

SYMPOSIUM
PEOPLE AND TERRITORY



RIGHTS OF RESIDENCE

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Rights of Residence

Cara Nine

The system of territorial rights is generally taken to be grounded in collective political self-determination. Nonetheless, collective 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.

A right of residence, then, is at the core of territorial rights. Margaret Moore develops a complex account of this right in *A Political Theory of Territory*.¹ This essay aims to clarify and critique Moore's account of the right of residence, and offer an alternative 'functionalist' account.

Moore's analysis starts with the plausible claim that "If we are to have any control over our lives, we have to have control over the most fundamental elements in background conditions of our existence, and among these is the ability to stay in our communities" (p. 38). However, many fundamental elements of

¹ Margaret Moore, *A Political Theory of Territory* (Oxford: Oxford University Press, 2015). Unless otherwise specified, all page refer to this work.

our background conditions are out of our control. Loved ones leave or die; the weather ruins economic and other pursuits; time withers landscapes; cities and resource use change under complex collective action. Given that so many fundamental elements are out of our control and not considered to be valid objects of individual claims, it remains for Moore to show that residency rights are justified and, further, that they are strong enough to ground territorial rights. She establishes this justification with a two-fold argument. According to Moore, residency rights are justified on the basis of our interests in the pursuit of plans and in our interests in maintaining relationships. I take each of these accounts in turn. Despite the wonderful nuances of Moore's account, I argue that she still has not established a coherent theory of residency rights.

I

Plan-Based Account

One half of Moore's theory of residency rights emphasizes individual's interest in place because stability of place is crucial for realizing plans (p. 38). A right of residence involves an individual's liberty right to continue to reside in an area and a claim right to not be removed.² Moore justifies 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

² See also Anna Stilz, "Occupancy Rights and the Wrong of Removal," *Philosophy & Public Affairs*, Vol. 41, no. 4 (2013): pp. 324-356. Stilz calls this individual right the right of occupancy and defends a straight-forward plan-based account. Moore calls the individual right the right of residency and calls the right of occupancy a collective right. For consistency, and to distinguish an individual residency right from a collective occupancy right, I use the term residency to encompass also Stilz's theory when I also reference Stilz.

important to warrant holding others to be under duties to respect or promote that interest.³ The arguments progress by first establishing that remaining in one's area of residence constitutes a significant personal interest. Second, they argue that the interest is weighty enough to warrant others' having a duty to protect that interest.

To explain how residency is a weighty interest, Moore appeals 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. Stability in residence “facilitates our access to social practices and to the physical spaces in which they unfold. Especially important are spaces like the workplace, the place of worship, the leisure or recreational facility, the school, and the meetinghouse” (Stilz 2013, 336). Located plans and activities are associated with most life-goals, such as maintaining religious and social affiliations, planning for raising children, and engaging in political projects. Because carrying out plans requires continued access to the located context of those plans, then persons have a

³ Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press 1986), p. 166.

strong on-going interest in continued access to those places (p. 38).

Second, one's goals regarding employment and subsistence are formed around the continued use of certain spaces. Economic opportunities are shaped by the geography, climate, and culture of the area. Existing employment is based in the availability of local resources. A sled-dog trainer can only pursue her chosen profession in areas that receive sufficient snow, for example. Even corporate positions in the technology industry rely on access to sufficient electricity and internet connections (p. 39).⁴

From this evidence, it seems reasonable to conclude that most, if not all, individuals have an interest in continuing to reside in a region without fear of displacement. Further, these interests are strong enough to ground a right, because they are often central to the agent's well-being. 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.

Further, the corresponding obligation is, in the first instance, undemanding. Others have a duty only to refrain from removing persons from regions of residence and to continue to allow them access to this area. Assuming that others can continue to flourish within a stable place, then it is not unreasonable for them to leave alternative populations to reside in their own areas.⁵ Given the weighty interest in stability in residency, and the relative undemanding nature of the corresponding duty, it seems reasonable to designate this as a *prima facie* right.

Despite its virtues, this account has at least two problems. The first is a geographical ambiguity. Moore draws lines around regions where one is likely to have located plans. Internal

⁴ See also Anna Stilz, "Occupancy Rights and the Wrong of Removal," p. 338.

⁵ *Ibid.*, p. 342.

displacement *within* a region—displacement from one’s home to another home within the region—is of little moral concern.⁶ 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. 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 Muslim, commuting into the city center as a technical engineer, could have life plans in the city center and within a different suburb where many Somalians have settled, but have little interest in her local community. Because of

⁶ An exception is when staying in the home features significantly in one’s plans (p. 157).

her relatively solitary way of life, the Somalian-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 Somalian-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 Moore does 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.

II

Relationship-Based Account

To respond to these worries of geographical ambiguity, Moore expands the moral foundation of residency rights to include the importance of relationships. By referencing the geography of relationships, particularly community relationships, she attempts to locate the relevant area for residency rights.

Moore's account highlights the role of place in forming and maintaining important relationships as well as institutional and cultural ties. In fact, she ties the geography of residence to the relationships themselves rather than to only the object of plans. "[S]pecifying the location of residency rights depends on a further argument about group occupancy rights" (p. 40). The relevant group that maintains occupancy rights is a group that shares a collective identity and maintains a way of life, history, and identity that is tied to their particular location (p. 40). She illustrates this point with examples of clearly identifiable communities, such as the Inuits and the residents of Africville, with distinct histories and ethnicities tied to their locations. In these cases, the particular historical area that matches these communities identity and way of life establishes the domain of members' individual residency rights. I believe the argument works in these isolated and important cases. Nevertheless, the arguments fail to establish clear residency rights for much of the rest of the world's

population. In particular, Moore's arguments regarding residency right of the typical urban resident, I believe, are unsuccessful.

Moore itemizes the harms of displacement suffered by typical urban residents as personal harms: increased stress, moving schools frequently, lack of identification with neighborhoods where one will live short term, and living in an area where one needs a car when one prefers not to drive (pp. 44-45). These arguments are less persuasive than community-unique arguments, where members of a distinct ethnic group, such as the Inuit, have unique relationships with their fellow community members and geographical area. First, the generic disruptions and loss of moving are felt by anybody who moves house, and are not specific to coerced moves (and this is a level of loss that Moore thinks is not significant (p. 39; p. 189)). Second, several of the harms are dependent on the person moving frequently. The inability to settle into schools and a neighborhood is significant if one believes that they will have to move away from the area in the near future. Again, this problem is not suffered by people who are forced to move only once or twice, but only by those who are vulnerable to excessively frequent moves. This category of harm points to more significant problems than lack of residency rights. In particular, it points to the failure of institutions to provide persons the means to not be vulnerable to frequent moves. This includes steady economic employment in populated areas, protection against poverty, the provision of robust services such as hospitals in the area, and so on. Third, these arguments tend to suffer the same problems of the plan-based account. That is, the relevant areas of residency rights are geographically generic, disperse and ambiguous, especially given the great diversity of urban residents.

Finally, the relationship-based account defended by Moore is too weak to ground residency rights in any way that matches the

original intent of proposal. Moore relies on a national relationship-based argument to map certain occupancy rights for those who may not have special ties to their immediate locales. “At minimum, they think of themselves as British or French or Canadian, as the case may be; and there is a certain map-image of what that involves, and a corresponding institutional and political structure which relates this identity and which defines the location of this collective identity” (p. 42). Certain relationship-dependent goods come from living and participating within a geographically located community with which one identifies. A relationship-dependent good is distinctive to the relationship itself. Like friendship or love, relationship-dependent goods come from interaction with particular others; substitutes cannot produce the same good. Similarly, says Moore, co-citizens have relationship-dependent interests in sharing activities of co-creating the rules and practices that govern the collective conditions of living together (p. 64). These goods can be achieved only with particular others, co-citizens. However, the analogy between friendship and citizenship is not clear. National members are substituted all of the time by birth, death and migration. This substitution does not lessen the interest one has in participating with others to construct collective rules. And so this group-membership cannot give us a clear mapping of the area of residency rights (or at least it cannot do so without being circular.) In fact, Moore stresses that any person may be a member of the relevant collective, as long as that person is not part of a massive group that will dominate the normal political processes of the collective (200). Effectively, this means that any person who shares very general political and cultural values with me may be a part of my relevant collective. (Think Canadians blending with Americans.) The relevant area of residency rights for most residents of Canada and the US is the massive northern part of the Americas. Moore intended the residency right to resist

things like gentrification—that a person may not be removed from one’s immediate neighborhood. But instead the arguments seem to conclude that removal from one’s neighborhood is of little moral concern for most people. And instead removal from a very large region (a continent?) is impermissible.

III

A Functionalist Account of Rights Against Removal From The Home

For whatever reason, Moore and other theorists have avoided the argument that one has a right against removal from the home (p. 39). Instead, they stress the importance of place-based attachments outside of the home. This region-based line of argument leads to ambiguous and contradictory results, as I have tried to show above. In the remainder of the essay, I outline an argument for the right to secure access to one’s home. I believe this captures the intent of a right of residency, and explains why displacement is wrong even for those who live in heterogeneous places. 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 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.⁷ For example, one might believe

⁷ Catriona Mackenzie and Natalie Stoljar (eds.), *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (New York: Oxford University Press 2000), pp. 519-520.

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.⁸

⁸ Onora O'Neill, Onora, *Bounds of Justice* (Cambridge: Cambridge University Press 2000), p. 89.

Relational autonomy analyses the processes of autonomous agency along three dimensions.⁹ 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.¹⁰ 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

⁹ Catriona Mackenzie and Natalie Stoljar (eds.), *Relational Autonomy*, p. 21.

¹⁰ Linda Barclay, "Autonomy and the Social Self," in Catriona Mackenzie and Natalie Stoljar, *Relational Autonomy*, p. 56.

permission. 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.’¹¹

For most individuals, the home plays a crucial role in the development of identity and values. In almost all cultures and eras, the home is the sphere under which family relations manifest and sustain themselves.¹² 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.’¹³ 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

¹¹ Mary Douglas, “The Idea of a Home: A Kind of Space,” *Social Research* vol. 58, no. 1 (1991): pp. 287-307, p. 295.

¹² *Ibid.*, p. 289; May Wright Sewall, “The Idea of the Home,” *The Journal of Speculative Philosophy* Vol. 16, no. 3 (1882): pp. 274-285.

¹³ Iris Marion Young, *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton: Princeton University Press 1997), p. 146.

is a way that an alien other cannot easily penetrate; it is my, our, own.¹⁴

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.”¹⁵ 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.”¹⁶

¹⁴ Kirsten Jacobson, “Embodied Domesticity, Embodied Politics: Women, Home, and Agoraphobia,” *Human Studies* vol. 34, no. 1 (2011): pp. 1-21, p. 14.

¹⁵ Iris Marion Young, *Intersecting Voices*, p. 151.

¹⁶ *Ibid.*, p. 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.¹⁷ 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

¹⁷ Linda Barclay, "Autonomy and the Social Self," p. 57.

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.¹⁸ 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-

¹⁸ Allison Weir, "Home and identity: In memory of Iris Marion Young" *Hypatia* Vol. 23, no. 3: pp. 4-21, p. 18.

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.¹⁹ 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.²⁰ 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

¹⁹ *Ibid.*, p. 8.

²⁰ Nasir Warfa, et al, "Post-migration geographical mobility, mental health and health service utilisation among Somali refugees in the UK: A qualitative study," *Health & Place* Vol. 12, no. 4 (2006): pp. 503-515; Gloria Simpson and Mary Glenn Fowler, "Geographic Mobility and Children's Emotional/Behavioral Adjustment and School Functioning," *Pediatrics* Vol. 93, no. 2 (1994): pp. 303-309; T. Jelleyman and N. Spencer, "Residential mobility in childhood and health outcomes: a systematic review," *Journal of Epidemiol Community Health* Vol. 62: pp. 584-592.

relations.²¹ “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.”²² 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.²³

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 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

²¹ Allison Weir, “Home and identity,” p. 7.

²² Iris Marion Young, *Intersecting Voices*, p. 161.

²³ 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.

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.

A full defense of the right to secure access to one's home is not possible here. There are many objections to be answered, including feminist worries about domestic oppression and economic and political worries regarding homes located in areas that are too costly to protect and service.²⁴ My intent here is to show that there is an obvious supplement to the emerging literature on residency rights, that of the right to remain in one's home.

IV

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.'²⁵ Avery Kolers has argued, rightly, I think, that many contemporary theories of territorial rights rely on presence

²⁴ I defend this right in more detail in Nine, C. 'Water crisis adaptation: Defending a strong right against displacement from the home' *Res Publica*, forthcoming.

²⁵ Avery Kolers, "Attachment to Territory: Status or Achievement?," *Canadian Journal of Philosophy*, Vol. 42, no. 2 (2012): pp. 101-123, p. 105.

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.

My analysis here contrasted Moore’s defense of a residency right to a region with the right to secure access to one’s home. Contrary to accounts focused on rights to a region, the theory advanced here has clear geographical conclusions and also a clear statement about why a person who is coerced is harmed in ways that a person who voluntarily moves is not. This account holds that the connection to the home may be at least as important as the connection to a region.

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 or relationship-based accounts. While I do not dispute that these other interests are important, 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 and relationships. 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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