

INDEX

- administrative law, 3
 - exclusion from public space
 - and, 3
- Age of Enlightenment, 200–201
 - equality as concept during, 322–323
- agora, Greek, 37, 42, 395
- Agreement on the Free Movement of
 - Persons, 204, 223, 255, 324
- alcohol use, prohibitions against,
 - 85–86, 510
- Alexy, Robert, 280, 398–399
- Allan, Trevor, 130
- Amalgamated Food Employees Union Local 590 v. Logan Valley Plaza, Inc.*, 55–56
- anti-social behaviour
 - ASBOs, 1, 88–89, 191–192
 - under authority of cantons, 90–95
 - CBOs for, 89–90
 - defined, 89–90
 - equality and, 358–372
 - age factors for, 358–363
 - curfews and, 360
 - in Switzerland, 368–369
 - in US, 369–370
 - exclusion from public space for,
 - 84–95, 442
 - for begging, 84–85
 - blanket exclusion norms, 88–95
 - for drinking alcohol, 85–86
 - through juvenile curfews, 86–87
 - for loitering, 84–85
 - for lying, 85–86
 - for sitting, 85–86
 - for spitting, 85–86
 - for vagrancy, 84–85
 - IPNA for, 89–90
 - non-discrimination and, 358–372
 - age factors for, 358–363
 - curfews and, 360
 - in Switzerland, 368–369
 - in US, 369–370
 - proportionality for exclusion
 - measures against, 293–303
 - in narrow sense, 301–303
 - necessity of, 295–301
 - suitability of, 293–295
- Anti-social Behaviour, Crime and
 - Policing Act 2014, 28–29, 85–86, 87, 89–90, 171–172, 174, 187, 501–504
 - CBOs under, 89–90, 171–172, 187, 502
 - dispersal powers and, 76, 87, 89–90, 174, 266, 300, 503
 - IPNAs under, 89–90, 171–172, 192, 266, 501–502
 - Public Space Protection Order (PSPO), 89–90, 103, 504
- Anti-social Behaviour Act 2003, 76, 89
- Anti-Social Behaviour Order (ASBO),
 - 1, 88–89, 191–192
- Appleby v. United Kingdom*, 57, 420
- Arendt, Hannah, 36, 39, 404, 407
 - on democracy, 41
 - on liberty, 39
- Aristotle
 - on equality, 322
 - on the rule of law, 119
- ASBO. *See* Anti-Social Behaviour Order
- Austin v. Commissioner of Police of the Metropolis*, 153–154, 235–237
- banishment (*Verbannung*), 68. *See also*
 - exclusion from public space
 - under Code of Hammurabi, 69
 - decline of, 68–72
 - historical background of, 68–72
 - imprisonment as replacement for, 70
 - from nation-state, 70

- banishment (Verbannung) (cont.)
 - as punishment, 69
 - under Transportation Act 1718, 70
- bargaining democracy, 385–386
- Baron de Montesquieu, 12, 120, 200–201
- begging, 19, 84–85, 88, 187
- BIDs. *See* Business Improvement Districts
- Bill of Rights, US, 12
 - fundamental rights as part of, 206–207
 - rule of law under, 123–124
- Blackstone, William, 226–227
- blanket exclusion norms, 88–95
- Böckenförde, Ernst-Wolfgang, 402, 447
- Bourdieu, Pierre, 25
- breach of the peace powers, 144–150
 - See also* *polizeiliche Generalklausel*
 - in *Austin v. Commissioner of Police of the Metropolis*, 153–154
 - Gsell case and, 150–152
 - Laporte case and, 152–153
 - in *Moss v. McLachlan*, 155
 - in UK, 147–148, 152–155
 - in US, 148–149
- Broeks v. The Netherlands*, 326
- broken windows thesis
 - national application of, 16
 - quality of life strategy and, 64
 - in security society, 16, 63–65, 74–75
 - zero tolerance strategy and, 64
- bubble laws, 97–98, 109–110, 513
- buffer zones, 97–98, 109–110, 243, 277, 314, 375, 512–513
- Burke, Edmund, 382
- Business Improvement Districts (BIDs), 58–59
- cantons
 - anti-social behaviour under police acts of, 90–95
 - public space under authority of, 45–46
- CBO. *See* Criminal Behaviour Order
- CCTV cameras. *See* Closed-Circuit Television Cameras
- children and juveniles
 - CRC protections of, 211–212
 - curfews for juveniles, 86–87, 108–109, 511–512
 - fundamental rights of, 214
- Chorherr v. Austria*, 173, 267–268
- citizenship, 350–355
- City of Chicago v. Morales*, 179, 181–182, 225, 356
- civic responsibility, 445–448
- civil liberties, defined, 20
- civil rights, 195
 - public space and, 396–400
- civility, 403, 446
- Clingham v. Royal Borough of Kensington and Chelsea; R (McCann) v. Crown Court at Manchester*, 191
- Closed-Circuit Television (CCTV)
 - Cameras, 63, 73–74, 101
- Coates v. City of Cincinnati*, 176–177, 272, 371–372
- Cohen, Carl, 400
 - on psychological conditions of democracy, 400–406
- Comager, Henry Steele, 201
- Commentaries on the Laws of England* (Blackstone), 226–227
- common law, 11, 120–121
 - administrative law and, 3
 - residual liberty and, 205, 429
- common use. *See also* *Gemeingebrauch*
 - for right of access to public space, 424–425
- comparative constitutional law, 5–10
 - See also* Switzerland; United Kingdom; United States
 - European influences on, 7–9
 - functionalist approach to, 5
 - transnational convergence of, 8–10
 - US Supreme Court and, 14
- conditional right, of access, 424–426, 433–434
- consensus democracy, 385–386
- Constant, Benjamin, 12
- Constitution, US
 - Eighth Amendment, 14
 - equal protection clauses in, 328–329

- European influences on, 12
- freedom of expression under, 247–248
- public forum in, 35
- vagueness doctrine and, 138–139, 163
- constitutional rights, defined, 20
- control society. *See* security society
- Convention on the Rights of the Child (CRC), 211–212, 244
 - on limitations of fundamental rights, 255–256
- Crawford, Adam, 74, 174, 187–188
- CRC. *See* Convention on the Rights of the Child
- Crime and Disorder Act 1998, 1, 88, 173–174, 175–176
- criminal behaviour
 - equality and, 349–358
 - unequal enforcement of laws and, 355–358
 - unequal laws and, 350–355
 - exclusion from public space for, 76–83, 441
 - for convicted offenders, 77–78
 - for potential offenders, 79–83
 - non-discrimination and, 349–358
 - proportionality for exclusion
 - measures against, 285–293, 314–317
 - in narrow sense, 292–293
 - necessity of, 288–292
 - suitability of, 287–288
- Criminal Behaviour Order (CBO), 89–90
 - Anti-social Behaviour, Crime and Policing Act 2014 and, 89–90, 171–172, 187, 502
- Criminal Justice Act 2003, 77
- Criminal Justice and Immigration Act 2008, 77–78
- criminology, 3
- critical geography. *See* geography, critical
- curfews
 - equality and, 360
 - freedom from arbitrary detention and, 237–238
 - freedom of assembly and, 243–244
 - freedom of movement during, 227–228
 - for juveniles, 86–87, 108–109, 511–512
 - non-discrimination and, 360
 - under Power of Criminal Courts (Sentencing) Act 2009, 494
 - in US, 29, 114, 115, 143, 221, 293–294, 360, 370–371, 443–444, 511–512
- Declaration of Independence, 12, 201
 - equality under, 321
- Declaration of the Rights of Man and Citizen, 201
- democracy. *See also* liberal democracy
 - deliberative, 382–383
 - discursive, 380
 - ECHR and, 389–390
 - exclusion from public space and,
 - legitimacy of, 390–394
 - consequences of, 394–409
 - in Switzerland, 392–393
 - in UK, 393–395
 - exclusion measures and, 377–378
 - psychological conditions and, 406–409
 - freedom of expression and, 397
 - Human Rights Act 1998 and, 381–382
 - immobile behaviour and, 377–378
 - international law influenced by, 388–390
 - main objectives, 379–380
 - meaning of, 378–380
 - psychological conditions of, 400–406
 - civility as, 403
 - empathy as, 401–402
 - exclusion measures and, 406–409
 - random communication with strangers as, 394–406
 - shared sense of ‘we’ as, 402
 - tolerance as, 400–401
 - public space and, 41–42, 43–44, 395–396

- democracy (cont.)
 - civil rights in, 396–400
 - political protests and, 399–400
 - political rights in, 396–400
 - presence in, 400–409
- pure, 383
- Rechtsstaatsprinzip* and, 132
- representative, 381
- rule of law and, 131–133
- in Switzerland, 385–388
 - bargaining in, 385–386
 - as consensus, 385–386
 - as direct, 387
 - exclusion from public space and, 392–393
- in UK, 380–383
 - as deliberative, 382–383
 - exclusion from public space and, 393–395
 - as representative, 381
- in US, 383–384
 - as pure, 383
- d'Entrèves, Maurizio Passerin, 41
- DH and others v. Czech Republic*, 336, 346–347
- Dicey, Albert Venn, 121–122, 130, 419
 - on equality, 327–330
 - on requirement of sufficient precision, 162–163
- digital citizen, 43
- dignity, as fundamental right, 215–217
 - equality and, 321
 - exclusion from public space and, 216–217
 - as guarantee, 215–216
 - in Switzerland, 215–216
 - in UK, 216
 - in US, 216
- direct democracy, 387
- direct discrimination, 335
- discrimination. *See also* non-discrimination
 - defined, 333–334
 - direct, 335
 - express, 335
 - indirect, 335–336, 346–347
 - intention in, 333–334
 - in Switzerland, 334
 - in UK, 334
 - in US, 334
- discursive democracy, 380
- drug-exclusion zones, 1, 252, 288–289, 356
 - in US, 507–509
- due process. *See* procedural due process; substantive due process
- Dworkin, Ronald, 130, 323, 375
- ECHR. *See* European Convention on Human Rights
- Eighth Amendment, US Constitution, 14
- emergency powers, 149, 513–514
- empathy, 401–402
- Engel v. Netherlands*, 192
- English Declaration of Rights, 14
- Entick v. Carrington*, 27–28, 137
- equal protection clause, 328–329
- equality
 - during Age of Enlightenment, conceptual development of, 322–323
 - anti-social behaviour and, 358–372
 - age and, 358–363
 - curfews and, 360
 - in Switzerland, 368–369
 - in US, 369–370
 - Aristotle and, 322
 - comparability for, 336–337
 - content of, 331–347
 - criminal behaviour and, 349–358
 - residence permit status and, 350–355
 - unequal enforcement of laws, 355–358
 - unequal laws and, 350–355
 - defined, 331–332
 - determination of equality, 332–334
 - difference in treatment as determinant of, 335–336
 - dignity and, 321
 - evidence of, 345–347
 - exclusion from public space and, 347–372
 - age as factor for, 358–363
 - citizenship as factor for, 350–355

- ethnic origin as factor in, 355–358, 370–372
- through indirect
 - discrimination, 357
- race as factor in, 355–358, 370–372
- religion as factor in, 355–358
- residence permit status as factor in, 350–355
- social status as factor for, 363–370
- way of life distinctions as factor for, 363–370
- in Federal Constitution of Switzerland, 329–331
- historical sources for, 322–331
- intensity of review, 341–345
- intermediate scrutiny test, 339–340
- in international law, 321, 323–327
- justification for, 337–341
 - ECHR and, 338–339
 - in Switzerland, 340–341
- in liberal democracies, 323
- non-discrimination and, 321–331
- for political protest, 372–375
 - buffer zones, 375
- in private space, 40
- proof of, 345–347
- in public space, 40, 43, 320
- in security society, 347
- strict scrutiny test, 339–340
- in Switzerland, 329–331
 - anti-social behaviour and, 368–369
 - justifications for, 340–341
- in UK, 327–330
- in US, 328–329
 - anti-social behaviour, 369–370
 - under Declaration of Independence, 321
- Equality Act 2010, 327–330, 333, 335–336, 337, 339
- Europe. *See also specific countries*
 - public space in, historical context for, 32, 37–38
 - shopping centres in, 54–56
- European Convention on Human Rights (ECHR)
 - on circumvention of procedural safeguards, 192–193
- democracy and, 389–390
- freedom of expression and, 397
- fundamental rights and, 203–204, 211–212
 - personal liberty, 220
 - respect for private life, 220
- human rights treaties and, 203–204, 211–212
- justification of equality and, 338–339
- on requirement of sufficient precision, 168–169, 173
- in UK, 20
- European Court of Human Rights, 7–8, 147, 151–152, 154, 155–156, 168
 - on semi-public spaces, 57
- exclusion from public space. *See also*
 - privatisation, of public space; semi-public space
- for commercial purposes, 18–19
- criminology perspective on, 3
- critical geography perspective and, 3
- limited scope of, 109–111
- long-term, 113
- modes of, 101–107
 - through authorisation
 - requirements, 104–105
 - through court powers, 105–106
 - excluded behaviours, 107–109
 - geographical scope as factor in, 109–111
 - informal, 101–102
 - juvenile curfews, 108–109
 - through police powers, 106–107
 - through prohibition of behaviours, 102–104
 - temporal scope, 112–114
- permanent, 114
- resurgence of, 72–75
- scope of research on, 17–19
- short-term, 112
- sociology perspective on, 3
- as state power, 3–4
- symbolism of, 74
- target populations for, 3, 75–100
- typology of measures, 100–114
 - modes in, 101–107
- typology of norms, 532

Cambridge University Press

978-1-107-15465-0 - Exclusion From Public Space: A Comparative Constitutional Analysis

Daniel Moeckli

Index

[More information](#)

538

INDEX

- exclusion from public space (cont.)
 - unlimited scope of, 111
 - through urban design, 101–102
- express discrimination, 335
- Federal Act on Foreign Nationals, 91, 140, 165–168, 350–355
- Federal Constitution, of Switzerland, 210–211
 - equality in, 329–331
 - fundamental rights in, 210–213
 - Rechtsstaatsprinzip* in, 127
- Federalist Papers* (Hamilton, Madison, and Jay), 12, 120, 122–123
- Feldman, David, 50
- Football Disorder Act 2000, 77, 81
- Football Spectators Act 1989, 77, 492–494
- France
 - banishment from, as punishment, 70
 - Declaration of the Rights of Man and Citizen in, 201
- Frankenberg, Günter, 10
- Fraser, Nancy, 36
- freedom from arbitrary detention, as
 - fundamental right, 234–238
 - curfews and, 237–238
 - defined, 234–235
 - exclusion from public space and, 235–238
 - kettling and, 235–237
 - in Switzerland, 234–235
 - in UK, 234–235
 - in US, 234–235
- freedom of assembly, as fundamental
 - right, 239–245
 - curfews and, 243–244
 - under domestic law, 239–240
 - establishment of, 239–242
 - exclusion from public space and, 242–245
 - under international law, 239
 - in Switzerland, 240–241
 - in US, 241–242
- freedom of expression, as fundamental
 - right, 245–250
 - defined, 245–248
 - democracy and, 397
 - exclusion from public space and, 248–250
 - ICCPR on, 245
 - in Switzerland, 246–247, 397–398
 - in UK, 245–246, 397
 - in US, 247–248, 398
- freedom of movement, as fundamental
 - right, 223–233
 - defined, 223–227
 - exclusion from public space and, 227–233
 - under Magna Carta, 226–227
 - in Switzerland, 224
 - in UK, 226–227
 - in US, 224–226
- freedoms. *See* civil liberties
- French Revolution
 - Helvetic Constitution influenced by, 209–210
 - US constitutional law influenced by, 12
- Fuller, Lon, 130
- fundamental rights. *See also* equality; human rights
 - during Age of Enlightenment, 200–201
 - CRC and, 211–212
 - under Declaration of Independence, 201
 - in Declaration of the Rights of Man and Citizen, 201
 - defined, 20, 213–214
 - dignity as, 215–217
 - exclusion from public space and, 216–217
 - as guarantee, 215–216
 - in Switzerland, 215–216
 - in UK, 216
 - in US, 216
 - ECHR and, 203–204, 211–212
 - exclusion from public space and, 254–255
 - dignity and, 216–217
 - freedom from arbitrary detention and, 235–238
 - freedom of assembly and, 242–245
 - freedom of expression and, 248–250

- freedom of movement and, 227–233
- personal liberty and, 220–223
- respect for family life and, 251–252
- respect for private life and, 220–223
- in Switzerland, 221–222
- in US, 222
- exclusion zones and, 253–254
- freedom from arbitrary detention, 234–238
 - under curfews, 237–238
- defined, 234–235
- exclusion from public space and, 235–238
- kettling, 235–237
- in Switzerland, 234–235
- in UK, 234–235
- in US, 234–235
- freedom of assembly, 239–245
 - with curfews, 243–244
 - under domestic law, 239–240
 - establishment of, 239–242
 - exclusion from public space and, 242–245
 - under international law, 239
 - in Switzerland, 246–247
 - in US, 241–242
- freedom of expression, 245–250
 - defined, 245–248
 - exclusion from public space and, 248–250
 - ICCPR on, 245
 - in Switzerland, 246–247, 397–398
 - in UK, 245–246, 397
 - in US, 247–248, 398
- freedom of movement, 223–233
 - defined, 223–227
 - exclusion from public space and, 227–233
 - in Switzerland, 224
 - in UK, 226–227
 - in US, 224–226
- historical development of, 200–213
- human rights and, 200–213
- ICCPR and, 202–203, 211–212
- ICERD and, 211–212
- interference with, 271
- in international law, 202–204
- liberty as, 199–200
- limitations of
 - antisocial behaviour, 263–277, 293–303
 - CRC on, 255–256
 - criminal behaviour, 261–263, 285–293
 - ECHR on, 255–256
 - ICCPR on, 255–256
 - legitimate aims of, 258–279
 - political protest, 277–279
 - proportionality of, 280–314
 - protection from feelings of insecurity, 267–273
 - in Switzerland, 256–257, 258, 262–263, 265–266
 - in UK, 256, 266
 - in US, 257, 263
- personal liberty, 217–223
 - ECHR and, 220
 - exclusion from public space and, 220–223
 - in Switzerland, 217–219
 - in US, 219
- proportionality of limitations of, 280–314
 - anti-social behaviour, 293–303
 - criminal behaviour, 285–293, 314–317
 - exclusion measures, 284–314
 - for political protests, 303–314
 - in Switzerland, 282–283
 - in US, 283–284
- respect for family life, 250–252
 - defined, 250–251
 - exclusion from public space and, 251–252
 - in Switzerland, 251
 - in US, 251
- respect for private life, 217–223
 - ECHR and, 220
 - exclusion from public space and, 220–223
 - in Switzerland, 217–219
 - in US, 219
- rule of law and, 131–133

Cambridge University Press

978-1-107-15465-0 - Exclusion From Public Space: A Comparative Constitutional Analysis

Daniel Moeckli

Index

[More information](#)

540

INDEX

- fundamental rights (cont.)
 - scope of protection for, 213–215
 - in Switzerland, 204, 209–213
 - for children and juveniles, 214
 - dignity, 215–216
 - exclusion from public space and, 221–222
 - freedom from arbitrary detention, 234–235
 - freedom of assembly, 240–241
 - freedom of expression, 246–247, 397–398
 - freedom of movement, 224
 - limitations of, 256–257, 258
 - personal liberty, 217–219
 - proportionality of, 282–283
 - respect for family life, 251
 - respect for private life, 217–219
 - in UK, 204, 205–206
 - dignity, 216
 - freedom from arbitrary detention, 234–235
 - freedom of expression, 245–246
 - freedom of movement, 226–227
 - limitations of, 256, 266
 - in US, 206–209
 - under Bill of Rights, 206–207
 - dignity, 216
 - exclusion from public space and, 222
 - freedom from arbitrary detention, 234–235
 - freedom of assembly, 241–242
 - freedom of expression, 247–248, 398
 - freedom of movement, 224–226
 - limitations of, 257, 263
 - personal liberty, 219
 - proportionality for, 283–284
 - respect for family life, 251
 - respect for private life, 219
- Gallie, W. B., 118
- gang loitering laws, 79–80, 506–507
- Gemeingebrauch* (common use), 45–48, 105, 136, 161, 260, 419, 422–424
- general accessibility, public space and, 28
- general police clause. *See* *polizeiliche Generalklausel*
- geography, critical, 3
- Germany
 - principle of legality in, 134
 - public space in, historical context for, 38
 - Rechtsstaatsprinzip* in, 117–133
 - Verbannung* as concept in, 68
- Gsell, Mario, 2, 150–152, 194–196, 373
- Habeas Corpus Act of 1679, 205
- Habermas, Jürgen, 25–26, 35–36, 323
- Hague v. CIO*, 50–51
- Hamilton, Alexander, 12, 120, 122–123
- Helvetic Constitution, 209–210
- highways. *See* streets and roads, as public space
- Highways Act 1980, 49, 50
- Hill v. Colorado*, 306
- Hirabayashi v. United States*, 349
- Hobbes, Thomas, 322
- Hudgens v. National Labor Relations Board*, 56
- human dignity. *See* dignity
- human rights. *See also* individual rights
 - during Age of Enlightenment, 200–201
 - CRC and, 211–212
 - in Declaration of the Rights of Man and Citizen, 201
 - defined, 20
 - ECHR and, 203–204, 211–212
 - equality and, 321, 323–327
 - freedom of assembly, 239–242
 - fundamental rights and, 200–213
 - historical development of, 200–213
 - ICCPR and, 202–203, 211–212
 - ICERD and, 211–212
 - in international law, 202–204
 - as law
 - under comparative constitutional law, 7–9
 - under domestic laws, 8–9
 - ECHR and, 7–8
 - under international law, 7–9
 - transnational, 9–10

- UN Human Rights Committee
 - and, 7–8
 - in Switzerland, 209–213
 - in UK, 20
 - in US, 206–209
 - under Bill of Rights, 206–207
- Human Rights Act 1998, 50, 205–206, 327–330
 - democracy and, 381–382
- hybrid prohibitions, 185–186, 187, 394
- ICCPR. *See* International Covenant on Civil and Political Rights
- ICERD. *See* International Convention on the Elimination of all Forms of Racial Discrimination
- IMF. *See* International Monetary Fund
- imprisonment, banishment replaced by, 70
- indirect discrimination, 335–336
 - evidence and proof of, 346–347
 - exclusion from public space through, 357
- individual rights, defined, 20
- Information Age
 - digital citizen during, 43
 - public space in, 42–44
 - public sphere in, 42–44
- Injunction to Prevent Nuisance and Annoyance (IPNA), 89–90, 172–174, 192, 266, 501–502
 - Anti-social Behaviour, Crime and Policing Act 2014 and, 501–502
- Inter-American Commission on Human Rights, 203–204, 336
- Inter-American Court of Human Rights, 203–204, 324–325
- intermediate scrutiny test, for equality, 339–340
- International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), 211–212
 - definitions of discrimination, 333–334
- International Covenant on Civil and Political Rights (ICCPR), 202–203, 211–212
 - freedom of expression, 245
 - limitations of fundamental rights, 255–256
 - non-discrimination in, 326
- international law
 - democracy as influence on, 388–390
 - equality in, 321, 323–327
 - freedom of assembly and, 239
 - fundamental rights under, 202–204
 - human rights laws under, 7–9
 - human rights under, 202–204
 - non-discrimination in, 324–327
 - requirement of sufficient precision in, 158–160
 - rule of law in, 128–129
- International Monetary Fund (IMF), 118
- Internet
 - right of access to, 428–429
 - in Switzerland, access to, 43
- IPNA. *See* Injunction to Prevent Nuisance and Annoyance
- Jackson, Vicki, 5–6
- Jacobs, Jane, 403, 446
- Jay, John, 12, 120, 122–123
- Jefferson, Thomas, 404
- Jellinek, Walter, 431–432
- Johnson, Patricia, 1–2, 233, 252, 422
- Johnson v. City of Cincinnati*, 292
- justice, access to, 184–197
- Juvenile Criminal Code (Switzerland), 140
- juvenile curfews, 29, 86–87, 108–109, 114, 115, 143, 221, 293–294, 360, 370–371, 443–444, 511–512
- Kägi, Werner, 130, 132
- Kalven, Harry, 40
- Kant, Immanuel, 125, 200–201, 322
- Kelling, George L., 63–64
- kettling, 100, 228, 235–237, 311–312
- Kolender v. Lawson*, 178–179
- Kölz, Alfred, 12
- Korematsu v. United States*, 349
- Lamb, Christopher, 1, 185, 299–300
- Landvreugd v. the Netherlands*, 168–169, 182, 229

- Laporte, Jane, 152–153
 Lauterpacht, Hersch, 321
 Law, David, 8, 323
 law enforcement. *See* police
Lawrence v. Texas, 14
 Lefebvre, Henri, 25, 415
 legal authority. *See also* requirement of sufficient precision
 exclusion from public space with,
 139–144
 in Switzerland, 140–142
 in UK, 143–144
 in US, 142–143
 exclusion from public space without,
 144–158
 through breach of peace powers,
 144–150
 through *polizeiliche Generalklausel*, 144–146
 in Switzerland, 144–146
 in UK, 147–148
 in US, 148–149
 under principle of legality, 133–139
 in Swiss legal tradition, 134–136
 in UK legal tradition, 136–137
 in US legal tradition, 137–139
 of states, 142–143
 legal tradition. *See Rechtskreis*
 legality. *See* principle of legality
 liberal democracy
 equality and, 323
 exclusion from public space in
 conflict with, 2–4, 437–445
 public space in, 39–44
 rule of law influenced by, 120
 liberty. *See also* freedom
 public space and, 39–40, 42–43
 residual, 429
 Lincoln, Abraham, 383
Lloyd Corp. v. Tanner, 56
 Locke, John, 12, 120, 200–201, 322
 loitering, 84–85
 race and, 371–372
 US laws against, 84–85, 509–510
 for gangs, 506–507
 long-term exclusion from public space, 113
 lying prohibitions, 85–86, 510
 Madison, James, 12, 120, 122–123, 383
Madsen v. Women's Health center, 306
 Magna Carta, 119–120, 205
 freedom of movement under,
 226–227
Marbury v. Madison, 123, 209
McCullen v. Coakley, 306
 methodology, 4–17
 choice of states, 10–17
 comparative analysis in, 5–10
 constitutional analysis in, 4–5
 Military Act, 140
 Military Criminal Code
 (Switzerland), 140
 Mill, John Stuart, 382–383, 401
 Mitchell, Don, 408
 Möllers, Christoph, 404–405
Moss v. McLachlan, 155
 Müller, Jörg Paul, 386

NAACP v. Alabama, 261
 Neumann, Franz, 132
 non-discrimination
 anti-social behaviour and, 358–372
 age, 358–363
 curfews and, 360
 social status, 363–370
 in Switzerland, 368–369
 in US, 369–370
 way of life distinctions and,
 363–370
 comparability for, 336–337
 criminal behaviour and, 349–358
 citizenship and, 350–355
 residence permit status and,
 350–355
 through unequal laws, 350–355
 difference in treatment, 335–336
 equality and, 321–331
 evidence of, 345–347
 exclusion from public space and,
 347–372
 age, 358–363
 citizenship, 350–355
 ethnic origin, 355–358
 indirect discrimination, 357
 race, 355–358, 370–372
 religion, 355–358

- residence permit status, 350–355
- social status, 363–370
- way of life distinctions, 363–370
- in ICCPR, 326
- intensity of review, 341–345
 - grounds of distinction, 342–344
- in international law, 324–327
- justification for, 337–341
- for political protest, 372–375
 - through buffer zones, 375
- proof of, 345–347
- in security society, 347
- in Switzerland, 330–331
 - anti-social behaviour and, 368–369
 - justifications for, 340–341
- in US, 328–329
 - for anti-social behaviours, 369–370
 - through Declaration of Independence, 321
 - norms for, 329
- non-governmental organisations, rule of law and, 118
- non-public fora, 52
- normative density, in Swiss law, 160–161
- occupy movements, 416
- Oliveira v. The Netherlands*, 229
- order-maintenance policing, 117
- Papachristou v. City of Jacksonville*, 84–85, 177–178
- Parkinson, John R., 395–396
- parks, as public space, 30–32
 - in BIDs, 58–59
 - in Switzerland, 45–48
 - in UK, 48–50
 - in US, 50–52
- Parr v. Municipal Court*, 367
- permanent exclusion from public space, 114
- personal liberty, as fundamental right, 217–223
 - ECHR and, 220
 - exclusion from public space and, 220–223
 - in Switzerland, 217–219
 - in US, 219
- Petition of Right of 1628, 205
- place. *See* public place
- Plato, on rule of law, 119
- police. *See also* breach of the peace powers; *polizeiliche Generalklausel*
 - exclusion from public space by, 71–72, 98–100, 106–107, 441–442
 - kettling and, 235–237, 311–312
 - in Switzerland, 20–21
 - exclusion from public space by, 71–72
 - political protest response strategies by, 98–100
 - in UK, 20–21
 - exclusion from public space by, 71–72
 - political protest response strategies by, 98–100
 - in US
 - exclusion from public space by, 71–72
 - political protest response strategies by, 98–100
- Policing and Crime Act 2009, 498–499
- political protests, 95–100
 - buffer zones for, 314
 - in democracies, 399–400
 - equality, 372–375
 - through buffer zones, 375
 - exclusion from public space for, 95–100, 441–442
 - new police strategies for, 98–100
 - through protest-free zones, 96–98
- as fundamental right, limitations of, 277–279
- new police strategies for, 98–100
- non-discrimination and, 372–375
 - through buffer zones, 375
- proportionality of exclusion
 - measures against, 303–314
 - in narrow sense, 312–314
 - necessity of, 305–312
 - suitability of, 304–305
- through protest-free zones, 96–98

- political rights, public space and, 396–400
- polizeiliche Generalklausel* (general police clause), 71, 107, 141, 144–146, 149–152, 155–158, 197, 391, 438
- Gsell and, 150–152
- Power of Criminal Courts (Sentencing) Act 2009, 494
- Prevention of Terrorism Act 2005, 80, 188
- principle of legality, 133–158 *See also* *Rechtsstaatsprinzip*; rule of law
 - defined, 133–134
 - in *Entick v. Carrington*, 137
 - in German legal tradition, 134
 - legal authority under, necessity of, 133–139
 - legal requirements, 133–134
 - in Swiss legal tradition, 134–136
 - in UK legal tradition, 136–137
 - in US legal tradition, 137–139
 - vagueness doctrine and, 138–139
- private property, public space compared to, 27–28
- private space
 - equality and, 40
 - freedom and, 39–40
 - tolerance and, 40–41
- privatisation, of public space
 - with BIDs, 58–59
 - through security companies, 61
 - in security society, 3, 61–65
 - through transformation, 53–61
- procedural due process, 124
- procedural safeguards, in rule of law, 184–197
 - circumvention of, 184–193
 - through ASBOs, 191–192
 - ECHR on, 192–193
 - in Switzerland, 186, 189–191
 - in UK, 185–186
 - in US, 186–187
 - right to effective remedy as, 193–197
 - two-step prohibitions as, 185–186
- property. *See* private property; public property
- proportionality, of limitations of fundamental rights
 - for anti-social behaviour, 293–303
 - in narrow sense, 301–303
 - necessity of, 295–301
 - suitability of, 293–295
 - for criminal behaviour, 285–293, 314–317
 - in narrow sense, 292–293
 - necessity of, 288–292
 - suitability of, 287–288
 - exclusion measures, 284–314
 - for political protests, 303–314
 - in narrow sense, 312–314
 - necessity of, 305–312
 - suitability of, 304–305
 - in Switzerland, 282–283
 - in US, 283–284
- protests. *See* political protests
- PSPO. *See* Public Space Protection Order
- public, defined, 25–27
- public building, 26
- public fora, 52
- public forum
 - defined, 27–34, 35
 - as US Supreme Court doctrine, 13–14, 51–52
 - designated public fora, 52
 - non-public fora, 52
 - traditional public fora, 51–52
- public law, 26
- Public Order Act 1986, 28–29, 49
- public place
 - defined, 34
 - public property compared to, 30
- public property, public space compared to, 30
- public space. *See also* exclusion from public space; right of access, to public space; semi-public space; Switzerland; United Kingdom; United States; urban public space
 - civic responsibility for, 445–448
 - civil rights and, 396–400
 - decline of, 413–415
 - defined, 24–37

- accessibility factors in, 30
- democracy and, 41–42, 43–44, 395–396
 - civil rights and, 396–400
 - political protests and, 399–400
 - political rights and, 396–400
 - presence in, 400–409
- equality and, 40, 43, 320
- freedom and, 39–40
- general accessibility and, 28
- in Germany, historical context for, 38
- historical context for, 32, 37–38
- in Information Age, 42–44
- liberalism and, rise of, 39–44
- liberty and, 39–40, 42–43
- in modern state, 39–44
- parks as, 30–32
- political rights in, 396–400
- private property compared to, 27–28
- privatisation of
 - with BIDs, 58–59
 - through security companies, 61
 - in security society, 3, 61–65
 - in semi-public spaces, 54–56
 - through transformation, 53–61
- public as part of, 25–27
- public property compared to, 30
- public sphere compared to, 35–37
- regulation of, 44–52
- in security society
 - privatisation of, 3, 61–65
 - right of access, 413–414
 - transformation of, 61–66
- space as part of, 25
 - as abstract concept, 25
- streets and roads as, 31–33
- tolerance through, 40–41
- transformation of, 52–66
 - through privatisation, 53–61
 - in security society, 61–66
 - in semi-public spaces, 54–56
- Public Space Protection Order (PSPO), 89–90, 103, 504
- public sphere, 25–26
 - in Information Age, 42–44
 - public space compared to, 35–37
 - public statements, 26
 - publicness, 25–26
 - pure democracy, 383
 - quality of life strategy, 64
 - quasi-public space. *See* semi-public space
 - R (Laporte) v. Chief Constable of Gloucestershire Constabulary*, 152–153, 309
 - R (Daly) v. Secretary of State for the Home Department*, 281–282
 - R (Carson) v. Secretary of State for Work and Pensions*, 359–360
 - race
 - equality and, 355–358, 370–372
 - exclusion from public space and, 355–358, 370–372
 - loitering and, 371–372
 - non-discrimination and, 355–358, 370–372
 - Radbruch, Gustav, 132
 - Rawls, John, 4, 323
 - Raz, Joseph, 130, 133
 - Rechtskreis* (legal tradition), 10–11
 - Rechtsstaatsprinzip*, 117–133. *See also* rule of law
 - democracy and, common elements with, 132
 - in Federal Constitution of Switzerland, 127
 - historical application of, 125–128
 - rule of law compared to, 129–131
 - substantive conceptions of, 130
 - theoretical formulations of, 129–131
 - Regeneration period, 210
 - representative democracy, in UK, 381
 - requirement of sufficient precision, 158–183
 - exclusion from public space under, 164–183
 - available measures, 180–183
 - for behaviours causing stress, 171–177
 - ECHR on, 168–169, 173
 - for harassment, 171–177
 - legal long-term effects of, 183

Cambridge University Press

978-1-107-15465-0 - Exclusion From Public Space: A Comparative Constitutional Analysis

Daniel Moeckli

Index

[More information](#)

546

INDEX

- requirement of sufficient (cont.)
 - prohibitions of behaviour, 177–180
 - for public safety, 165–171
 - in Switzerland, 165–168, 171–177
 - in UK, 173–176
 - in US, 176–180
 - in US Supreme Court cases, 177–180
 - in international law, 158–160
 - legal parameters of, 158–163
 - in Switzerland, 160–161
 - in UK, 162–163
 - in US, 163
- residence permit status, 350–355
- residual liberty, 429
- respect for family life, as fundamental right, 250–252
 - defined, 250–251
 - exclusion from public space and, 251–252
 - in Switzerland, 251
 - in US, 251
- respect for private life, as fundamental right, 217–223
 - ECHR and, 220
 - exclusion from public space and, 220–223
 - in Switzerland, 217–219
 - in US, 219
- Rhinow, René, 385
- right of access, to public space, 415, 417–418
 - through common use, 424–425
 - conditional rights in, 433–434
 - exclusion measures and, 413–415
 - as implicit, 434–435
 - necessity of, 427–435
 - for occupy movements, 416
 - public claims for, 415–418
 - through reclamation, 413–418
 - in security society, 413–414
 - on streets and roads, 432
 - in Switzerland, 422–426, 431
 - in UK, 419–420
 - unconditional rights, 433
 - in US, 421–422
- right to public space, 418–427
 - Right to the City movement, 415, 417–418
 - rights. *See* civil rights; human rights; political rights
 - roads. *See* streets and roads, as public space
 - Roman forum, 37
 - Roper v. Simmons*, 14
 - Rousseau, Jean-Jacques, 200–201
 - rule of law, 118–133. *See also* legal authority; requirement of sufficient precision
 - Aristotle on, 119
 - defined, 118–119, 121–122
 - democracy and, 131–133
 - fundamental rights under, 131–133
 - historical background for, 119–120
 - in international law, 128–129
 - liberal democracy as influence on, 120
 - Magna Carta and, 119–120
 - non-governmental organisations and, 118
 - order-maintenance policing and, 117
 - Plato on, 119
 - procedural safeguards in, 184–197
 - circumvention of, 184–193
 - right to effective remedy as, 193–197
 - two-step prohibitions as, 185–186
 - Rechtsstaatsprinzip* compared to, 129–131
 - substantive conceptions of, 130
 - theoretical formulations of, 129–131
 - in UK, 120–122
 - in US, 122–125
 - under Bill of Rights, 123–124
 - procedural due process in, 124
 - substantive due process in, 124–125
- Schenck v. Pro-Choice Network of Western New York*, 306
- Schindler, Dietrich, 13
- Schneider v. State of New Jersey*, 421
- scope of research, 17–19
- Secretary of State for the Home Department v. MB*, 188–189

- security society
 - broken windows thesis and, 16, 63–65, 74–75
 - CCTV cameras in, 73–74
 - equality in, 347
 - exclusion from public space and, 73–75
 - non-discrimination in, 347
 - public space in
 - privatisation of, 3, 61–65
 - right of access to, 413–414
 - transformation of, 61–66
 - quality of life strategy in, 64
 - right of access to public space in, 413–414
 - zero tolerance strategy in, 64
- semi-public space, 18
 - BIDs as, 58–59
 - defined, 34–35
 - European Court of Human Rights on, 57
 - shopping centres as, 54–56, 57
- Sennett, Richard, 403
- Serious Crime Act 2007, 81, 497–498
- Serious Organised Crime and Police Act 2005, 496–497
- sex offender laws, in US, 505–506
- sexual harm prevention orders (SHPOs), 495–496
- Sexual Offences Act 2003, 77, 495–496
- shared sense of ‘we,’ 402
- shopping centres, as semi-public spaces, 54–56, 57
- short-term exclusion from public space, 112
- SHPOs. *See* sexual harm prevention orders
- sitting, prohibitions on, 85–86, 510
- sociology, 3
- space
 - as abstract concept, 25
 - defined, 25
 - as social product, 444
- spitting, exclusion from public space for, 85–86
- streets and roads, as public space, 31–33
 - right of access to, 432
 - in Switzerland, 45–48
 - in UK, 48–50
 - in US, 50–52
- strict scrutiny test, for equality, 339–340
- Stuntz, William J., 177
- substantive due process, 124–125
- Sunstein, Cass, 384, 405
- Supreme Court, US
 - foreign constitutional law as influence on, 14
 - public forum doctrine of, 13–14, 51–52
 - designated public fora, 52
 - non-public fora, 52
 - traditional public fora, 51–52
 - public space considerations before, 50–52
 - requirement of sufficient precision cases, 177–180
 - Switzerland influenced by, 13–14
 - UK influenced by, 13–14
- Swiss Civil Code, 140
- Swiss Criminal Code, 140
- Swiss Criminal Procedure Code, 140
- Switzerland
 - broken windows thesis in, 16
 - circumvention of procedural safeguards in, 186, 189–191
 - crime prevention in, 262–263
 - democracy in, 385–388
 - bargaining in, 385–386
 - as consensus, 385–386
 - direct, 387
 - exclusion from public space and, 392–393
 - equality in, 329–331
 - anti-social behaviour and, 368–369
 - justifications for, 340–341
 - exclusion from public space in, 15–16, 442–443
 - for anti-social behaviour, 84–95
 - for begging, 19, 84–85
 - blanket exclusion norms, 90–95
 - for convicted offenders, 78–79
 - for criminal behaviour, 76–83
 - democratic legitimacy of, 392–393
 - for drinking alcohol, 85–86
 - fundamental rights and, 221–222
 - through juvenile curfews, 86–87

Cambridge University Press

978-1-107-15465-0 - Exclusion From Public Space: A Comparative Constitutional Analysis

Daniel Moeckli

Index

[More information](#)

548

INDEX

- Switzerland (cont.)
 with legal authority, 140–142
 without legal authority, 144–146
 for loitering, 84–85
 long-term, 113
 for lying, 85–86
 permanent, 114
 by police action, 71–72, 98–100
 for political protests, 95–100
 through *polizeiliche Generalklausel*, 140–142
 for potential offenders, 81–83
 through protest-free zones, 96–98
 short-term, 112
 for sitting, 85–86
 social status as factor in, 365–367
 for spitting, 85–86
 target populations for, 75–100
 for vagrancy, 84–85
- Federal Act on Foreign Nationals in, 140, 165–168, 350–355
- Federal Constitution of, 210–211
 equality in, 329–331
 fundamental rights in, 210–213
Rechtsstaatsprinzip in, 127
 fundamental rights in, 204, 209–213
 for children and juveniles, 214
 dignity, 215–216
 exclusion from public space and, 221–222
 freedom from arbitrary detention, 234–235
 freedom of assembly, 240–241
 freedom of expression, 246–247, 397–398
 freedom of movement, 224
 limitations of, 256–257, 258
 personal liberty, 217–219
 proportionality of, 282–283
 respect for family life, 251
 respect for private life, 217–219
- Helvetic Constitution in, 209–210
 human rights in, 209–213
 Internet access in, 43
 legal authority in, 134–136
 exclusion from public space with, 140–142
 exclusion from public space
 without, 144–146
 limitations on anti-social behaviour in, 265–266
 Military Act in, 140
 non-discrimination in, 330–331
 anti-social behaviour and, 368–369
 justifications for, 340–341
 normative density in, 160–161
 police in, 20–21
 exclusion from public space by, 71–72
 political protest response
 strategies by, 98–100
 principle of legality in, 134–136
 public space in
 under authority of cantons, 45–46
Gemeingebrauch and, 46–47
 legal definitions of, 29, 30–31
 parks as, 45–48
 private property compared to, 27–28
 regulation of, 45–48
 right of access to, 422–426, 431
 streets and roads as, 45–48
Rechtsstaatsprinzip in, 117–133
 democracy and, common
 elements with, 132
 historical application of, 125–128
 rule of law compared to, 129–131
 substantive conceptions of, 130
 theoretical formulations of, 129–131
- Regeneration period in, 210
 requirement of sufficient precision in, 160–161
 respect for private life in, 217–219
 semi-public spaces in, 60–61
 shopping centres as, 54–56
 shopping centres in, 54–56
 US constitutional law influenced by, 12
 US Supreme Court as influence on, 13–14
- Teitel, Ruti, 9–10
 terminology, 19–21
 Terrorism Prevention and Investigation Measure (TPIM), 80–81

Cambridge University Press

978-1-107-15465-0 - Exclusion From Public Space: A Comparative Constitutional Analysis

Daniel Moeckli

Index

[More information](#)

INDEX

549

- Terrorism Prevention and Investigation Measures Act 2011, 188, 499–500
- TFEU. *See* Treaty on the Functioning of the European Union
- Thompson, E. P., 131
- tolerance, 400–401
 - private space and, 40–41
 - as psychological condition of democracy, 400–401
 - public space and, 40–41
- TPIM. *See* Terrorism Prevention and Investigation Measure
- traditional public fora, 51–52
- transnational human rights law, 9–10
- Transportation Act 1718, 70
- Treaty on the Functioning of the European Union (TFEU), 204, 223, 255, 324
- trespass, as legal concept, 28
- Tribe, Laurence, 360
- Tushnet, Mark, 8
- two-step prohibitions, 185–186
- UK. *See* United Kingdom
- UN Human Rights Committee, 7–8
- United Kingdom (UK)
 - Anti-social Behaviour, Crime and Policing Act 2014 in, 28–29, 174, 187, 501–504
 - CBOs under, 502
 - dispersal powers and, 503
 - IPNAs under, 501–502
 - public space protection orders, 504
 - Anti-social Behaviour Act 2003 in, 76
 - ASBOs in, 1, 88–89
 - banishment from, as punishment, 70
 - breach of peace powers in, 147–148, 152–155
 - broken windows thesis in, 16
 - CBOs in, 89–90
 - Crime and Disorder Act 1998 in, 1, 88, 173–174
 - Criminal Justice Act 2003 in, 77
 - Declaration of Rights in, 14
 - democracy in, 380–383
 - as deliberative, 382–383
 - exclusion from public space and, 393–395
 - as representative, 381
 - discrimination in, 334
 - ECHR guarantees in, 20
 - Equality Act 2010 in, 327–330
 - equality in, 327–330
 - exclusion from public space in, 15–16, 443
 - for anti-social behaviour, 84–95
 - for begging, 84–85
 - blanket exclusion norms, 88–90
 - for convicted offenders, 77–78
 - for criminal behaviour, 76–83
 - democratic legitimacy of, 393–395
 - for drinking alcohol, 85–86
 - through juvenile curfews, 86–87
 - with legal authority, 143–144
 - without legal authority, 147–148
 - for loitering, 84–85
 - long-term, 113
 - for lying, 85–86
 - permanent, 114
 - by police action, 71–72, 98–100
 - for political protests, 95–100
 - for potential offenders, 80–83
 - through protest-free zones, 96–98
 - short-term, 112
 - for sitting, 85–86
 - for spitting, 85–86
 - target populations for, 75–100
 - for vagrancy, 84–85
- Football Disorder Act 2000 in, 77, 81
- Football Spectators Act 1989 in, 77, 492–494
- fundamental rights in, 204, 205–206
 - dignity, 216
 - freedom from arbitrary detention, 234–235
 - freedom of expression, 245–246, 397
 - freedom of movement, 226–227
 - limitations of, 256, 266
- Human Rights Act 1998 in, 50, 205–206, 327–330, 381–382
- human rights in, 20, 205–206
- IPNA in, 89–90

Cambridge University Press

978-1-107-15465-0 - Exclusion From Public Space: A Comparative Constitutional Analysis

Daniel Moeckli

Index

[More information](#)

550

INDEX

- United Kingdom (UK) (cont.)
 - legal authority in, 136–137
 - exclusion from public space without, 147–148
 - limitations on anti-social behaviour in, 266
 - non-discrimination in, for anti-social behaviours, 369–370
 - police in, 20–21
 - exclusion from public space by, 71–72
 - political protest response strategies by, 98–100
 - Policing and Crime Act 2009 in, 498–499
 - Power of Criminal Courts (Sentencing) Act 2009 in, 494
 - Prevention of Terrorism Act 2005 in, 80, 188
 - principle of legality in, 136–137
 - procedural safeguards in rule of law in, 185–186
 - public space in
 - under Anti-social Behaviour, Crime and Policing Act 2014, 28–29
 - under Highways Act 1980, 49, 50
 - legal definitions of, 28–29, 31
 - parks as, 48–50
 - private property compared to, 27–28
 - under Public Order Act 1986, 28–29, 49
 - regulation of, 48–50
 - right of access to, 419–420
 - streets and roads as, 48–50
 - requirement of sufficient precision in, 162–163
 - rule of law in, 120–122
 - procedural safeguards in, 185–186
 - semi-public spaces in, shopping centres as, 54–56, 57
 - Serious Crime Act 2007 in, 81, 497–498
 - Serious Organised Crime and Police Act 2005 in, 496–497
 - Sexual Offences Act 2003 in, 77, 495–496
 - SHPOs in, 495–496
 - Terrorism Prevention and Investigation Measures Act 2011 in, 188, 499–500
 - TPIM in, 80–81
 - Transportation Act 1718 in, 70
 - US constitutional law influenced by, 12
 - US Supreme Court as influence on, 13–14
- United States (US). *See also*
 - Constitution, US; Supreme Court, US
 - BIDs in, 58–59
 - Bill of Rights, 12
 - fundamental rights as part of, 206–207
 - human rights as part of, 206–207
 - rule of law under, 123–124
 - broken windows thesis in, 16
 - bubble laws in, 513
 - buffer zones in, 512–513
 - crime prevention in, 263
 - Criminal Justice and Immigration Act 2008 in, 77–78
 - Declaration of Independence, 12
 - democracy in, 383–384
 - pure, 383
 - discrimination in, 334
 - express, 335
 - drug exclusion zones in, 507–509
 - emergency powers in, 513–514
 - equality in, 328–329
 - for anti-social behaviours, 369–370
 - through Declaration of Independence, 321
 - exclusion from public space in, 15–16, 443–444
 - for anti-social behaviour, 84–95
 - for begging, 84–85
 - for convicted offenders, 77–78
 - for criminal behaviour, 76–83
 - for drinking alcohol, 85–86, 510
 - fundamental rights and, 222
 - through juvenile curfews, 86–87, 108–109, 511–512
 - with legal authority, 142–143
 - for loitering, 84–85
 - as long-term, 113

- for lying, 85–86, 510
- as permanent, 114
- by police action, 71–72, 98–100
- for political protests, 95–100
- for potential offenders, 79–80
- through protest-free zones, 96–98
- short-term, 112
- for sitting, 85–86, 510
- for spitting, 85–86
- target populations for, 75–100
- for vagrancy, 84–85
- fundamental rights in, 206–209
 - under Bill of Rights, 206–207
 - dignity, 216
 - exclusion from public space and, 222
 - freedom from arbitrary detention, 234–235
 - freedom of assembly, 241–242
 - freedom of expression, 247–248
 - freedom of movement, 224–226
 - limitations of, 257, 263
 - personal liberty, 219
 - proportionality for, 283–284
 - respect for family life, 251
 - respect for private life, 219
- human rights in, 206–209
- legal authority in, 137–139
 - exclusion from public space with, 142–143
 - of states, 142–143
- loitering laws in
 - for gangs, 506–507
 - general, 509–510
- non-discrimination in, 328–329
 - for anti-social behaviours, 369–370
 - norms for, 329
- personal liberty in, 219
- police in
 - exclusion from public space by, 71–72
 - political protest response strategies by, 98–100
- principle of legality in, 137–139
 - vagueness doctrine and, 138–139
- procedural safeguards in rule of law in, 186–187
- public forum in, 35
- public space in
 - legal definitions of, 29
 - parks as, 50–52
 - private property compared to, 27–28
 - privatisation of, 53–61
 - regulation of, 50–52
 - right of access to, 421–422
 - streets and roads as, 50–52
- requirement of sufficient precision in, 163
- rule of law in, 122–125
 - under Bill of Rights, 123–124
 - procedural due process in, 124
 - procedural safeguards in, 186–187
 - substantive due process in, 124–125
- semi-public spaces in
 - BIDs as, 58–59
 - shopping centres as, 54–56
 - sex offender laws in, 505–506
- United States v. Wheeler*, 225
- urban public space
 - defined, 33
 - regeneration of, 53
- US. *See* United States
- vagrancy, 84–85
- vagueness doctrine, US Constitution and, 138–139
 - requirement of sufficient precision and, 163
- Vajnai v. Hungary*, 268, 270
- Verbannung*. *See* banishment
- Versteeg, Mila, 8, 323
- Volkman, Uwe, 410–411
- von Mohl, Robert, 125
- WEF. *See* World Economic Forum
- Wilson, James Q., 63–64
- Women on Waves c. Portugal*, 432
- World Bank, 118
- World Economic Forum (WEF), 2, 98, 100, 150–152, 193–196, 248–250, 279, 308
- Young, Iris Marion, 36, 405
- zero tolerance strategy, 64