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ARTICLE

Property and use in the access economy

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Abstract
This article analyses shifts in consumers' preferred forms of use following the rise of the access economy and evaluates the subversive potential of access as a non-hierarchical, open form of use. Access consists of an aggregation of multiple licenses that amounts to a consistent form of use and has social, cultural and legal implications. My definition of 'access' focusses on material practices of property rather than on formal legal categories, and I compare access to both formal and informal forms of long-term use. I explore themes of power and vulnerability and individualism and communities and consider whether access merely adds to the property landscape or provokes contested forms of use. The article reveals the complex relationships between ownership (and other forms of long-term possession) and access, as access both challenges ownership and reinforces its power. Ultimately, I conclude that access fails to achieve its subversive potential.

1 Introduction

This essay analyses shifts in consumers' preferred forms of use following the rise of the access economy and evaluates the subversive potential of access as a non-hierarchical, open form of use.

Typically, the law supports forms of stable, long-term use of physical objects such as a home, a car, bikes or drills, with exceptions for sporadic short-term licenses when a specific need arises. For example, I might buy or rent a house and a car for long-term use, but when I go on vacation, I may have a sporadic need to use a kayak.

The access economy facilitates another form of use that is neither long term nor sporadic: accessing multiple, replaceable items as a form of consistent use. 'Access' is thus defined not as a legal relationship to one single object, as ownership or a lease creates, but rather as using revolving, different objects. A good example includes accessing cars from a car-sharing service. The user gets a consistent use of a car without buying or leasing one and is free to use a different car with every drive.

'Use' is understood in property theory as a form of extracting economic or personal value from a thing (Demsetz 1967; Peñalver 2009). In other words, use is an important facet of the material practice of property. This article explores differences in forms of use and the differences' impact on relationships of power and vulnerability and on the tension between individualism and commitments to communities. It studies the potential of access as a form of short-term, revolving use to challenge and undermine long-term forms of use that are associated with the power, control and attachments of the rights holder. I argue that although access is associated with opposing values, such as flexibility, mobility and diversity, it ultimately fails as an alternative form of use. Under the current legal and social conditions, access ends up reinforcing the power of ownership as a form of formal, long-term use. In order for access to achieve its subversive potential, its dependency on ownership must be relaxed.

Use is also tied to theoretical debates over the role of rights in distributing the values extracted from things. The analysis of competing forms of *use* reveals an unexpected overlap between two competing approaches to property *rights*: the property as exclusion approach focusses on the owner's right to exclude others from using their land or object. The progressive property school of thought recognises owners' social obligations and aims to protect informal attachments to property. Progressive property scholars seek to protect continuing use even when it is not accompanied by a right (Singer 1988, 2013; also see Kreiczer-Levy 2014), whereas exclusionists focus on the importance of formal power in directing the use of a thing (Katz 2008; Merrill and Smith 2007). These different camps disagree about the function of property law and the objects of its protection: either formal rights holders or actual attachments of users regardless of their rights. Despite this apparent disagreement, I argue that both approaches end up protecting the benefits of long-term use, whether formal or informal, thus undercutting access' subversive potential.

Part I provides a necessary background to the argument and clearly defines access, its legal underpinning and its social implications. In parts II and III, I consider different property values that are prompted by different forms of use. Access is compared to both formal and informal forms of long-term use. Nonetheless, my analysis begins with, and focuses on, ownership as a formal form of use that includes power. I will also address other forms of long-term use when appropriate. Part IV concludes the article.

2 Use, access and the access economy

In my book *Destabilized Property* (Kreiczer-Levy 2019), I discuss property law and its theory's tendency towards stability. There are two groups of property law rules that connect a rights holder to a particular spatiality: (1) rules that protect rights holders' control over things such as the law of trespass and (2) rules that secure possession; for example, tenants' rights (Kreiczer-Levy 2019). Both of these groups of rules support attachments to one's possessions and secure freedom and privacy within a particular space that the land or object occupies. Importantly, these rules are not necessarily limited to owners and tenants, who have a formal property right in an item, but may on occasion protect informal possession as well. As I explain, people 'form attachments to property not only because the property has a continuous physical presence in the world, but also because the law secures their interests and encourages long-term engagement with property [. . .] The law safeguards various right-holders' and users' interest in the property, and allows them to develop reasonable expectations of future use' (Kreiczer-Levy 2019, 16). Obviously, this protection is far from absolute: there are property rules that support flexibility; alienability is a prominent example. Nonetheless, many (although not all) flexibility-oriented rules focus on the exchange value of the land, the value extracted from selling or gifting it, rather than on its use value.

Access is different. I define 'access' as a casual, short-term use of multiple, replaceable things. These transactions include goods that are designed for private consumption but hold an unutilised excess capacity, such as cars, drills, bikes and other personal possessions (Benkler 2004). Note that according to this definition, access is not a sporadic license to use a kayak, a car or a drill in a rare occasion of need. Instead, access allows users or 'accessors' to get *consistent* use of a car, bike or drill, without the control, attachment or stability that accompanies long-term use. Instead of owning, leasing or informally possessing the item, accessors get to use a drill when they need it, without committing to a particular drill. One can access one car today and a different car next week.

Legally, each short-term use requires a license from the owner of the object. The socio-legal phenomenon of access is composed of multiple licenses to use each item. It reflects the choice of casually using revolving objects as a form of consistent use. In other words, access is composed of a series of licenses, but it represents something more than an aggregate of individual instances of license or use, namely, an enduring form of property practice.

Although this article focusses on physical access, there are also virtual examples of accessing goods. Spotify allows people to access music without buying an album. Netflix facilitates access to a variety of revolving movie and TV show choices without having to purchase a copy of the movie or TV show. All these examples involve short-term use that satisfies an enduring need through the access of multiple objects or goods. Undoubtedly, this type of revolving use is not new: public libraries have been offering access to multiple books for years. Nonetheless, the access economy has recently become an important socio-legal phenomenon due to the number of access transactions and the variety of goods that can be accessed (Botsman and Rogers 2010).

In order to fully understand access as a form of use, one must understand its broader context and its different variants. Access is particularly relevant in the so-called sharing economy. The sharing economy has many names, and as many definitions, each with its own implications over the scope and focus of the phenomenon (Botsman and Rogers 2010; Codagnone et al 2016; Kassan and Orsi 2012; Martin 2016; Rauch and Schleicher 2015). Some definitions focus on innovation and identify the role of technology in facilitating transactions amongst strangers or the decrease in transaction costs (Rauch and Schleicher 2015) as the key elements of the phenomenon. Others emphasise cooperation and sharing (Kassan and Orsi 2012). Naturally, the polar definitions result in differences in scope and implications. Because this article explores property theory implications, my definition in this article focusses on tangible property being made available by owners for use by non-owners.

Because of this focus, service-based platforms such as Uber, Lyft or TaskRabbit are excluded from my scope of enquiry, as they do not involve this direct access by users to things owned or leased by others. In addition, my definition is not focussed on technological innovation, but includes communal access-based projects, such as toy libraries and tool libraries (Johnson 2014; Ozanne and Ballantine 2010; Ozanne and Ozanne 2011. To make these distinctions clear, I refer to the 'access economy' and not the 'sharing economy' and focus on the intersection of consumption patterns and use (Kreiczer-Levy 2019). I will continue to refer to the sharing economy when engaging with scholarly work that has a broader reach than my focus on access. This is not an endorsement of the term 'sharing' for this activity but, rather, a reference to the social phenomenon.

Not all access projects are alike. Projects differ in their business models (Sundararajan 2016) and their profitability models (Codagnone et al 2016). An additional, important distinction is related to their underlying property structure. One can distinguish amongst projects based on who holds or controls the property that is being accessed (Kreiczer-Levy 2019). I thus offer a property-based typology that provides a richer, more nuanced account of the property access phenomenon. Instead of discussing access as one practice, it is better to think of it as a collection of practices. For example, an inclusive definition recognizes communal access as a form of access and allows us to compare it to other, commercially oriented access. Moreover, looking at access by the owner of the physical property exposes differences amongst different forms of access.

There are four principal categories of access, and each category presents different legal challenges. The first includes peer-to-peer markets, in which the rights holder rents out their property to the accessor for a short period of time. The second category refers to commercial companies, such as Zipcar or Car2Go, in which the company owns the cars and customers access these cars on an as-needed basis. Other examples include commercial bike sharing or scooter sharing. Even though the business model itself existed before the rise of the sharing economy and even though it conforms to the standard model, which involves a provider and a consumer (Cf. Cohen and Keitzmann 2014), it is nonetheless relevant to the analysis of access. Consumers who rent a car from Zipcar choose not to own or lease a car or perhaps not own a second vehicle in a given household. As opposed to rental companies that offer temporary use of cars to tourists, Zipcar and Car2Go typically serve as casual, revolving use and as alternatives to a long-term commitment to one vehicle.

The third access category includes projects that are either managed and run by the local government or represent commercial–governmental cooperation. Local governments, for instance, may fund or support access projects (DeMaio 2009). Indeed, governmental involvement in the sharing economy has been an important field of research in recent years (Finck and Ranchordás 2016). Cities are typically involved in two types of projects: the first type includes improvement of infrastructure – in particular, supporting car-, bike- or scooter-sharing projects to decrease levels of congestion and pollution in the city (Remane et al 2016). The second type includes smaller, local projects that are intended to improve residents' quality of life. A tool library that is run by the city is a good example.

The fourth category is communal access. All previous categories structure access as an individual activity: access is the choice, sometimes the necessity, of individuals, and it is performed independently. I will therefore refer to it as 'independent access'. In contrast, 'communal access' refers to projects that are either owned or managed as a group, commonly as a nonprofit organisation or a cooperative. Community lending libraries are a good example. In toy libraries, children can try out toys that their parentswould not normally buy (Ozanne and Ballantine 2010; Ozanne and Ozanne 2011). Community libraries rely on their members' involvement in their day-to-day operations. In addition, members pay a membership fee to cover the costs of the project (Ozanne and Ballantine 2010). Many of these projects pre-date the sharing economy, but according to the definition employed in this article, they are definitely part of the access economy. Accessing toys or tools means that people can use goods without a long-term legal commitment to the items or, in other words, without controlling it or forming attachments to it.

Each of the four categories relies on a different owner or, otherwise, rights holder of the accessed property. It is either the individual, a business company, the local government or a private-public hybrid or a community. The legal problems that each category raises also differ. Setting aside positive and negative externalities of the activity (Rauch and Schleicher 2015), peer-to-peer markets prompt two types of legal problems: the problems that pertain to the contract between the parties and that result from transacting with strangers (e.g. liability for harm) (Ranchordás 2015). There is also the problem of platforms' power in shaping the terms of the transaction and the rules of participation in the activity (Balkin 2016; Rahman 2018).

The commercial category raises traditional consumer protection and data protection problems (Cf. Lutz et al 2017). The governmental category prompts questions regarding the public law responsibilities of private companies working in cooperation with local governments (Cf. Kingsbury et al 2005). Finally, communal projects do not necessarily raise specific legal concerns but may raise policy questions because these projects are not always as inclusive as they set out to be (Schor et al 2016).

The distinctions between legal and policy problems explain the contribution of a property-based classification as an analytical tool and provide a useful background for the analysis. They enrich the understanding of access as it is being compared to long-term forms of use. Part II explores values of power and vulnerability and compares access and ownership theoretically and normatively. It contemplates the relative power of rights holders and considers a world where ownership is much less prominent. In this setting, different institutional characteristics of the owner – the state, a commercial property, the community or the individual – may be significant in terms of vulnerability to power. Moreover, the analysis of the individualistic and communal aspects of property in Part III also requires a nuanced analysis that separates independent from communal access. Nonetheless, the typology does not contribute to the theoretical debate in property theory, nor does it constitute the property tensions themselves. Instead, it allows us to engage in a more nuanced analysis of access as a material practice.

3 Power and vulnerability

All these forms of use involve power and vulnerability. Ownership is a form of use that not only includes a formal right to use but also entails the power to manage the use of an object, holding others in a potentially inferior position. Viewed from this perspective, I question whether access is a subversive normative alternative to the values associated with ownership or reinforces the power of owners instead. This pursuit begins with ownership because it awards its holder the greatest legal power, but I also discuss other forms of long-term use, both formal and informal.

Ownership is the cornerstone of property law and is the most protected property right (Penner 1997; Weinrib, 2003). In fact, when scholars justify the right to have private property, they refer principally to ownership (Waldron 2002). The nature and scope of ownership is of course highly disputed. Some understand it as a core concept, one that promotes important human values (Brudner 1995; Ripstein 2009; Weinrib, 2003), while others hold a non-essentialist view and understand it as a bundle of rights and privileges (See Baron 2014).

These conceptual differences aside, the most distinctive feature of ownership, according to some traditional accounts, is the owner's power to control the property to the exclusion of others' having the power to control the property (Penner 2020). Ownership thus encapsulates the hierarchical relations between the rights holders and others. This hierarchy has been justified because it secures freedom, independence and autonomy. Property exclusionists maintain that the owner's power achieves freedom from the choices of others and the independence to set and pursue purposes: it expresses purposiveness (Ripstein 2009). The justification of autonomy is broader, emphasising the ability of owners to be the authors of their lives (Dagan 2021). A different justification focusses on personhood and self-development. According to this view, the control of the property is an expression of will that is manifested in the external world (Brudner 1995). The community's recognition of this will allows the owner to recognise oneself and develop a self-conception as a person (Waldron 2002). Although the power of owners is certainly not absolute, control seems to be central to the institution of property and, more specifically, to ownership.

If ownership secures autonomy, independence and self-development, it seems essential that every individual have some property. According to this argument, people who do not hold and control property lack a constitutive feature of individual human experience (Waldron 2002, 359). A different version of this argument maintains that property rights are required to sustain human dignity (Dagan 2011, 46). However, most liberal systems do not secure property rights to all, only to some. Ownership maintains the status quo distribution of goods (Blomley 2008; Fox-O'Mahony 2014), and neither is distributed equally in society.

Ownership involves power. It subjects non-owners to property owners' sovereignty when it comes to using goods and resources (Katz 2008). The literature has considered ways to mitigate this power. Progressive property scholars emphasise the importance of social obligations of owners (Alexander 2008) and argue in favour of legally securing informal attachments to property (Singer 1988). This article explores a different approach, one that aims to minimise owners' domination by supporting and encouraging other forms of use. As non-hierarchical alternatives of use become feasible and acceptable across various socio-economic statuses, the enjoyment of resources and goods will be more diverse and less hierarchical. People may choose to access even when they have sufficient financial resources to own outright. If short-term forms of use are desired by consumers, the anticipated result is that ownership will no longer be the superior option socially or culturally.

On the other hand, even if non-hierarchical modes of use are prevalent, those who choose them remain in an inferior position: they depend on owners to rent out their property, and they lack the independence and autonomy that comes from stable, hierarchical forms of use. This critique reveals the complexity within the legal concept of ownership: ownership is inherently unequal in the relations it constitutes, but other choices of use, even if they are socially acceptable and, indeed, desired, are necessarily dependent on owners. As long as ownership is a preferred option, all forms of temporary, short-term use will reinforce ownership's position.

This interrelation between power and vulnerability become clearer but more complex when we engage specifically with the rise of the access economy. The rise of access creates alternatives for consumers, who now have the option to use goods casually. Casual use is not simply a choice not to own; it is also an alternative to long-term possession, formal or informal. As opposed to long-term possession, access to an object does not create attachments to that particular object: one can use one car today and a different car next week. Although the consumer still gets the consistent utility they need, the object itself is replaceable. Importantly, access is not an option reserved for the poor. Instead, the access economy tends to attract young, urban middle-class users (Makwana 2015; Shiler 2014). It reflects a change in consumer preferences, as it combines both economic and lifestyle motivations (Ranzini et al 2017). Sustainability and market avoidance also motivate consumers, especially when choosing communal access (Ozanne and Ballantine 2010).

Some scholars understand access as a mere addition to the already-diverse list of use choices, much like a lease (Merrill 2020). Indeed, access relies on available mechanisms of contract law and property law. It includes a license to use, and as such, it does not present any legal innovation. However, access presents an alternative form of use that produces different values from ownership, leases and informal possession alike. Leases facilitate uses for relatively long periods of time, enough for the user to become attached to the property. They are similar to ownership because they are directed towards the same use goals and represent a relation to a single object. Progressive property scholars acknowledge long-term attachments to land or other objects, even when the possessors have no formal claim to the thing (Singer 1988, 2013); they thus share the focus on long-term use with certain exclusionists and formalists. Legally, attachments to objects, even informal attachments, may be protected under contract, property or equity (Kreiczer-Levy 2014, 158–160).

In contrast, access is a form of use in which users use multiple replaceable items, without creating commitments or attachments to any one, single object. This is a form of use that connotes flexibility and serves the purpose of disengaging from objects. The potential for subversiveness of access lies in this detachment, which presents an emphasis on functionality and flexibility instead of on control, stability and self-development. There are three explanations for this different focus. *First*, ownership and, to some extent, formal and informal possession build on hierarchical relations. Access presents the choice of using goods consistently without claiming priority and without exerting control over others. *Second*, ownership and long-term possession contribute to self-development (Radin 1982). Access fosters experimentation with one's preferences. When people access goods, they are open to try out new things, as there is no commitment involved. For example, when boys borrow toys from a toy-lending library, they are willing to try toys that are associated with girls (Ozanne and Ballantine 2010). *Third*, when we own physical items, we become attached not only to the object but also to the space it occupies: a particular place, a neighbourhood or a community. These communities tend to be homogenous (see, e.g., common interest communities [Kennedy 1995; Thomas 2012]). Communal access creates ties to the community of members and tends to be exclusive as well (Schor et al 2016). However, independent access supports a wider spectrum of relations. Peer-to-peer markets in particular require frequent casual interactions with different individuals. These are weak, casual relationships with people who come and go and who are from diverse backgrounds. Independent access has the potential to promote openness and diversity, at least compared to ownership and long-term possession. This point is further developed in Part III.

However, access's subversive potential is not fulfiled in full. The first explanation of access's subversiveness concerns hierarchical relations. The problem is that currently, access operates in a world that supports and privileges ownership. Eli Cook (2021) argues that access reinforces ownership, drawing a historical comparison between access and American slave rental markets. Slave rental markets allowed people who did not own slaves to rent them for short periods of time. According to Cook, these markets strengthened the slave ownership society because owners had a lucrative option to rent out slaves during slow periods. Finally, he concludes:

> '[T]he rise of an access economy – not unlike the case of antebellum slaves – might serve as evidence of the power of owners within a certain society. When owners become powerful, ownership for non-owners often becomes either prohibitively expensive or legally difficult to attain. As a result of these barriers to entry, many have no choice but to turn to an access economy.'

Cook's argument is in fact a restatement of a tension embedded in ownership. Even though ownership is unequal and hierarchical, it is still a source of independence and power. Creating alternatives to ownership, if they are not accompanied by wider changes in economic conditions, will ultimately fail. Nonetheless, this conclusion does not mean that access simply adds to ownership: I maintain that access does challenge ownership, but under current social and economic conditions, it does not live up to its full subversive potential.

Access reflects a cultural change, with a decrease in the symbolic power of ownership for consumers (Belk 2014). As such, it displaces the role of ownership as the ideal for the middle class (Peñalver 2009, 835) and provokes a rethinking of its core values. One of the operative conclusions that can be drawn from Cook's (2021) comparison is that unless access is accompanied by structural and institutional reforms in the market, it will not present a significant challenge. For example, this critique imagines the peer-to-peer model of access as its rival. The communal form of access and a purely governmental form of access carry a potential to create less hierarchical relations between owners and accessors because the accessor is partly represented by the community that owns the resource. In addition, in order to truly serve as an alternative to ownership, access demands a variety of legal measures to protect the vulnerabilities of accessors, including regulating platform power or creating platform alternatives, controlling discrimination, securing a pool of resources to access and using other measures (Kreiczer-Levy 2019).

Furthermore, access invites a discussion of the centrality of ownership from the consumer perspective and may eventually lead to different priorities. An example of such a discussion encourages us to imagine a world in which access becomes the prominent form of use and to enquire about changes in the power structure. Because access is inherently dependent – that is, it requires an owner that allows users to access property – the first question is who will own property. The four main options correspond to the four models of access presented in Part I: (1) commercial companies that rent out property to individuals; (2) property held by the government and used by residents; (3) property held by communal organizations and borrowed when needed by members; and (4) peer-to-peer markets. The first two options relocate ownership away from people and into the hands of companies or the government. The result is concentrated power. If we believe there is value to ownership because it secures independence and autonomy for individuals, then concentrating power away from individuals is problematic. The third and fourth options have the potential to decentralize power. Were access to become a prominent option, perhaps people or communities would own some property that they hold dear or use frequently and access all other things. Some people will have many tools; others will have cooking supplies; some will own cars; others will own other machines.

Importantly, peer-to-peer markets (the fourth option) decentralise ownership to a greater extent than does the commercial company option. Indeed, these markets are mediated by platforms, which are for-profit organizations, as are commercial companies. However, in peer-to-peer markets, the ownership of goods is potentially distributed among many different actors, such as individuals and small businesses. From a property theory perspective, then, peer-to-peer markets provide a dispersed system of ownership of goods, and with it, they decentralise the power and the authority associated with property rights. Nonetheless, peer-to-peer markets present two problems: first, the disaggregation of ownership is hard to manage practically, and it can make enjoying certain goods difficult. Second, the coordination of large-scale peer-to-peer markets is currently managed by platforms, which hold enormous power over their users (Balkin 2016; Rahman 2018). In addition to accessors' dependency on owners, accessing goods in peer-to-peer markets creates a dependency on the platform: access to physical goods is controlled, managed and shaped by the platform (;Kenney and Zysman 2016; Rahman 2018; Srnicek 2017). It is clear that while access indicates flexibility in use and in relationships, it also indicates reliance on corporate power.

The second and third explanations of subversiveness deal with experimentation and diversity. The willingness to experiment in access and the variety of weak, casual interactions create a potential for openness. These traits will be discussed in Part III as a factor in the discussion of property values that involves individualism and social relations. Although there are indications of discrimination in the access economy (Edelman and Luca 2014; Edelman et al 2017; Kricheli-Katz and Regev 2016), we need to compare the social interactions that access creates with the social interactions that ownership facilitates, typically with one's neighbours in one's homogenous community.

To sum up the discussion thus far, access challenges the values associated with ownership and other forms of long-term possession, but under current conditions, access also reinforces these values' power. This conclusion is theoretical, but it is also supported by a practical and institutional analysis: transformative changes often encounter resistance from current legal institutions. I have previously argued that the law currently burdens short-term access. Zoning, tax and insurance rules make it harder to choose access as an alternative to long-term forms of use (Kreiczer-Levy 2017). Moreover, because access is inherently dependent on an owner, it requires a stable infrastructure for continued participation offered by the state, the community, the platform or commercial companies. In order for access to be a viable, stable alternative, the state must offer regulatory and institutional support as well as protection from private power that is exerted by either the platform or commercial companies as owners of goods (Kreiczer-Levy 2019).

4 Individualism and communities

Using land or other physical objects can serve individualistic purposes but can also support certain communities and social relations. In this part, I ask whether access subverts the types of community that are cultivated by ownership by promoting alternative forms of social associations. I will also refer to long-term possession, formal or informal, as effectively supporting similar communal relations to ownership where appropriate.

Ownership is understood in liberal–legal thought as profoundly individualistic. Ownership, as the pivotal private property right, has been justified as securing freedom, autonomy and self-development (Brudner 1995; Dagan 2021; Ripstein 2009), all highly individual values (but see Nedelsky 2011). In addition to these normative arguments, from a sociological perspective, ownership of certain types of goods, most commonly a home, signifies responsibility and adulthood (Peñalver 2009, 835).

Other approaches similarly stress the link between ownership and individualism. For example, the right to exclude others from the property is understood as a definitive feature of ownership (Merrill and Smith 2007; Penner 2020). Exclusion is inherently individual because it manifests in the control of the owner, who has the right to keep others from using the property. Merrill and Smith provide an economic justification for this conclusion based on information costs.[1] A different argument sees exclusion as a manifestation of the owner's sovereignty (Katz 2008). The owner is understood, according to Katz, as the exclusive agenda setter for the property, determining its use and function. All these different justifications – value-specific, economic and structural – characterise ownership as endowing individuals with the private power of commanding and using their property.

[1]Economic theories of property are not necessarily focused on the individual. Instead, these theories are welfarist as they strive to achieve the most efficient use of property. See e.g. Demsetz (1967).

Despite this individual-centric focus, ownership is also the basis for strong communal relationships. Property is a platform for interactions with others, and it constitutes and strengthens communal ties. The example of homeownership is perhaps most illustrative. Eduardo Peñalver (2009, 838) explains that homeownership in a community facilitates 'access to a number of social goods, such as the community's schools, parks, sidewalks and neighbourhood-based social networks' and that owning a home in a particular community 'creates and reinforces social ties among neighbors'. It is important to note that this argument is distinguishable from other progressive property claims. Progressive property scholars argue that sharing, collaboration and obligations are inseparable parts of property rights (Alexander, 2008; Dyal-Chand 2013; Singer 1988) and that relationships should be the source of property rights (Singer 1988). However, the argument here explains that ownership, even if perceived as purely individualistic, is inseparably tied to broader social relationships: physical objects are used within a certain spaces, and their use invites human interactions in a way that creates social bonds and constitutes communities (Kreiczer-Levy 2014). This conclusion applies to long-term possession in the form of tenancy as well (Peñalver 2009). Long-term possessions similarly connect individuals to their physical surroundings and to the community around them.

The individual and social aspects of ownership are not necessarily contradictory, however, as it is the individual control that determines the scope and commitment to relationships (although Cf. Nedelsky 2011). Although ownership represents individuality, it in fact serves to connect a person to their physical environment. The more physical property a person owns, the more connected they become to a community or a neighbourhood (Kreiczer-Levy 2019).

Importantly, just as ownership and long-term possession of physical things connect a person to a particular spatiality, they also impact the type of relationships people form around the things. These relationships tend to be stable, and, as such, they may become homogenous, as aptly demonstrated by residential communities in the US (Kennedy 1995). Common-interest communities, including homeowner associations, condominiums and cooperatives, protect the community and its exclusivity (Kennedy 1995; Thomas 2012). In other words, these communities maintain the sometimes-homogenous nature that may be appealing to homebuyers (Kennedy 1995). Moreover, zoning rules are used to protect and enforce community stability (Serkin 2020). Common- interest communities present a specific example, but they demonstrate how the stability that relies on long-term use supports enduring relationships. These potentially enduring, long-term ties encourage people to choose or maintain communities of similarity (Fennell 2017). The more physical things people have, the harder it is to move, as doing so entails financial and social costs. The physical and legal stability of long-term property use thus works to either create homogenous communities or make it difficult to leave existing communities of similarity.

The combination of physicality and long-term use tends to support existing, spatially static homogenous communities. This conclusion is not contingent on one's approach to property but, rather, on the implicit ties between the physicality of things and the resulting support of long-term use. This conclusion can be reached from an exclusionist approach to property, according to which the individual determines the extent of communal involvement. It can also be reached from a progressive approach to property that emphasises individuals' commitments to others in their community. Although these approaches disagree about the normative stance of the community in property law, they practically tend to emphasise values associated with the long-term use of a physical object, which strengthens ties to enduring, stable homogenous communities.

Access potentially challenges the type of communal relations that ownership and long-term possession cultivate in two important ways: it offers an alternative to ownership's role in supporting and facilitating enduring relationships and to the type of relationships that it promotes. Independent access facilitates mobility; just as ownership of many physical goods increases the costs of relocating, owning fewer physical possessions makes moving easier. The literature on global nomads supports the second point. Global nomads are defined as people who have serial relocations or frequent, short-term international travel (Bardhi et al 2012). Research shows that global nomads are not attached to things, own very little and maintain a functional, temporal approach to goods (Bardhi et al 2012). Another example is the former project WeLive. The company offered micro-housing units with month-to-month leases. The units were completely furnished and even included linens and kitchenware. Tenants owned very little, and as a result they could leave their unit every month. These two examples demonstrate the inverse relationship between mobility and property. The more mobility a person enjoys, the fewer physical things they need to own or lease. Frequent mobility thus produces fewer attachments to things and to other people.

In contrast to ownership and long-term possession, in which stability breeds attachment, access detaches the physical possession from its use. If one can access cars, drills, and bikes in different cities, then the use of these goods is no longer tied to one's location. In this sense, access represents individuality and the freedom from being tied down to a place or a community. In addition, access not only severs the ties amongst physical space, use and community but also creates different interactions. Independent access consists of sporadic, short-term, casual transactions in peer-to-peer markets or through commercial enterprises. People who meet through Airbnb or Turo have weaker interactions with each other but a wider and more diverse range of personal relationships.

It is important to note that this flexible, individual, unattached lifestyle is not feasible for all. Mobility and experimentation are easier for people who are young, healthy and unattached. People who depend on others' care, however, must remain connected to a location and a community, namely, their family or other caretakers. This demonstrates that while access promotes a different form of flexible sociality and community, it is not necessarily more egalitarian.

Communal access is quite different. Accessing toys or tools in a communal project does not create attachments to the things used, but it will foster ties to the community. People access goods as members of a community, and they may be involved in its day-to-day management (Ozanne and Ballantine 2010). However, as with ownership, it seems that strong communal ties lead to exclusivity and communities based on similarities. Schor et al (2016) have studied four communal sharing economy sites and found evidence of distinguishing practices. Although these sites take pride in their openness and equality, the practices reveal fairly homogeneous communities and markers of status. Nonetheless, decoupling property from attachment does lead to experimentation in communal access: when parents buy toys, their choice comes at a price, which incentivises choosing safe, familiar options. When children access toys, they do not have to choose the familiar because there is little cost to choosing something you will not like. Children are thus more open to experiment with different toys in a toy-lending library (Ozanne and Ballantine 2010; Ozanne and Ozanne 2011). A possible hypothesis (which needs to be tested) is that short-term use of goods can lead to experimentation in other areas. Perhaps when people rent houses for short periods of time without commitment, they will be more willing to experiment and live in an area that is different from their current community. The assumption is that access supports diversity through experimentation.

Independent, non-communal access may further contribute to diversity, by both promoting individual experimentation and reducing reliance on homogenous communities when it comes to using resources. Access supports weak and casual interactions and invites transactions with people from a wide variety of backgrounds. These are interactions that take place outside of one's immediate community, but they still involve the use of intimate possessions such as the home, the private car or personal belongings (Kreiczer-Levy 2019). Access breaks the ties between property and community in ownership and promotes individualism, mobility and detachment as people use property to form broader social connections rather than remain tied down to one community by their possessions. Access damages the communities of ownership but also invites in more diversity. It supports human interactions but also dilutes the power of community.

However, the actual realisation of this promise of diversity through access is disputed. There is ample evidence of discrimination in the sharing economy (Edelman and Luca 2014; Edelman et al

2017; Kricheli-Katz and Regev 2016). Edelman, Luca and Svirsky (2017) find that people with African-American names are 16 percent less likely to be accepted as guests compared to guests who have distinctively White names. According to their findings, which are astounding, this type of discrimination occurs with all races of landlords

> Both African-American and White hosts discriminate against African-American guests; both male and female hosts discriminate; both male and female African-American guests are discriminated against. Effects persist both for hosts that offer an entire property and for hosts who share the property with guests. Discrimination persists among experienced hosts, including those with multiple properties and those with many reviews. Discrimination persists and is of similar magnitude in high and low priced units, in diverse and homogeneous neighborhoods.

In addition, Edelman and Luca (2014) show that guests also tend to discriminate against hosts. They found that non-Black hosts are able to charge 12 percent more for their listing compared with Black hosts, even after controlling for location, rental characteristics and quality.

Studies have also demonstrated gender bias in the sharing economy. Kricheli-Katz and Regev (2016) studied eBay auctions between the years 2009 and 2012 and found that 'women sellers received about 80 cents for every dollar a man received when selling the identical new product and 97 cents when selling the same used product.' Even when the product was a gift card with a known, fixed amount of money, the researchers found that the gender gap persists.

These studies show that the promise of diversity in the access economy has not been fulfiled and that access does not sufficiently change the type of community associated with long-term possession. Nonetheless, we should not be hasty and dismiss these studies altogether. The question remains whether the access economy facilitates more casual interactions with people from diverse backgrounds compared with the default of ownership and long-term possession. When people own or lease most of their possessions, they often live in homogenous neighbourhoods, and the physical space constrains their possibilities of interaction. By comparison, access creates additional opportunities for interactions, sometimes in people's homes through Airbnb or in their private cars through Turo. These interactions are closer and more frequent, and they increase the potential of exposure to experiences beyond the constraints of the community. However, discrimination exists in all forms of property use; for example, people discriminate in ownership choices, such as seeking to buy a home in a racially homogenous neighbourhood (Fennell 2017). In order to test the reach of access's potential for diversity, we need to test the levels of openness in both ownership and access as comparable alternatives.

5 Conclusion

This article compared forms of use and the values that are associated with these uses. Its primary goal was to engage with the richness and complexity of access and with access's potential to enrich and refine our understanding of use and its social functions. My definition of access focused on the material practices of property rather than on the formal legal categories. I further defined access as an aggregation of multiple licenses that amounts to a consistent form of use and has social, cultural and legal implications. Access is thus more than the sum of its formal legal tools, which are used to achieve a concrete purpose. Analysing use through the lens of formal law thus reduces and fragments the relationships that underpin social practices. This analysis also obscures the richness of use that exceeds its formal underpinnings.

This exploration served as the foundation for the larger questions that this article asked: 'Is access an alternative to the hierarchical power of ownership?' 'Does access present an alternative to the type of communities that ownership and long-term use cultivate?' If so, 'What are the nature and the extent of the challenge it represents?' In other words, 'Does access merely add to the property landscape, or does it provoke new, contested forms of use?' The short answer to these questions is that access does both.

The article revealed the complex relationships between ownership and access, as access challenges ownership but also reinforces its power. In some respects, the two forms of use diverge and may even conflict, but in other respects, access fails to provide a true alternative: its potential for non-hierarchical interactions with others is limited by the power of owners, which remains constant even as casual forms of use become culturally acceptable. In order for access to support mobility, flexibility and diversity, its dependency on others' ownership needs to be relaxed. Structural and institutional measures are required to achieve this purpose. As I explain in *Destablized Property* (Kreiczer-Levy 2019, 94), one possible option for addressing access's inherent dependency is:

> '[to] relocate the notion of stability outside the realm of property, and to support the choice of flexibility and a more radical sense of freedom. The state can protect long-term security and stability in other settings. Job security, state protection of vulnerable populations, radical changes in financial markets and equal access to goods could serve as alternative venues. Each of these options demands more thought about the basic structures of markets and forms of capitalism. Decoupling property from stability has its price, but the property as stability paradigm has gradually become impractical and unrealistic, and, unfortunately, available only to a select group of individuals.'

Physicality has been another important theme of this article. The embodiment of land and chattels serves as a locus of individual control and a platform for communal activities, and as such, it is often associated with long-term use. Competing property theories converge on this central theme. Theories that focus on property rights, such as exclusionist and formalist approaches, and theories that protect informal attachments, such as progressive approaches, effectively secure long-term attachments to things. Because these theories associate different values (control, freedom and community) with the spatiality of the thing, these values serve to protect the continuous engagement with the thing. Access challenges this link between property and spatiality and presents an unattached, flexible and mobile engagement with possessions.

The last piece of the access puzzle is corporate power. Certain types of access are regulated by powerful platforms. While these forms of use reflect flexibility and mobility, they do not provide a secure and dependable way to continue to access as a valued form of use. Vulnerability to corporate power thus becomes another concern that further distances access from its potential as a subversive alternative.

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