

# **Water crisis adaptation: Defending a strong right against displacement from the home**

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## **Abstract:**

This essay defends a strong right against displacement as part of a basic individual right to secure access to one's home. The analysis is purposefully situated within the difficult context of climate change adaptation policies. Under increasing environmental pressures, especially regarding water security, there are weighty reasons motivating the forced displacement of persons—to safeguard water resources or prevent water-related disasters. Even in these pressing circumstances, I argue, individuals have weighty rights to secure access to their homes. I explain how the home provides a functional context for conditions of autonomous agency. Being coerced from the home disrupts and subverts the conditions necessary for autonomous processes. I conclude by suggesting that the right to the home could be a foundational element of territorial rights.

**Key words:** Internal Displacement; Rights to the Home; Territorial Rights; Climate Change adaptation; Relocation; Relational Autonomy; Refugees; Rights of Residence; Occupancy; Occupation; Spatial Justice

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Over 30 million people worldwide are internally displaced—forcibly moved from their home but not their country by conflict, disaster, or government intervention. The number of refugees, those forced to leave their country, is approximately half that of internally displaced persons (Internal Displacement Monitoring Centre 2013). Climate change threatens to escalate both numbers. Hundreds of millions of people could be displaced by water level rise, and water

loss and drought could force millions more to migrate. Unsustainable river banks coupled with unpredictable rain fall place most of human population—those living near bodies of water—at risk of floods or other water-related disasters. Inevitable environmental problems put millions of people at risk of losing their home or livelihood, and the majority will lack the resources to migrate (Black, et al. 2011). In response to these dangers, governments may wish to relocate persons away from insecure areas, except that a large percentage of those living in disaster-prone areas do not want to move away from their homes. Is it permissible for governments to force people to move?

In this symposium, much of the analysis targets international rights and obligations of territorial rights holders. Mancilla, for example, discusses moral claims to resources that migrate across borders. Banai argues for collective rights over natural resources against global claims. Shuppert and Blomfeld consider inter-state obligations of reparation for states' historical misuse of resources. In contrast, this essay draws the focus inside the state: what territorial rights and obligations does the state have vis-a-vis its *residents* in the context of climate change? In particular, I ask what are the limits to the state power to displace residents as part of its obligation to provide territorial security.

As this symposium highlights, the system of territorial rights is grounded in complex duties and rights that a political group has regarding the self-determination of itself and other groups. However, group self-determination is a problematic ground for territorial rights, because it tends to beg questions of location and boundaries. Why do these people hold the right to territorial self-determination over these particular lands? And why are people on the other side of the border excluded? An initial answer to these questions can be found in the reasons why people have the right to remain where they currently reside. If people have the right against displacement, then they also have the right to rule themselves where they currently live.

In this essay I articulate a strong right against displacement as part of a basic individual right to secure access to one's home. The analysis is purposefully situated within the difficult context of climate change adaptation policies. Under increasing environmental pressures, especially regarding water security, there are weighty reasons motivating the forced displacement of persons—to safeguard water resources or prevent water-related disasters. Even in these pressing circumstances, I argue, individuals have weighty rights to secure access to their homes. I conclude by suggesting that the right to the home could be a foundational element of territorial rights.

## **Forced Displacement in International Law**

The wrong of internal displacement is usually described in terms of its consequences. Displacement, “breaks up families, cuts social and cultural ties, terminates dependable employment relationships, disrupts educational opportunities, denies access to such vital necessities as food, shelter and medicine, and exposes innocent persons to such acts of violence as attacks on camps, disappearances and rape” (UN Commission on Human Rights 1998, 1). In some situations, it seems like moving persons from bad circumstances to (what look) like better circumstances improves their lives. However, this is rarely the case (Goetz 2013). Removal of persons from impoverished slums or unsustainable agricultural areas often worsens the situations for those removed. The poor remain poor and even worse off, because the move dismantles essential community support structures that helped them maintain sustainable lives in their former homes. Urban relocation tends to transfer problems rather than alleviate them. Rural movement displaces persons from the lands matched to their traditional methods and ways of life. The application of the displaced persons’ skills is often unsuccessful in their new environment and ends up harming the environmental integrity of the land, the livelihood of the displaced persons, and the sustainability of the community itself. Often removal plans don’t work because people just don’t want to live somewhere else. After they are forced to move they find ways back to their original homes and communities, consequently making the intended goal of the move unlikely. Because of the strong corollary between harmful consequences and displacement, the UN has declared, ‘Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence’ (UN Commission on Human Rights 1998, 6).

Despite its designation as a human right, the right is readily overridden. The UN description of the right against displacement allows for displacement when it is justified by ‘compelling and overriding public interests’ (UN Commission on Human Rights 1998, 7). Most governments regularly displace residents, and argue that many kinds of displacements are justified because they create public goods. Examples of government projects that include forced removals include the construction of energy-creating dams, the re-engineering of populated shorelines to prevent erosion and flooding; and elimination of basic infrastructure from areas deemed too costly to service.

On this standard understanding, whether one has a right against forced displacement depends on the weight of competing interests. This utilitarian reading tends to justify removals, because social interests seem to overwhelm the interests one has in remaining in their home.

The utilitarian analysis falls short in at least two respects. First, we tend to hold the home as valuable not merely as a socio-economic good. That is, a kind of non-utilitarian value seems to attach to the home (Radin 1986), and consequentialist reasoning alone will not be able to capture this value.<sup>1</sup> Second, no matter which value is determined to attach to the freedom from forced removal, that value should be comparable to opposing social interests. A moral framework should be realizable for ranking individual interests to secure access to their homes against other social interests.

### **Rights of Residence**

Margaret Moore and Anna Stilz have each defended a theory of rights against displacement under which the importance of place is described in terms of one's ability to realize his or her plans (Moore 2015, 36-43; Stilz 2013). Both authors justify the right of residency as an interest-based right. Under interest-based theory, an agent has a right only if the agent has an interest sufficiently important to warrant holding others to be under duties to respect or promote that interest (Raz 1986, 166). They also justify it as a weighty right that cannot be overridden by larger social interests (Stilz 2013, 255).<sup>2</sup>

To explain how residency is a weighty interest, Moore and Stilz appeal to the role that place plays in the making and execution of plans. A plan is contextual; it involves an executable action. One may have an abstract goal, such as obtaining financial security. Reaching this goal requires real-world planning, such as training for and maintaining a job. These plans involve attending school, completing assignments, applying for jobs, going to work and performing job tasks, etc. Each of these activities happens in a place, and completing them often requires continued access to those places. Place features in our contextualized plan-making in two broad ways. First, our relationships with other persons (such as maintaining religious, political, familial, and social affiliations) happen in a place and can be contingent on continued access to mutual places (Moore 2015, 38). Second, one's goals regarding employment and subsistence are formed around the continued use of certain spaces.

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<sup>1</sup> A property-rights approach presents an alternative to the consequentialist account. However, the property-rights approach has several short-comings, and I do not pursue it here. (1) It presupposes property rights in the home, which many people do not have. (2) It assumes, against state territorial rights, that individuals have meta-jurisdictional authorities in their homes. This leads to counter-intuitive results (Nine 2008). (3) It has some difficulty explaining why property in homes is different than property in other items. (For an example of a theory that tries to do the latter, see (Radin 1986).)

<sup>2</sup> Although the right is subject to constraints related to the right itself—that occupation in an area is not the result of wrong-doing, and that there is enough space 'left over' for others to occupy (Stilz 255).

These interests are strong enough to ground a weighty right, because they are often central to the agent's well-being. On Moore's account, the individual's projects and aims that give meaning to one's life often can only be pursued in a particular location (Moore 2015, 38). Stilz deepens this account by adding that located projects and aims are comprehensive, in the sense that they "organize many choices, and are fundamental to our sense of our lives as our own" (Stilz 2013, 336). We structure our lives to be meaningful, and this structure grows around having continued access to the places where our plans can be carried out.

Despite its virtues, this account has at least two problems. The first is a geographical ambiguity. Moore and Stilz draw lines around medium-to-large scale regions where one is likely to have located plans. On their analysis, internal displacement *within* a region—displacement from one's home to another home within the region—is of little moral concern.<sup>3</sup> However, these regional lines don't follow the object of moral concern within plan-based moral theory. Plan-based theory is both too narrow and too broad to follow its geographical target. It is too narrow, because objects of life plans are not restricted to a region. If the object of moral concern is the completion of life plans, then the life plans of those who wish to leave the region should be included. Plan-based theory should conclude that relevant geographical lines lie around the objects of individual life plans, regardless of whether the objects lie within one region. The theory is also too broad. Life plans don't require access to most areas within a region. Stilz suggests that an American has a right of residence within the whole of the United States. But residence within most areas of the United States would not fit with one's supposed life-plans. One's goal to be a software engineer would be frustrated within the middle of a national park. The problem isn't size, it's the collective, *region*-way of drawing the lines. Even most city-dwellers do not require access to most parts of their city to act on their located life plans. They can go their whole lives without visiting the 'west side'.

This geographical ambiguity can be alleviated, if the theory is radically contextualized to the individual. Two neighbours in a Minneapolis suburb that do not share hobbies, religions, cultural interests, jobs, or familial ties, could each have rights to regions that barely overlap. One, a Mexican-American Catholic, works as a local district school teacher and coach, has life plans within his suburb of Minneapolis as well as within parts of Mexico but not within the city itself. Because his wife has generations of family nearby, the majority of his life plans are fixed locally. His neighbour, a Somalian-American Baptist, commuting into the city center as a technical engineer, could have life plans in the city center and within a different suburb where

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<sup>3</sup> An exception is when staying in the home features significantly in one's plans (Moore 2015, 157).

many Somalians have settled, but have little interest in her local community. Because of her relatively solitary way of life, the Somali-American could realize her life plans within any area of the US or Canada where Somalians have settled and she can continue her career; she need not stay in Minneapolis. Relocating the Somali-American from the suburb to another suitable area would not obstruct her life plans, and, on the plan-based theory, would not violate her right of residence. Individualizing the theory makes sense of the geographical nature of the right of residence. But it does so at the cost of theoretical parsimony—the theory cannot, as originally designed, justify a *regional* right of residence wherein each resident has a right against removal from the same particular region.

The second problem is that authors do not disambiguate features of place that *make life functional* from features that are *objects of plans*. And this seems like an important distinction. A plan is a rational course of action towards some goal. On plan-based theory, the individual's attainment of that goal is the foundational moral concern. By contrast, functioning is conceptually independent of goals. Human functioning includes biological processes, like digestion, and emotional processes, like having a sense of contentment. Human functioning can also include more sophisticated processes such as the ability to organize one's day. These items are identifiable and valuable independently; they do not need to be objects of one's plan. The social and geographical components that feed into our ability to recognize options and pursue them are not typically objects of a plan, but rather they are part of how one functions as a rational agent. Suppose that the Mexican-American grew up in rural Mexico. He functioned well in that community, because the way of life, values, and activities were ingrained in him as a way of life. But he did not want to stay there. His life plans were achievable only in a distant, unfamiliar place, even though the ways of life in that place would be much less familiar. On the plan-based account, this person had weighty interests in accessing the distant, unfamiliar places while he still lived in Mexico. But this gives rise to a puzzle, because it seems that it would have been wrong to forcefully remove him from his native village. It is difficult on the plan-based account to explain why forcefully removing him from his native village would have been wrong.

In the rest of the essay, I argue that attention to functionality draws clearer moral and geographical conclusions about the role of place in personal interests. In particular, the functional role of one's home in the capacity to be an autonomous agent indicates that individuals have weighty interests to secure access to their homes.

### **Autonomy and the Home**

A right to secure access to one's home primarily includes the liberty to continue to reside there and a claim against others that they refrain from forcing one to move. (I identify additional rights in a following section.) This section demonstrates how secure access to one's home is a key functional element in the development and maintenance of autonomous agency. Thereby, agents have a weighty interest in avoiding forced displacement.

Theories of relational autonomy embrace the interdependent nature of persons as a central component in the possibility for autonomy. 'Relational views ... argue that an adequate theory of autonomy must be based on recognition of the ways in which, as *agents*, our practical identities and value commitments are constituted in and by our interpersonal relationships and social environment' (Mackenzie 2008, 519).

Autonomy involves choosing and acting according to values and beliefs that are one's 'own'. 'Owness', on procedural theories of relational autonomy, involves appropriate processes of coming to hold values and motivations (Mackenzie 2008, 519-520). For example, one might believe that she is not capable of making good decisions without her husband's guidance. The content of the belief on its own does not affect whether or not this person is an autonomous agent. If she came to have this belief through emotional manipulation and abuse, then it may be the case that the process has undermined her capacity for autonomy. In contrast, she may have arrived at this belief through a series of repeated experiences where her decisions regularly produced improved results when she consulted with her husband. In the latter case only, the process by which she formed the belief is appropriate to an autonomous agent. Relevant procedures constitutive of autonomous agency are causally dependent on the agent's interpersonal relationships and circumstances. Sometimes the causal element can be purely physical. Suppose the woman has been severely malnourished such that her brain function has been compromised. This causal factor would indicate that her autonomous capacity is undermined.

Coercion undermines autonomous capacities by subverting or warping processes so that the agent responds to beliefs, values, or desires held by others. On Onora O'Neill's account, coercion has propositional content; the coercing agent desires that the victim do something specific. The coercion operates on the agency of the victim, making the victim's 'choice' not an authentic expression but rather *merely* a matter of compliance. Coercion is more harmful than unintentional or 'natural' barriers to individual agency, because coercion doesn't merely block the agent from autonomous processes and expression. It also subverts their agential capacities to some other will (O'Neill, 2000, p. 89).

Relational autonomy analyses the processes of autonomous agency along three dimensions (Mackenzie and Stoljar 2000, 21). Each level may be an entry point for coercion to subvert autonomous agency. First, the developmental dimension examines how a person forms attitudes and beliefs. Second, the competency criterion evaluates the capacity of the person to perform mental procedures constitutive of autonomous agency. And the final criterion examines the agent's ability to perform actions consistent with autonomous agency. In the remainder of this section I explain how secure access to the home is central to autonomous functioning on each level.

According to developmental analysis, a person's practical identity is formed within relationships and shaped by complex, intersecting social determinants. This progression occurs at in childhood and throughout adulthood and requires a corresponding, appropriate sequence of maturation (Barclay 2000, 56). Through childhood and beyond, we form a meaningful sense of self required to reason and act autonomously. The autonomous adult is not static, but rather continually engages in the process of reflection and renewal. We are always working on ourselves. When we grow out of the normal stage of extreme dependency, it remains necessary to sustain social and environmental networks to maintain our capacities for autonomy.

A home is functional; it provides secure space and materials to meet basic human needs, to express, create, and reinforce values and identity. Activities such as sleeping, washing, and urinating are only achieved with dignity if a person has secure access to a place to perform these actions. Without a home, a person has no place to exercise many basic freedoms without first seeking permission (Waldron, 1991, p. 302). While these simple activities may happen in hotel rooms, a home safeguards a location for these fundamental needs as well as many other basic and non-basic activities. It permits reliable organization of space over time allowing for the natural gathering and storage of material goods for future use. Storage implies a capacity to plan, allocating materials between now and the future. Homes are the site of intricate storage functions to cover a broad scope of intricate, intimate personal and family needs. It provides us with the physical capacity to form plans for 'meeting future needs' (Douglas 1991, 295).

For most individuals, the home plays a crucial role in the development of identity and values. In almost all cultures and epics, the home is the sphere under which family relations manifest and sustain themselves (Sewall 1882, 274; Douglas 1991, 289). Even if the inhabitants are not biologically related, they may come to consider each other as 'family', to denote that when one is at home, 'she feels that she is with others who understand her in her particularity' (Young 2005, 146). Inside, inhabitants feel that the place is their own; they understand and

identify with the rules and norms governing the space, and they see themselves reflected in the home's material goods and organization. They see their faces in photos, remember where they picked up that special shell displayed on the shelf, and embrace the significance of religious symbols. Homes have 'patterns for how to live are largely settled... Even if we do not like our 'house rules' or do not feel it to be a place 'run by us,' we still typically experience this not as an imposition from the outside, but rather simply as 'the way things are with us'... and it is a way that an alien other cannot easily penetrate; it is my, our, own.' (Jacobson 2011, 4)

This aspect overlaps with the feature of the home as a place of storage and planning. Within the home, things are preserved in a way that sustains identities. For example, because of the multifaceted storage and planning uses of the home, the home is run by a set of complex rules; it is the first place where we are embedded with moral conceptions such as fairness and kindness. These values are shared by and reflect our family values. Iris Marion Young describes this kind of preservation as the main role of homemaking. Homemaking—the acts of cleaning, preparing meals, doing laundry, decorating, etc—“consists in the activities of endowing things with living meaning, arranging them in space in order to facilitate the life activities of those to whom they belong, and preserving them, along with their meaning” (Young 1997, 151). The preparation of a meal, for example, is imbued with the peculiar identity and values of the persons who will be eating. Tastes, flavours, smells, ingredients, methods of preparation, as well as customs of eating—these all tell a story about the people living together in that particular home. Preservation is an active, creative pursuit wherein the homemaker creates her own space of rest and renewal, using material goods that reflect her and her family's identities. Preservation “makes and remakes the home as a support for personal identity without accumulation, certainty or fixity” (Young 1997, 135).

These values reflect our family identities, and developmentally influence our own values. Homemaking develops and sustains the individual identities within the home, nurturing and sustaining the capacities necessary for autonomy, such as the formation and maintenance of values, language, and belief frameworks. Most members of the household are both passive and active in the act of homemaking. Children, for example, learn to prepare meals and to clean and present their clothes and possessions in meaningful ways that embody their identity. Adults continue, reinforce, and pass on this meaningful process. Through the presentation, functional use and storage, and arrangement of goods, the home symbolizes and continually reinforces the identities of its inhabitants.

The second, competency, dimension of analysis evaluates how a person has relevant capacities for autonomy, such as self-reflection, self-direction, and self-knowledge. On this view, the capacity for reflection, like the formation of identity, is shaped and constituted by context. Agents must experience appropriate conditions to develop and sustain these capacities. The process of forming desires and ideas requires social, environmental, and historical contexts. Sharing ideas, inspiration, aspirations, and beliefs must, at minimum, be expressed and interpreted through an embedded linguistic and cultural context (Barclay 2000, 57). We work on ourselves through a process of reflecting on smaller parts of our belief-system or desires while at the same time holding other aspects of our embedded identity constant. The contextual nature of individual identities allows for the smaller scale reflection to occur.

The self-reflection inherent in the home serves as an object of reflection and as context. A visitor might ask, why don't you have a TV? Or, why do you have so many paintings of the desert? Because these displayed objects (or lack thereof) say something about the family's identity and values, they are manifestations that prompt question and reflection. The conversation about household objects and habits with others provides a space for interlocutors to express, interpret, and reflect on their beliefs. In a Minnesota house full of desert paintings, the family displays the paintings in order to remind themselves of their Mexican identities. Individuals have a need to control a space and belongings of their own so that they can engage in reflection with their selves that is mediated by their relationship with their belongings (Weir 2008, 16). After a while, the family may decide to integrate more into the Minnesotan context, and reflect on this decision by thinking about whether or not to put away the paintings.

Moreover, the privacy of the home assures safety in the expression of controversial ideas, thoughts, and attitudes. The private, territorial control of the home preserves a sphere where one can be at rest. Inside the home is familiar; it is mine or ours—a space where the inhabitants have the freedom to form comfortable habits without worrying about the demands of others. It creates a zone of control over which outsiders have limited access. The implication is that the privacy of the home allows for families to behave in ways that express their identities. Privacy thus enhances the function of the home as a place that reflects the peculiar identities of the persons residing inside the home.

The expression of controversial attitudes is necessary for autonomy, to have the capacity to form and reflect on ideas that modify one's identity in ways that defy social conventions. Only through this kind of safe, private reflection is autonomous self-direction possible. The intimacy of life inside the home may make us vulnerable to critique and conflict inside. However, this

does not mean that the home cannot be a safe haven for productive reflection and construction of beliefs. Instead, the openness and engagement with others inside the home creates opportunities for change, commitment, and strengthening of supportive relationships (Weir 2008, 8). These opportunities may be the best avenues for critical reflection and engagement.

The final, action, dimension of analysis examines whether or not an agent is able to act on relevant values and motivations. If a person is physically, mentally, or emotionally unable to act, then the person is held captive by whatever is keeping her from acting. Contemporary psychological studies show that having secure access to one's home is significant in having a healthy life (Warfa et al. 2006; Simpson & Fowler 1994; Jelleyman & Spencer 2008). It gives individuals a place to sleep, rest, rejuvenate, and ready themselves for self-directed work in and outside the home. At home one can rejuvenate, because it is her haven, a restful place of safety and refuge. Outside the home, the world can be oppressive, chaotic, and challenging—outside is less familiar, where systems are designed around dominant socio-economic structures that can be frustrating, opaque, and exploitative. The home serves as a safe place beyond the full reach of outside systems, where one can enjoy more familiar and easy social relations (Weir 2008, 7). “Everyone needs a place where they can go to be safe. Ideally, home means a safe place, where one can retreat from the dangers and hassles of collective life” (Young 1997, 161). By being a place of embedded meaning, reflecting the identity of the inhabitants, the home is comfortable. Consequently, for most of us, the home serves an essential psychological function as a place of rejuvenation, where we collect the mental and physical strength required to carry out intended actions. The home is a feature of lives that greatly facilitates our capacities to act autonomously.

If one already has a home, then the home environment is embedded as a non-fungible contextual element of her procedural autonomy. It cannot be traded for or found in another dwelling. It is not the case that any other house would have the same value for me as my home. Only one particular space can, at this time, serve as my ‘home’. Another dwelling may become my home in the future, but only after I have gone through the process of making it home, of imbuing it with functionality, identity, and meaning that will make it my haven. Usually, at any one time, no other house has the value for its inhabitants that their particular home has.<sup>4</sup>

Abrupt, permanent removal from one's home severely disrupts the functional processes of autonomous agency. These damages are minimized when one desires and plans for a move

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<sup>4</sup> In unusual circumstances, more than one place can serve as one's home. For example, children whose parents live in separate houses often form a home in both places.

away from home. The home is the place where one nurtures one's identity in a private and restful space, and the space is constituted in part by the fact that it stands in opposition to the outside world. While life outside the home is outside of one's individual control, the dynamism and opportunity makes going outside valuable. Part of the function of preservation inside the home prepares its inhabitants to be autonomous agents outside; it is expected that many individuals, especially grown-up children, form autonomous plans that take them away from their formative homes and towards developing a separate, functional home of their own. One's interest in secure access to her home is thus consistent with autonomous moves away from the home. While moving temporarily undermines functionality, most people are able to repair and build new contexts for self-reflection and other processes when their move is consistent with their overall set of desires, beliefs and values.

A coerced move, by contrast, undermines the valuable connection between the home and autonomy. Within the home, autonomous capacities are developed and maintained such that our primary values, beliefs, capacities for reflection and goal-formation are structurally tied to the home. These beliefs, values, capacities and goals are authentic; they sufficiently express the self-perceived identities of the inhabitants. When a government coerces person out of their home, these are subverted to the will of the coercive agent. These fundamental aspects of autonomous agency are no longer in the control of the inhabitant—they are no longer authentic. Rather, they are subject to the demands of another. The new home reflects the coercer's set of beliefs and values, impeding the inhabitants from using the home as a space of self-reflection. The impact of the coercion is reflected and imagined in the new home; it is a constant, intimate reminder and continuation of that coercion. Rather than functioning as a safe, private space of self-reflection for family members, the new home continues to reflect the coercer. Even when the family moves their belongings, activities, and ways of homemaking into the new home, the home itself remains as a background of coercion. Adjusting to the new home is a much more difficult task, when it can be accomplished at all, because it is difficult to overcome the coercive context to create an environment that facilitates the processes of autonomous agency. This difficulty can explain why many displaced persons fail to adjust to new homes even though they are given robust support.

### **Feminist Objection**

Many women experience constant violence, abuse, and oppression in the home. Home privacy is not a comfort but rather an accomplice-- it protects violent family members from detection and persecution. Even a benign home life is oppressive when women are inescapably

ties to the home and unable to form or to pursue other life plans. The reification of the home oppresses women in practice and is echoed in theory.<sup>5</sup> It is not surprising that many feminist writers have rejected the idea of the home altogether (Lauretis 1990, Honig 1994). The institution of the home seems to serve only to exclude and to oppress.

We can use the above arguments to address this worry. For example, the rate of women suffering from agoraphobia drastically increased after World War One (Jacobson 2011, note 4). During the war, women's identity came to include roles outside the home while men were in the military. However, the home itself did not become a haven, preparing them for external growth and encounters. Rather, oppressive social norms restraining women to the home remained in place. Consequently the expectations inside the home conflicted with the demand that women work outside the home. This made the home itself a hostile environment for women. Home, for some women, is not a source of rest and renewal, because the constraining roles internal to the home keep the women from preparing themselves to be a part of the external world. The agoraphobic is never at home, but rather is bound to something that constantly reminds her of her alienation from the outside world. She is not resting and made ready for new possibilities; she is unable to be at home anywhere (Jacobson 2011, 7). The problem is not only that these women are oppressed outside of the home, but also that they do not have a home that functions as part of the processes allowing the woman exercise autonomous action.

A theory of a well-functioning home provides the means to analyse the dysfunctional home—to suggest ways that homes should be viewed in political thought and policy. That is, we do not need to give up on the idea of a valuable home altogether, just because some homes are dysfunctional. Rather, through elaboration of the role of the home in autonomous agency, we can illuminate what makes a home dysfunctional.

### **Weighing Interests**

Individuals have a strong interest in secure access to the physical and social contexts of autonomous agency. By understanding the home's functional role in this context, we can establish and weigh harms corresponding to different claim rights to the home. The right to secure access to the home includes: 1. A claim right to a dwelling that one can make into a home, that is, a right against homelessness. 2. A claim right not to be coerced from one's home. 3. The liberty to continue to access one's home without threat of removal or barriers. 4. If coercively

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<sup>5</sup> Prior to the widespread influence of feminist theory, most theories of the home were defined by the presence of a woman. See, for example, Levinas 1961, p 155.

removed, one has a claim to a *suitable* dwelling to make into a home. 5. Democratic participation rights in government decisions that may result in removal or relocation.

Not having secure access to any home is the most harmful set of circumstances, because one does not have the normal social and physical context for developing and maintaining autonomous capacities. Autonomy involves control over a particular, designated place and one's belongings, allowing a person to have control over access to her living space and her meaningful things (Weir 2008, 13). Moreover, Jeremy Waldron argues that having a home is a pre-requisite for other freedoms. In order to have freedom, says Waldron, we must be able to exercise that freedom *somewhere*. Without secure access to the home, persons cannot enjoy that control or freedom. A homeless person has no freedom, because permission to public areas may at any time be denied. Without a home, a person has no place to exercise freedoms without first seeking permission (Waldron, 1991, p. 302).

Waldron identifies the role of the home for securing freedoms exercised inside of the home. This reasoning also applies to other rights and liberties exercised outside of the home. By analogy, consider the right to physical security, Shue argues:

No one can fully enjoy any right that is supposedly protected by society if someone can credibly threaten him or her with murder, rape, beating, etc., when he or she tries to enjoy the alleged right. Such threats to physical security are among the most serious and—in much of the world—the most wide-spread hindrances to the enjoyment of any right. If any right is to be exercised except at great risk, physical security must be protected (Shue 1996, 21).

A parallel argument can be made on behalf of secure access to one's home. The activities made safe and possible by having secure access to a home are a prerequisite for our enjoyment of other rights. If one can be credibly threatened with the loss of his home when attempting to enjoy other rights, then those other rights are not secure. Threats against one's home ring nearly as ominous as threats to one's physical integrity. People are deeply attached to homes—so much so that home removal is often a cause of conflict and violence.<sup>6</sup> Thus individuals have a strong interest in their liberty to continue to access their home without threat of removal or

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<sup>6</sup> It is also arguable that forced removal terminates a person's affiliation with a particular place, and this affiliation is difficult to re-establish, especially if the person is continually forced to move. Migration diminishes the likelihood that a person will feel 'at home'. I do not have space to pursue this line of argument here, but it is well-argued that 'at-homeness' is connected to security in one's home, and that 'at-homeness' is a fundamental human interest (Hegel, 1991; Cuba & Hummon, 1993).

barrier. This implies that the right to secure access to the home is a basic right—its provision is a prerequisite for the provision of other important interests.

Because of the home's central role in autonomous agency and in securing other basic interests, secure access to the home should have lexical priority over other rights. In Rawlsian terms, rights protecting our autonomous agency are given lexical priority over the fulfillment of other rights. That is, rights with lexical priority, (termed 'basic liberties'), must be secured by political institutions before turning to the task of securing other rights, such as economic or social rights (Rawls, 2001, p. 53). Lexical priority may be overridden only when it is necessary to change the quality of the society so that all members can enjoy these basic rights equally (Taylor, 2003). It is permissible to coercively remove persons from their homes only when this action is required for the equal provision of basic liberties within the society.

In some cases, then, coerced displacement is permissible. Rural populations, especially those dependent on agricultural work, face mounting environmental problems that threaten the viability of their livelihoods. Extreme dry or wet periods are making current farming methods impossible. With climate change subjecting some areas to drought, years of low rainfall and increased demand compel institutions to make cuts in water allocation. Policy-makers seem to be faced with an impossible choice: allocate water away from farms to secure supply elsewhere, or vice versa. Agriculture features heavily in this decision, because certain kinds of agriculture take up a disproportionate amount of water supply. Almond farming in California, for example, a high performing market, requires more water than traditional agriculture because trees require constant water and the orchards are very large. Diverting water away from almond farms would predictably result in many farmers' relocation, as they could no longer make a living on that land. On the other side of the scales are the millions of people and complex ecosystems that need the same water for daily activities and maintenance. Regardless of how institutions allocate water resources, it is likely that a section of the population will need to relocate.

In these cases, coercive displacement can be less harmful, if new home structures fit the developed ways of life of the new residents. The home's location limits and determines one's opportunities for development of a career, friendships, leisure activities, religious and cultural practices, and ways to raise and educate our children. When one is forcibly removed from a home, these values and goals are no longer theirs to deliberate. Rather, the scope of their aims and values are subverted to the will of the coercer. For example, the Malaysian government evicted members of the Penan tribe from their forest domain in order to build a dam. The

Penan traditionally lead a migratory, hunter-gather life, building and leaving behind simple huts every month or so. Upon eviction, the government provided basic concrete-block apartment housing away from materials that the tribe had used to be self-supporting. By coercively relocating tribal members to homes unsuited to their ways of life, the Malaysian government undermined the processes of autonomous agency in at least two ways. First, the coercive eviction itself subverted a wide range of tribal members' decisions to the government's will. Their overarching, plans, habits, values, and self-conceptions were undermined. They must embrace the government's beliefs and values, such as a non-migratory life-style. Second, the member's developed processes of agency do not fit their new context. The concrete homes do not reflect their identities, and their methods of homemaking and planning are not suited for the new structure. It is difficult for this structure to be a haven of rest and rejuvenation.

The harmful effects of relocation could have been mitigated if the members of the Penan tribe were relocated to areas and structures that fit their developed plans, knowledge, skills, and identities. Further, to diminish the harms of coerced displacement, government decisions should allow for public participation, as much as possible, in determining who moves and under what conditions. If one has the opportunity to participate in decisions regarding his move, then the coercive nature of the move is minimized. He can more readily see his move as a result of his own values and choices. This will allow for him to create a functioning home within the new dwelling, because he will be able to see more of himself (and less of the government's decisions) reflected in the space.

### **Conclusion and Implications for Territorial Rights**

'Attachment to place' in territorial rights theory has a variety of explanations. For example, on achievement accounts, when an agent purposefully works on material objects in a place to create value, the agent develops a relationship with that particular place. Presence views, by contrast, do not build from any purposeful action but instead rely on passive, unintentional, or ascriptive connections to place. Presence theories rely on the natural validity of 'being there' (Kolers 2012, 105). Avery Kolers has argued, rightly, I think, that many contemporary theories of territorial rights rely on presence views. For, even achievement must justify the original occupation, or the original 'being there' that allows agents to act. If sufficient justification is not forthcoming for 'being there', then these theories seem to be founded on an unstable premise.

In this paper, I examined at the possible explanations for the human interest in a particular place, the home. My analysis finds fault with alternative theories that argue that individuals have a right of residence based on utilitarian reasons or in located life plans—goals and projects that require continued access to a particular region. As an alternative, the functionalist account of a place’s value identifies one’s home as playing a crucial role in the processes of autonomous agency. Thus, contrary to plan-based accounts that do not include rights to one’s home, but instead only to a region, the functionalist account, as I develop it, holds that the connection to the home may be at least as important as the connection to a region.

What can we learn from these functionalist accounts of place? One upshot is a new way to draw moral lines around geographical places. The functionalist account highlights the moral importance of attachment to small-scale places like homes, rather than to regions. The point is to highlight the moral importance of places that actually feature into the individual’s ability to function (and plan). This could go some way to explaining why some people would face death rather than leave their homes. Leaving home is not an option for them. Forcing them to leave home is a deeply invasive measure into their person.

The functionalist account offers a distinct and, I think, better account of the normative sense of ‘being there’ than plan-based accounts. While I do not dispute that pursuing plans are important interests, I believe our ability to function along the lines described above are at least as important. For, first, one must be able to function in order to form and pursue plans. Second, paying attention to functionality reveals morally relevant features of our environment that are not apparent in conscious plan-making. At the very least, the right against forced removal is a constraint on territorial powers. Because rights to the home should constrain the jurisdictional authority of the state, then we may conclude that rights to the home are normatively prior to territorial rights, although I do not have space to argue this fully here. Theories of territorial rights may find ultimate grounding in individual rights to the home.

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