employs Article 15 to push for the socialization of housing in Berlin, arguing that, 'Article 15 was a legal fiction of the highest order: a fundamental right forged by Germany's constituent power' (p. 38). Although outside of the legal and economic status quo of the twenty-first century that is now steeped in neoliberal, corporate law, Kusiak demonstrates how for the DWE, Article 15 offered what she calls a 'practical revolution' (p. 39), one that allowed the movement to be 'radically legal' by mobilizing constituent power in order to challenge the current system from within.

In this sense, Kusiak's book is also a blueprint for how to organize around the law. Chapter three goes into detail about DWE's practices, philosophy and structure, highlighting the dynamic character and tensions inherent to the movement that are managed as a natural part of any grassroots movement. Kusiak highlights how their interpretation of Article 15 was possible in part because it was produced not by lawyers, but rather by a small number of activists who had no formal legal training. Even now, DWE does not reject expert knowledge, but Kusiak says that it is not allowed to dominate over other forms of knowledge.

Despite political resistance to the DWE movement's demands and the many challenges and setbacks the movement has suffered, Kusiak's optimism remains undeterred and her tone throughout the book is a celebratory one. She argues that, like democracy, democratic movements are full of well-managed conflict. Her story also doesn't have a clear ending - the Deutsche Wohnen & Co. entieggen movement continues. In short, like Carroll's *Through the Looking Glass*, Joanna Kusiak's book, *Radically Legal: Berlin Constitutes the Future* is a melodically written and hopeful description of grassroots opportunities and possibilities for democratic change in a time of shifting values towards conservative politics and growing authoritarianism. Kusiak challenges us to think critically and creatively and to believe that a democratic future defended by grassroots, progressive movements in a more humane world is still possible.