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## WHAT A HOME DOES

(Accepted 10 June 2021)

Homelessness is more than just about a house. It is about a whole life and creating a home. It is more than simply giving them a key to a door.  
– City Councillor and former homeless teenager, Sharon Thompson\*

**ABSTRACT.** Analytic philosophy has largely neglected the topic of homelessness. The few notable exceptions, including work by Jeremy Waldron and Christopher Essert, focus on our interests in shelter, housing, and property rights, but ignore the key social functions that a home performs as a place in which we are welcomed, accepted, and respected. This paper identifies a ladder of home-related concepts which begins with the minimal notion of *temporary shelter*, then moves to *persistent shelter* and *housing*, and finally to the rich notion of a *home* which focuses on meeting our social needs including, specifically, our needs to belong and to have meaningful control over our social environment. This concept-ladder enables us to distinguish the shelterless from the sheltered; the unhoused from the housed; and the unhomed from the homed. It also enables us to decouple the concept of a *home* from property rights, which reveals potential complications in people’s living arrangements. For instance, a person could be sheltered but unhoused, housed but homeless, or, indeed, unhoused but homed. We show that we should reserve the concept of *home* to capture the rich idea of a place of belonging in which our core social needs are met.

### I. INTRODUCTION

To describe someone as ‘homeless’ is not to describe any one kind of experience. Itinerant couch-surfers, victims of domestic abuse, residents whose dwellings are utterly dilapidated, people who squat illegally, and those who sleep in the open air might all be considered homeless, even though their experiences differ dramatically. Cultural variations in people’s experiences matter too: Is an itinerant Roma family homeless regardless of whether they can find legal sites on

\* BBC Interview, 4 June 2020: <https://www.bbc.co.uk/iplayer/episode/m000jrpr/bbc-news-at-ten-04062020>

which to camp? Is a husband whose name is on the lease rendered homeless when his wife casts a voodoo spell on the property making it uninhabitable to him?<sup>1</sup> Unsurprisingly, legal definitions of *homelessness* vary from jurisdiction to jurisdiction, and whether a state recognizes a duty of care toward anyone who falls within its definition also depends on its statutes. In other words, although a government might accept that a person is homeless, it might not thereby acknowledge a duty to remedy their situation.

Analytic moral and political philosophy has largely neglected the tangle of legal, ethical, and cultural issues that constitutes the topic of *homelessness*.<sup>2</sup> Philosophers have debated related phenomena such as poverty, basic income, respect, and the social minimum, but they have not explicitly linked those debates to the harms and injustices of homelessness.<sup>3</sup> Indeed, even philosophers interested in theories of recognition, who aim to ‘draw attention to practices of humiliation or degradation that deprive subjects of a justified form of social recognition and therefore of a decisive condition for the formation of their autonomy’, have dedicated little attention to experiences of homelessness.<sup>4</sup>

There are some exceptions to this general neglect, which we explore in what follows.<sup>5</sup> In our view, the few accounts that do consider homelessness have overlooked the variety of harmful experiences that fall under this heading and have neglected some of the key functions that a genuine home performs – functions to which Sharon Thompson alludes in the above epigraph. Their focus has centred on the connections between property rights and homelessness, maintaining that to be homeless is to lack property rights over some residential space from which we cannot be excluded. A home, on this property-oriented view, offers us an important form of control over where and how we live by enabling us to occupy a

<sup>1</sup> In 2008, such a case was brought to the attention of a London, UK, borough council.

<sup>2</sup> One indication of this is that, presently, only eleven entries in the world-leading *Stanford Encyclopedia of Philosophy* contain the word ‘homeless’ and seven contain the word ‘homelessness’.

<sup>3</sup> For example, in Stuart White’s account of a civic minimum, *homelessness* would be understood as part of a general condition of immiseration that needs correction. However, White does not give homelessness any explicit consideration. *The Civic Minimum* (Oxford: Oxford University Press, 2003), 6.

<sup>4</sup> Axel Honneth, *The I in We: Studies in the Theories of Recognition*. (Oxford: Wiley Blackwell, 2014), 76.

<sup>5</sup> Jeremy Waldron has written several articles on homelessness: ‘Homelessness and the Issue of Freedom’, *UCLA Law Review* 39:295 (1991), 295–324; ‘Homelessness and Community’, *The University of Toronto Law Journal* 50:4 (2000), 371–406; and ‘Community and Property – For Those Who Have Neither’, *Theoretical Inquiries in Law* 10:1 (2009), 161–92. See also Christopher Essert, ‘Property and Homelessness’, *Philosophy and Public Affairs* 44:4 (2016), 266–95.

certain space and perform certain functions within that space without interference. Securing such personal control through property rights is undoubtedly one function of a home. But, in our view, it is neither the sole function nor even, necessarily, the most vital function of a home. In this paper, we argue that the primary functions of a home are social: a home meets our fundamental social needs including, specifically, our need to belong. A home is a *social* space in which we know that we are safe, accepted, and respected, irrespective of our legal rights to occupancy. A home also helps us to meet our basic social needs broadly on our own terms, which means that it ensures that we have a meaningful degree of social control over who gets to be near to us when we are in states of vulnerability.<sup>6</sup> As this indicates, the concept of a *home* can be detached from the residential property rights with which it is usually aligned.

In what follows, we accept that being housed constitutes part of the main, socially-supported way to achieve a home, but we aim to qualify the role that property rights play in establishing homes, and to show that our rich, social conception of *home* is explanatorily prior to those legalistic conceptions of *home* which overlook the complex social needs which having a home satisfies. In other words, the point of being housed is to provide a secure route to the social goods of a home. A key contribution of this paper is that it articulates a ladder of home-related concepts beginning with the most minimal notion of *temporary shelter*, and moving up to *persistent shelter* and *housing*, and then up to the rich notion of a *home* which focuses on meeting our social needs including, specifically, our needs to belong and to have meaningful control over our social environment. This concept-ladder enables us to distinguish the shelterless from the sheltered; the unhoused from the housed; and the homeless from the homed. This taxonomy also reveals potential complications in people's living arrangements. For instance, a person could be sheltered but unhoused, housed but homeless, or, exceptionally, unhoused but homed. In what follows, we aim to reserve the concept of *home* to capture the rich idea of a place of intimate belonging in which our deepest social needs are met.

In Section II, we analyse two prominent ways of understanding the core functions of a home. The first way, as described by Jeremy Waldron, is the more minimal of the two. It holds that the key thing

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<sup>6</sup> Katy Wells, 'Right to Housing', *Political Studies*, 67:2 (2019), 413.

a home provides is a space for us to attend to our most basic biological needs, including our basic ‘human tasks’ such as ‘urinating, washing, sleeping, cooking, eating, and standing around’.<sup>7</sup> The second way of cashing out the functions of a home, suggested by Christopher Essert, entails a more substantive minimum, and focuses on the fact that a home necessarily enables us to undertake *valuable activities* beyond attending to our basic needs.<sup>8</sup> Essert focuses on the property rights that having a home ostensibly entails, which thereby enable us to engage in valuable activities, but he does not flesh out the extent to which a home is necessary to exert control over our *social* environment, which is a precondition for engaging in those valuable activities to which he draws attention. We take the functions that Waldron and Essert highlight to be a suitable list of the functions secured by adequate housing, but incomplete as a description of the functions of a *home*.

In Sections III and IV, we flesh out our positive account of a *home* as a place in which our social needs are taken fully into account. In Section III, we develop Essert’s appeal to valuable activities, but show that these valuable activities are centrally social activities, and include having both a meaningful degree of control over, and opportunities to decide, who may remain near to us in private spaces, who may observe us in states of vulnerability, and who may engage with us in intimate behaviours. We show, thereby, that the distinctive functions of a *home* cannot be reduced to control granted by property relations, but must also encompass our distinctly social needs. In Section IV, we explore some of the policy implications of our richer understanding of the nature and functions of a *home*, focusing on how government actions to relocate people – either because the government accepts a duty to rehouse people suffering from severe housing deprivation or because it displaces people as part of gentrification – can be understood as both housing them and making them homeless. In Section V, we respond to some possible objections, including the worry that, since our account looks beyond residential property rights, our conception of *home* is too capacious and is therefore useless as a guide for legal responses to homelessness. We show that this worry is misplaced: our concern is not to

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<sup>7</sup> Waldron, ‘Homelessness and the Issue of Freedom’, *supra* note 6 at 301.

<sup>8</sup> Essert, ‘Property and Homelessness’, *supra* note 6 at 291.

replace property rights with another definition of *home*, but to recognize that property rights are tools for making homes, not constituents of a home. An exclusive focus on property rights can only ever incompletely describe the functions served by a home.

## II. BEING HOMELESS VERSUS HAVING A HOME

There is no internationally agreed upon definition of *homelessness* or list of state duties that homelessness generates. In some states, such as Finland, sleeping rough on the street both is recognized as homelessness and triggers a statutory duty of care.<sup>9</sup> In other states, such as the UK, rough-sleeping is recognised as homelessness without that automatically triggering a statutory duty to house the person: a rough-sleeping person is entitled to state assistance only if they are pregnant, under a certain age (usually 18, but 21 for those who have lived in care), have responsibilities for children, or are vulnerable due to infirmity, age, domestic violence, or drug abuse.<sup>10</sup> Other adults who sleep rough might have access to some assistance, such as rent deposits or housing benefits, but not direct access to housing. In California, the duty of care is even weaker. Currently, in Los Angeles, a person who presents as homeless and requests a bed for the night has no legal right to temporary shelter. In contrast, New York City has recognised such a right since the early 1980s: a homeless person, irrespective of the specifics of their case, is legally entitled to a bed in a temporary emergency shelter.<sup>11</sup> In many cities, park and bus stop benches are designed to prevent homeless people from sleeping on them.<sup>12</sup> In other cities like Toronto, some benches are fitted with collapsible roofs under which homeless people are allowed to sleep. In some cities, like Los Angeles, there are areas such as Skid Row set aside for homeless people. In others, homeless people are effectively denied permission to be anywhere, and are not even allowed to sleep in their cars.

<sup>9</sup> Alex Gray, 'Here's how Finland solved its homelessness problem', *World Economic Forum*, Feb. 13, 2018: <https://www.weforum.org/agenda/2018/02/how-finland-solved-homelessness>.

<sup>10</sup> Section 189(1)(c) of the Housing Act 1996, Part 7.

<sup>11</sup> Bradley Haywood, 'The Right to Shelter as a Fundamental Interest under the New York State Constitution', *Columbia Human Rights Law Review* 34 (2002), 157–196; Benjamin Orsekes, 'Desperate to ease homelessness, California officials look to New York "right to shelter" policy', *LA Times* July 21, 2019: <https://www.latimes.com/california/story/2019-07-21/homeless-right-to-shelter-housing-law-california-new-york>.

<sup>12</sup> Robert Rosenberger, *Callous Objects* (Minneapolis: University of Minnesota Press, 2018).

Jurisdictions vary even more widely in their responses to homelessness that does not entail rough-sleeping. The UK, for instance, recognises a wide variety of contexts as legal homelessness including living in a house which is overcrowded or unfit for human habitation, being a victim of domestic abuse, being a victim of intimidation from people outside the house such as living under the threat of gang violence, having family or friends withdraw their permission to stay with them, having no legal right to live in accommodation anywhere, being unable to get into one's accommodation (being barred from entering one's residence), or being forced to live apart from family due to lack of suitable accommodation.<sup>13</sup> In Finland, by contrast, the experiences recognised as *homelessness* are narrower, and focus on a lack of access to secure housing rather than other vulnerabilities such as domestic abuse, outside intimidation, or unfit housing. The recognised categories include, in addition to sleeping rough, living in shelters for homeless people, living in care homes or other social-welfare dwellings due to lack of housing, being ready for release from prison and having no housing to go to, and living temporarily with family or in temporary housing due to family break-up.<sup>14</sup> Reportedly, there are presently almost no rough sleepers in Finland and, hence, homelessness-reduction efforts now focus on people who live temporarily with family.<sup>15</sup> The US Department of Housing and Urban Development also defines *homelessness* in a way that focuses primarily on suitable housing but also gives some attention to personal vulnerability: homelessness includes living in dwellings that are unfit for habitation or not intended for habitation as well as specific precarious living arrangements such as lacking a fixed residence, living in a shelter designed for temporary accommodation, and fleeing from domestic violence or other life-threatening situations with no other residence or support network.<sup>16</sup>

<sup>13</sup> Again, extended definitions of *homelessness* do not necessarily trigger state assistance to housing. Section 189(1)(c) of the *Housing Act* 1996, Part 7.

<sup>14</sup> ARA Housing Finance and Development Centre of Finland, *Report 2020: Homelessness in Finland 2019*, 6: <https://www.ara.fi/download/noname/%7B2B21B6E5-3C0F-4EA0-B7DC-F921D1E7F644%7D/156632>. See also Housing First, *Finland*. Housing First Europe Hub 2020: <https://housingfirsteurope.eu/countries/finland/>.

<sup>15</sup> Jon Henley, "'It's a miracle': Helsinki's radical solution to homelessness", *The Guardian* June 3, 2019: <https://www.theguardian.com/cities/2019/jun/03/its-a-miracle-helsinki-radical-solution-to-homelessness>.

<sup>16</sup> U.S. Code Title 42, ch. 119:1, § 11302: General definition of homeless individual: <https://www.law.cornell.edu/uscode/text/42/11302>.

In addition to the variations in legal frameworks, there are also demographical, cultural, and social differences which influence how a person *experiences* homelessness. Whereas a single person in his early 20s may find nothing especially strange or difficult about couch-surfing for years at a time, a middle-aged person may feel shame and face difficulties in living that way. Similarly, whereas some people may find that squatting best expresses their political identity and lifestyle preferences, others will find it an altogether regrettable situation. Likewise, whereas some itinerant people may embrace their way of life as part of a cultural tradition, others may be consumed by society's prejudice toward them.

As this indicates, a range of experiences can be described in terms of homelessness, and a corresponding range of needs go unmet as a result of different kinds of homelessness. Some people urgently need to secure access to a roof, bed, and washing facilities. Others urgently need to find housing in which they are safe from threats of violence. Still others need housing that is uncrowded. To handle this variety, let us begin by distinguishing two broad kinds of homelessness. The first identifies a person who lacks access to any private, sheltered space and so must sleep rough. The second includes all of those other experiences of homelessness we have just noted, including people who suffer from persistent domestic violence, are couch-surfing, or live in unfit housing. This distinction is not about severity: the homelessness that victims of domestic abuse suffer may be worse than that endured by some people who sleep in the open air. Instead, the distinction enables us to start with that very minimal notion of a *home* which some philosophers have considered, namely, the right to shelter, i.e., a living space within which we can take care of our basic physical needs and from which we cannot be summarily excluded.

This minimal notion provides us with the first rung on the ladder of home-related concepts that we articulate in this paper: *temporary shelter* and, immediately above it, *persistent shelter*. This minimal notion of *homelessness* as a lack of access to shelter (*shelterlessness*) is at work in Waldron's writings in this area. Waldron argues that to be homeless is to be deprived of secure access to spaces wherein we can perform certain 'primal human tasks'.<sup>17</sup> If we have nowhere that is

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<sup>17</sup> Waldron, 'Homelessness and the Issue of Freedom', *supra* note 6 at 301.

under our control to take care of ourselves in basic ways, then we have nowhere to *be* at all. Given that lack of access to *private* shelter defines homeless (or shelterless) people's situation in Waldron's view, they 'are allowed to *be* in our society only to the extent that our society is communist'.<sup>18</sup> When people lack access to private spaces *and* are denied access to *public* spaces in which to perform their basic human tasks, this becomes, for Waldron, the 'most callous and tyrannical exercises of power in modern times by a (comparatively) rich and complacent majority against a minority of their less fortunate fellow human beings'.<sup>19</sup>

Waldron is surely right. At the very least, we must temper our complacency about the plight of rough-sleeping people with an acceptance that they must perform their basic tasks *somewhere*, and when they lack private space, their only option is to turn to public spaces. But, of course, *merely* accepting that shelterless people must have some space to perform their basic tasks in public falls far short of ensuring that they have access to an adequate minimum. Waldron is not claiming that providing rough-sleeping people with laundry tokens, public washing facilities, and unharassed street sleeping will bring them to a decent minimum since people with laundry tokens and a nearby YMCA remain shelterless. For people to be sheltered, they must not only have four walls and a roof around them, but also enjoy access to running water, heating, electricity, and other basic amenities in order for their space – be it public or private – to enable them to fulfil even their most basic functions.

Even this sets a very low standard. The homeless shelters ('spikes') that George Orwell described in the London of the 1930s are spaces which provided vagrant men with places – replete with roofs, walls, beds, and washing facilities – in which they could perform their 'primal tasks'. While these spikes often failed to reach a level of decency that would allow the men adequate sleep, nourishment, cleanliness, or privacy, they did give them a temporary shelter of sorts, and thereby lessened the awfulness of their situation.<sup>20</sup> But for this kind of shelter to begin to merit the name 'house' or 'home', the inhabitants would have had to be able to access it securely *on their own terms*, with safety, respect, and acceptance. In

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*, 301–2.

<sup>20</sup> George Orwell, 'The Spike', in *Collected Essays* (New York: Random House, 2002 [1931]), 8–16.



his description of the London lodging houses he frequented during his stint as a 'tramp', Orwell laments the extent of their regulations and restrictions, in which there were rules on when one could enter, when one must leave, how frequently one may stay – usually not for more than a night at a time – and what one could do – card-playing, cooking, smoking, drinking, and talking after lights-out were all forbidden.<sup>21</sup> If access to lodging requires conformity to excessively onerous rules, then it can only ever be a shelter. Even when a person has access to that shelter for more than a single night, it can never become their house or home. The sheltered person remains both unhoused and homeless.

To appreciate and remedy the problems of homelessness, therefore, we must do much more than end callous treatment of shelterless people. Specifically, we must ensure that people have access to a stable residence. Christopher Essert, responding to Waldron, argues that 'homelessness is a distinctive condition constituted not by a lack of goods or access to goods but by a lack of rights, in particular property rights'.<sup>22</sup> In agreement with Waldron, Essert argues that one such right is having the space to sleep and keep clean.<sup>23</sup> But, what is distinctive about a homeless person's situation, in Essert's view, is that they lack any space under their exclusive control, a space in which they are not 'under the power of others – to be dominated by them or dependent on them –in respect of where (they) may be'.<sup>24</sup>

This observation – that homeless people lack exclusive control over some space – blurs the distinction between *shelterlessness* and the other kinds of (legal) *homelessness* we noted at the outset, because couch-surfers, people living with family, and people enduring domestic abuse also lack exclusive control over a private space even though they enjoy some access to sheltered residential space which mitigates the problems Waldron identifies. We return to this point below.

When Essert highlights the importance of exclusive control, he takes explicit issue with the excessively minimal minimum at work in Waldron's account. For Essert, Waldron 'provide(s) a very limited

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<sup>21</sup> George Orwell, *Down and Out in Paris and London* (London: Penguin, 2013 [1933]).

<sup>22</sup> Essert, 'Property and Homelessness', *supra* note 6 at 266.

<sup>23</sup> *Ibid.*, 272–3.

<sup>24</sup> *Ibid.*, 266.

set of benefits to the homeless, indeed a set of benefits that barely take into account the fact that homeless people are human moral agents (as opposed simply to rational animals).<sup>25</sup> To respect that moral agency, Essert argues that *homelessness* must be understood as an absence of property rights that 'eliminate [a property holder's] subordination to the power of others in respect of where they may be, and make possible rightful participation in the forms of activity and relationships that are partially constituted by such control'.<sup>26</sup> When people have unilateral control over some space, they also gain control, Essert claims, over who else might reside there with them. More precisely, property puts 'its holder in charge of others in the relevant way, protects against both the subordination to *de facto* power that would be pervasive in a property-less world and the subordination to normative power that grounds homelessness'.<sup>27</sup> Building on Waldron's right for people to be *somewhere*, Essert adds that this somewhere must be a 'place where they are in charge' and, consequently, they are enabled to give some meaningful, intentional shape to their lives. In sum, for Essert, 'the justification of property rights lies in their constituting valuable activities and relationships'.<sup>28</sup>

In our taxonomy, Essert's account moves one rung up the concept ladder, from *shelter* to *housing*, since he is concerned with protecting people not only from being without shelter (the shelterlessness that motivates Waldron's account), but also from being without a house (houselessness). On Essert's view, property rights build into the notion of a *home* the idea of important 'normative control over others', which in turn is a prerequisite for engaging in certain valuable relationships and activities.<sup>29</sup> But what exactly *are* these 'control-constituted activities' that are key to Essert's account?<sup>30</sup> He claims that there is an indefinite variety of 'property-constituted activities' that give and reflect personal control.<sup>31</sup> One example he gives is that playing baseball requires property rights: we cannot go to the Yankee stadium to play baseball

<sup>25</sup> *Ibid.*, 275.

<sup>26</sup> *Ibid.*, 279. See also Jane Baron, 'Homelessness as a Property Problem', *The Urban Lawyer* 36:2 (2004), 273.

<sup>27</sup> *Ibid.*, 280.

<sup>28</sup> *Ibid.*, 286.

<sup>29</sup> *Ibid.*, 281.

<sup>30</sup> *Ibid.*, 282.

<sup>31</sup> *Ibid.*, 280.

without the owners' permission. Similarly, we cannot play baseball at all in a world without property because 'others could, without wronging us, interfere with our game by choosing to mow the grass or sitting down to picnic on the baselines'.<sup>32</sup> If we want to play baseball, we need a space that we can control, at least for the period of our game. The property-constituted activities related to a home, in Essert's view, concern the holder's *exclusive* control over a space from which others cannot exclude him. This exclusive control transforms the meaning of the activities: playing catch in our garden is different from playing catch in the park, reading in our bedroom is different from reading on a park bench, and the pillow talk of lovers is different from intimacies reached on a subway:

A right to determine others' presence marks the difference between a group of strangers eating at the same table at the same time and a dinner party, between sleeping rough and spending a night under the stars in the backyard, between, we are drawn to say, a house and a home.<sup>33</sup>

Essert is right to emphasise the issue of control. He is also right to draw attention to the sociability that such control can nourish, and the differing experiences that control affords. When we can perform intimate acts with others in spaces we control, we have expanded possibilities for deeper expressions of intimacy. Such activities need not be furtive or stolen when conducted in spaces from which we can exclude others, and where nobody has the right to exclude us or condition our behaviour. This is the difference between attempting intimacy in the surveilled 'spikes' that Orwell describes, and doing the same in the privacy of our own house. However, the correctness of this emphasis notwithstanding, Essert's approach misconstrues some key issues, and remains a story about housing, not about homes.

There are two problems with Essert's approach. To take seriously Essert's use of 'valuable activities' as both the justification for property rights and a description of home, we must in fact step up to a higher rung of the concept-ladder, and more fully articulate the notion of a genuine *home*. The first problem is that having property rights over a private space is insufficient to secure levels of control over our *social* environments that will facilitate valuable activities and relationships. While Essert is correct that enjoying property rights can enable activities like dinner parties, which can turn houses

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*, 279.

into homes, nevertheless he seems to overlook the fact that property rights over a residence are no guarantee that any valuable activities will occur within it, even though the property rights-holders may crave such activities. If, for example, we and our loved ones share rights over a house, but never get to see each other because, to make ends meet (and keep our house), we must commute great distances, work different hours, and never share common rest time, then we are unable to engage in the key valuable activities that our property rights were meant to secure.<sup>34</sup> Similarly, if we live in overcrowded accommodation or in fraught family settings, our property rights, however secure, will not yield the goods that Essert has in mind. Likewise, if we must live apart from our loved ones for political or legal reasons (such as we are unable to return to our residence due to a lockdown or denial of entry at a border), then our property rights cannot enable us to engage in the valuable activities they are meant to sustain.

In short, if the value of property rights is ultimately justified with reference to the valuable activities and relationship those rights are meant to support, then what is the good of such rights when they only guarantee access to a space where we sleep, feed, and wash ourselves, performing what Marxists might call the activities of 'social reproduction' we need to get done before work the next day?

None of this denies that property rights are the typical, and in many places a contingently necessary, means through which people establish homes.<sup>35</sup> Our concept of *home* explicitly accepts as much. But however important property rights are as *tools* for making a home, they are not *constituents* of a home. People can have those tools without being able to use them to make a home; and, as we'll show, people can lack those tools but nonetheless participate in the valuable private-space activities that make a home. In sum, Essert is mistaken to say that property relations really are *constitutive* of – or even partly constitutive of – valuable activities in the way he imagines. Any shape that property rights might otherwise help us give to our lives can be undermined by other parts of our lives over

<sup>34</sup> Julie Rose, *Free Time*. (Princeton: Princeton University Press, 2017), ch. 5.

<sup>35</sup> Indeed, although Essert is clear that different property rights will be relevant for different contexts (283), a particularly perverse conclusion of Essert's implicitly ahistorical argument is that humans in societies without property rights – and the relevant enforcement regimes that make sense of them – could not be homed.

which we lack control and for which property rights provide no remedy. Property, however securely held, is back to being that site in which we attend to 'primal human tasks'. As a result, Essert is guilty of that with which he charges Waldron – being focused on our status as rational animals rather than complex moral agents.<sup>36</sup>

Second, and relatedly, Essert leaves the key concept of *valuable activities* underdeveloped. This is regrettable because he is right to go beyond Waldron's emphasis on shelter as a space for performing basic human tasks. Essert acknowledges that many of the valuable activities in which we engage are fundamentally social. But he overlooks that enabling such activities requires more than, or indeed something other than, the control offered by property rights. Indeed, even when Essert wavers, describing property rights as only *partially* constituting valuable activities, he does not go on to ask how *far* these rights can partially constitute a home, nor what else might be needed to *fully* constitute a home. In his wavering, Essert seems to accept that there really is only so much of the idea of *home* that can be captured by an appeal to property: a home is more than – or on our ladder-view *above* – a house. Even so, because of his insistence on the *constitutive* nature of property rights, Essert is unable to recognize the ultimately contingent role played by property rights when it comes to establishing a home.

### III. VALUABLE ACTIVITIES

As we have indicated, Essert is not silent about the content of the valuable activities which he believes are constituted by people's property rights. Indeed, when he appeals to the difference between a house and a home, to activities like dinner parties and playing catch, he gives quite detailed content to these activities. But it is doubtful that the value of these activities is entirely or even primarily due to a person's right to decide whether others may be present.<sup>37</sup> First of all, other people are often involved in the valuable activities Essert describes and, for those activities to occur, these people must be willing to participate irrespective of their own property-rights position. Secondly, when people do occupy space together to engage in valuable activities – to share a living room or a bedroom for an

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<sup>36</sup> Essert, 'Property and Homelessness', *supra* note 6 at 275.

<sup>37</sup> *Ibid.*, 279.

argument, a chat, or a heart-to-heart – property rights are not the only things, and certainly not the most important things, at work in controlling this space for the people involved. Essert insists that what ‘property uniquely provides is the capacity to choose to participate rightfully in all of these activities’.<sup>38</sup> But this suggests that unless a person’s name is on the lease, she lacks the kind of control that would enable her to participate fully in the valuable activities he describes. Where the property rights involved are not hers but somebody else’s, the thought goes, she is only there – reading books, singing songs, arguing on pillows, and having dinners – at the largesse of some other potentially dominating person. The fact that she might *love* and be loved by that other person fails to provide the needed level of control.

This is a strange way to conceptualise a *home*, as a place in which control is only fashioned through legal devices. Ordinarily, we think that *relationships* are key to giving us the kind of control, and the feelings of security, acceptance, and respect, that turn a house into a home. To be sure, *somebody’s* property rights still do important work in relation to any residential space as the main socially-supported way to secure a home: residential property rights secure control against ill-intentioned landlords, possible intruders, or predators. But property rights are not the *only* thing, nor the most important thing, doing the work of controlling a social space within which people can engage in valuable activities together.

To understand the ways in which the control established by property rights and the valuable functions performed by a home can come apart, consider the following examples which challenge the idea that property rights are necessary constituents of the valuable activities – and specifically the *social* goods – that go with being homed.

*Roofless Adam:* Suppose that a young man, Adam, who has longstanding connections with close friends, a loving family, and a good job, prefers to sleep outdoors and objects to owning or renting property. He bathes and washes his clothes at friends’ places and stores his few belongings with them, but sleeps in a relatively secluded bit of public space.

Adam is houseless and, for periods at a time, shelterless, but nonetheless has secure access to valuable activities, relationships, and

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<sup>38</sup> *Ibid.*

resources to attend to his basic needs. There are, of course, many property-related things he cannot do such as invite people to his house. But those limits do not cut him off from the kinds of activities Essert recognizes as valuable.

In contrast to Adam's unusual situation, there are other people, far more usual, who, despite their property-right-secured access to housing, nevertheless lack access to the relationships and connections Adam enjoys.<sup>39</sup> For example, compare Adam with the tragic, real-life story of Joyce Carol Vincent who died alone in her apartment three years before her body was discovered in 2003.

*Isolated Joyce:* Joyce had a flat with sufficient space for her possessions, a secure, life-time tenancy, access to a bed, washing facilities, food-cupboards, a fridge, and cooking equipment.<sup>40</sup> Joyce was in some basic ways 'taken care of'. Half her rent was paid by the state. She was sheltered from the weather. There were no repercussions for unpaid utility bills, and she continued to receive state benefits, even after her death. But before her death, Joyce spent her days alone or among strangers. The people who had previously known her had lost contact with her some time before she died, and only learned about her death when filmmaker Carol Morley took out an advert to see if anyone knew Joyce.

In short, at the time of her death, Joyce enjoyed no *socially-constituted* space in which she felt welcome, accepted, and respected, no social space in which she belonged. She had legal control over a residence – on much better terms than any *privately* renting tenant in the UK – but could engage in few, if any, valuable activities within her private space beyond Waldron's primal tasks.<sup>41</sup>

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<sup>39</sup> Adam is similar to Bozo, a character Orwell met while tramping in London. Bozo was a talented pavement artist, who proudly described himself as 'an enemy of society'. Because of his previous employment as an artisan, his extensive travel – including to India – and an education that saw him speak 'French passably' and had acquainted him Zola's novels, Shakespeare's plays, Gulliver's Travels, and numerous essays, Bozo was better equipped than others – such as Orwell's other companion Paddy – to handle the challenges of street-living. Orwell, *Down and Out in London and Paris*, 163–169. Of course Bozo's experience, just like Adam's, is not a typical experience of homelessness.

<sup>40</sup> Compare Joyce's tragedy with life in Japan, where there is a now widespread phenomenon of 'lonely deaths' (*kodokushi*). In 2009, 32,000 elderly people died alone, and the overall number of *kodokushi* tripled between 1983 and 1994. In 2006, approximately 4.5% of funerals were for victims of *kodokushi*.

<sup>41</sup> In a heart-breaking touch, her body – badly decomposed – was found surrounded by Christmas presents she is believed to have been wrapping at the time of her death (cause of death unknown). *Dreams of a Life* (2011), Dir: Carol Morley.

Joyce differs from other disengaged or misanthropic people we might envision, such as a wealthy businessperson who chooses to work at all hours and consequently has no close ties and engages in no valuable activities within his residence. *Ceteris paribus* he is not homeless on our view for several reasons. First, he *chooses* to work as much as he does (in contrast with the people noted above who must commute and work too-long hours to keep their house). If the wealthy businessperson is without a home, it is because he chooses not to make his house a home (in the same way that a spiritual sage might choose to eat little or choose to isolate: voluntary self-denial is not our focus). Second, the wealthy businessperson would become properly homeless in our sense if he became genuinely unable to make his house a home in the future. This would happen if his growing social ineptitude became a social incapacity, an incapacity to feel empathy for others, to foster new connections, or to be hospitable. It would also happen if his extreme self-isolation eroded his meaningful opportunities to seek out relationships to the point that he became as socially unknitted as Joyce was and couldn't remedy his situation without help. Based on this case, we might propose a two-part test: What options does a person have to make a house a home? and What impact does his (chosen) isolation have on his capacity to make a house a home in future?

Consider now a third character, Scrooge:

*Persona non grata* Scrooge: Scrooge's name is on several leases. He has rights of non-exclusion from a host of properties, within which he can sing in the shower, read in a bedroom, and dance in the kitchen. However, other people's names are also on each lease and, for whatever reason, they dislike Scrooge. Luckily for them, he tends to flit between properties and never overstays his welcome to breaking point. But he is only tolerated within each residence – there is no warm greeting, friendly banter, shared meal, bedside attendance, comfortable silence, pillow talk, or game of catch in the backyard. He is essentially *persona non grata*. He cannot be denied entry, but has no social needs satisfied once he is inside.

Scrooge is not at anyone's mercy, but he does not share a *home* with any of his co-tenants. Like Joyce, Scrooge can do little of value within his houses beyond perform primal human tasks. He is



housed, but his property rights are not doing the justificatory work which Essert sets for them.

Neither Joyce before she died nor Scrooge are homeless on any legal definition of *homelessness*. In our language, they are certainly *housed* and, in an important sense, with their ‘rooms of their own’, they enjoy a significant advantage over the roofless Adam. Even though Adam might find a relatively secluded spot and, thereby, enjoy a modicum of *de facto* security vis-à-vis state authorities, the threat of harm to someone living on the streets should not be taken lightly. The advantage of a front door under our own lock and key, and the reduction in exposure this achieves, should not be underestimated. Living on the streets means being constantly exposed to significant harms and illness, and even a person who genuinely chooses vagrancy will suffer in these ways.<sup>42</sup>

Even so, as just noted, neither Joyce nor Scrooge can use their space, however secure, to enact the intimate behaviours that sustain our closest bonds and which Essert refers to in his description of valuable activities. In consequence, most of Joyce’s and Scrooge’s key social needs go unmet. These needs include needs for persistent connections, recognition, and interdependence that are met through close proximity and physical touch with family members and friends; raising children; safe sexual intimacy with a caring partner; acknowledgement, interactive play and recreation; and good modelling.<sup>43</sup> Indeed, contra Essert, we can imagine that Joyce would reasonably have been willing to give up some control over her ‘room of her own’ to be assisted into some form of sociability with others.<sup>44</sup> She might have lacked the skills or the confidence to connect with others, and might have appreciated help to overcome these aversions, which are typical of chronically lonely people.<sup>45</sup>

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<sup>42</sup> A referee has noted that Adam’s vulnerability to state interference depends on the laws of that state. In a jurisdiction where the public domain is not subject to anti-loitering laws or laws against encampment, but gives police wide scope for search/entry of private residences, Adam would be potentially less vulnerable than Joyce was vis-à-vis the state. But he would still be more vulnerable than Joyce was vis-à-vis other private actors.

<sup>43</sup> For a discussion of the nature and moral force of our core social needs, see Kimberley Brownlee, *Being Sure of Each Other: An Essay on Social Rights and Freedoms*. (Oxford: Oxford University Press).

<sup>44</sup> Bart van Leeuwen, ‘To the Edge of the Urban Landscape: Homelessness and the Politics of Care’, *Political Theory* 46:4 (2017), 11. Bart van Leeuwen and Michael S. Merry, ‘Should the Homeless Be Forcibly Helped?’, *Public Health Ethics* 12:1 (2019), 30–43.

<sup>45</sup> John T. Cacioppo and William Patrick, *Loneliness*. (New York: W. W. Norton & Company, 2008), 85. Joyce was also a victim of domestic abuse, and so may have needed more assistance to leave her space and join relationships with others.

By contrast, the fictional Adam, however exceptional, engages in the valuable activities and relationships that Essert highlights even though he lacks unilateral control over some private space and the normative control over others that this supplies. Indeed, Adam has far more access to valuable activities than Joyce did or Scrooge would do. And, although it may seem counterintuitive to think of Adam as *homed* when he is both, for large parts of the day, shelterless and houseless (the former because he lacks a roof, the latter because he lacks property rights), he nevertheless enjoys many of the key social goods secured by a *home*.

As this implies, a home does not *just* provide control over a space. In repeatedly referring to 'valuable activities', Essert seems to appreciate this without admitting as much. Our argument here, which makes explicit what is only implicit in Essert's paper, is that many of these valuable activities are paradigmatically social. Importantly, these activities are not simply optional extras, but meet important needs, the satisfaction of which is as fundamental to leading decent human lives as is being able to wash, clothe, and feed ourselves. The assumption that property rights do enough to satisfy these needs is mistaken. Of course, Adam has no *legal* right of access to the places where these social goods are available to him. But, the strength of his relationships with his friends, and the security, acceptance, and respect *this* provides him, remain arguably preferable to the legally secure access Joyce enjoyed to her own bathroom, kitchen, and bedroom.

The story of Adam, precisely because it *is* far-fetched, reaffirms that street homelessness is typically a condition of compounded deficiencies, only some of which have anything to do with property. Typically, those deficiencies include not just a lack of resources, safety, and accommodation, but also a lack of a stable social network, and the social spaces in which to contribute and gain recognition. Typically, street-homeless people lack access *both* to spaces under their control *and* to healthy associations that might provide access to such space and thereby satisfy some of their social needs.<sup>46</sup> The fact that Adam has access to places where he can bathe and

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<sup>46</sup> This is a recognized part of homelessness for those working on the frontlines with rough-sleeping homeless people. 'Being homeless ... is linked to the breakdown of personal and social relationships and being put at a distance from social networks and connections'. Ben Sanders and Brianna Brown, "'I Was All on My Own': Experiences of Loneliness and Isolation amongst Homeless People', *Crisis*, December 2015, 1.

store his belongings, has opportunities for work, and has loving family and friends with whom he can be intimate, renders his housing situation very different from real-world rough sleeping.

Adam's 'idyllic' arrangement can also be contrasted with the plight of couch-surfers who join their friends living in cramped quarters. The problem with overcrowding – which confronts many people living in housing that fails to meet their households' spatial needs – is that it puts acute pressure on the relationships which are keeping those people both housed and homed. Sleeping on someone's couch will create friction between people sharing an overcrowded space, and thereby put at risk those relationships that constitute many valuable activities. Hence, a real-world rough-sleeper would not necessarily solve all of his problems if he found a couch to sleep on. Property rights, as we have been at pains to recognize, are typically good and, more often than not, preferable instruments for both housing and homing people. Our argument has only been that these rights are not enough to make a home, and that homes can be built without them, even when – ideally – they should not have to be. To say that a home is more than a key to a door is not to deny that the key is a good place to start.

Indeed, plenty of valuable activities can begin from a legally insecure base, even though it would be better if they did not have to. By definition, people who squat lack rights to reside, but this need not mean squats are inhospitable to valuable activities. Couch-surfing at friends' houses – when those houses are sufficiently roomy – is similar: a person may be legally insecure while being securely socially embedded. Staying on friends' couches, especially during young adulthood, is a normal experience, quite distinct from the experiences of rough-sleepers. The friendships that can make the couch a decent place to sleep, at least for a while, also *secure* it as such.<sup>47</sup> Many squatters and couch-surfers are knitted into social worlds which furnish them with precisely the kinds of valuable activities that would seem, in Essert's view, to be impossible without the property rights he argues constitute them. The same is true of the adult child still living at home. Lacking property rights when supported by loving parents is not an obvious instance of homelessness. Moreover, if the adult child has his own wing of the house,

<sup>47</sup> There are *political* and *pragmatic* reasons to count these as instances of homelessness, precisely because they signal potentially very precarious housing situations.

such that he can pursue activities and relationships with outsiders, he enjoys secure social space and control which, though they lack explicit legal protections, can be considered preferable to even robust forms of secure tenure. In short, social relationships provide security, imperfect to be sure, through which people can navigate fraught or otherwise difficult housing situation by relying on histories of deep mutual affection and the obligations these create.

It is interesting to note that when Essert appeals to the security of tenure enjoyed by tenants in France – where there are no ‘no fault’ evictions (i.e. no evictions without cause) and three-year terms – he also accepts that French tenants can still be evicted by their landlord for a number of reasons – such as that the landlord wishes to live in the property or wishes to sell it. A tenant could have been born in and lived in such a property for decades but this counts for naught within *this* particular relationship. By contrast, most parents are unwilling to evict their adult children because they regard their role as parents as incompatible with that kind of action. Adult children who suffer from depression, who are in and out of employment, or who are otherwise without stable income, would likely suffer from severe housing deprivation without the homes provided by parents. Therefore, unless Essert is willing to go so far as to define *secure property rights* in terms of indefinite tenancy where landlords’ rights to alienate property are reduced to the point where tenants enjoy lifetime tenancies with related assistance during periods of rental arrears (akin to public housing), Essert’s idea of control over space also comes with substantial caveats. This is not to say that security which relies on relationships is always preferable, only that appeals to property rights, even relatively secure ones, can still lack robustness.

Thinking of homes in this alternative way – as *social* spaces in which we are welcome, respected, and accepted, and we know we belong irrespective of our legal rights to occupancy – both cuts across legal definitions of *homelessness* and throws into sharp relief the meaning of *legal ownership* when the places to which we *do* have legal access fail to contribute to satisfying the social needs constitutive of a home. Recall Joyce’s tragic case. Since she was housed, she was not destitute in the way that rough-sleepers typically are: she could walk the streets without having slept outside or being unable

to attend to personal hygiene. Consequently, her presence in public did not reveal the desperateness of her situation in which she was unknitted from any social space of belonging and, hence, suffered from an extreme form of deprivation. Like many shelterless people, whose lack of access to physical and social places of belonging goes unnoticed, Joyce also passed beneath the attention of the world. It was precisely this that allowed her death to go undetected for so long.

#### IV. SOME IMPLICATIONS

Ordinarily, we do not understand the notion of a *home* to mean either having access to a private space in which to perform basic human tasks (a shelter) or having residential property rights (a house). Most commonsense understandings of *home* are richer, and invariably positive, something that Essert hints at whenever he appeals to valuable activities and to the distinction between house and home. The many proverbs about *home* reinforce its elevated place in our minds: 'Home is where the heart is'. Or, in the lapidary stylings of Robert Frost, 'Home is the place where, when you have to go there, they have to take you in'.<sup>48</sup> Whenever we hear someone echoing Dorothy's famous declaration that 'There is no place like home', we conjure up a romantic image of a place of safety, warmth, and happiness, if not a Norman Rockwell-style intergenerational Sunday-dinner. Indeed, the valuable activities which, in Essert's language, 'mark the difference' between houses and homes, take us beyond dinner parties and backyard star-gazing to include confidential chats, lazing around, comfortable silences, physical intimacies, and a host of other things. When Adam engages in these activities with his friends, his lack of property rights need not detract from their collective participation in these 'goods' of home: while he does not rule the roost, he might remain at the heart of the family. Suppose, for comparison, that one of Scrooge's leases was for a property in which Adam's friends lived, and he was never included in any of the above social activities. It is clear his not being subordinate to others has done little to 'mark the difference' between a house and a home for him. Implicit in the value of these images and

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<sup>48</sup> Robert Frost, 'The Death of a Hired Man', *Selected Poems of Robert Frost* (New York: Sterling, 2017), 53.

activities are the ineliminably social connotations inspired by the *ideal* of a home.

We need not tread too far down the lines staked by Rockwellian imaginaries of *home*, nor adopt the often parochial and conservative politics they generate. As we have taken pains to stress, not everyone who is housed enjoys a home, and Essert is right that sometimes the reason for this incongruity is the lack of control a person is able to exercise over their residential space. Some people are essentially imprisoned in their residence, while others feel overburdened by the labours of trying to keep landlords at bay or maintaining their tenancy with low incomes. For others, the idea of home designates a fortress that keeps out perceived or real dangers.<sup>49</sup> Others would just as soon not live in a Norman Rockwell painting out of an ambivalence about the very idea of a settled dwelling place.

Even so, we shouldn't forget the great strides that many societies have made such that many more people now than before can enjoy their houses as genuine *homes* rather than as spaces dedicated to preparing for tomorrow's labour or as sites of marital abuse. In short, as we have stressed, home is a space within which people answer some of their deepest *social* needs. Sharon Thompson, Birmingham City Councillor Cabinet Member for Homes and Neighbourhoods, was on the streets as a 16-year-old. As we quoted at the outset, she had this to say about homelessness: 'Homelessness is more than just about a house. It is about a whole life and creating a home. It is more than simply giving [people] a key to a door'.<sup>50</sup> This understanding recognizes what we have argued above – that property rights provide only tools, often necessary but certainly not sufficient, to make homes. Marking the presence or absence of property rights is thus a useful, but also an incomplete way of evaluating people's control over their social environments and how well these social environments address their social needs. Relatedly, reaching a threshold supplied by *home* – the highest rung of our conceptual ladder – is more demanding than any threshold defined exclusively in terms of property rights.

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<sup>49</sup> Bonnie Honig, 'Difference, Dilemmas, and the Politics of Home', *Social Research* 61:3 (1994), 567, 580.

<sup>50</sup> BBC Interview, 4 June 2020: <https://www.bbc.co.uk/iplayer/episode/m000jrpr/bbc-news-at-ten-04062020>.

This conclusion has important policy implications. For example, when the state recognizes that a person is unhoused, i.e., lacking property rights, then that person's networks and relationships, which we argue are constitutive of her home, should not be sacrificed at the altar of property rights.<sup>51</sup> This sacrifice occurs, for instance, when a shelterless or houseless person must accept accommodation outside of the area in which she ordinarily lives. In our view, although this accommodation shelters or even houses her, she remains homeless – or even *becomes* homeless – until she is able to establish new, local relations necessary for engaging in valuable activities. Moreover, the state's duty of care does not end when property rights are recognised. The wider concern with *homing* a person demands more from state authorities and other institutions, and limits what they may do when they act to house people. Certainly, the state can assist people who are suffering from severe housing deprivation by supplying them with property rights. But, these are not the only relevant factors states must consider when meeting their duties of care.

Similarly, when, to facilitate gentrification, people are relocated outside of their local area (and not simply evicted), their property rights are sometimes retained and transferred by the state. On any account that focuses on property rights as the criterion for a person being homed, this would look sufficient: her property rights are kept intact and in some ways become more secure, since in the new location, which is typically on less desirable real estate, she is at less risk of being displaced. However, on our view, such people are *rehoused* by relocation efforts, but not *rehomed*. Relocation can in fact render these people homeless. Particularly for low-income communities, where community support networks are especially important, relocation efforts strip away important parts of what made their houses homes. Property rights are an important part of the equation, but their value comes partly from the social functions and histories of social interactions they facilitate. Our concept-ladder thus explains what would otherwise be a paradox, that a person housed away from friends, family and other associates, away from patterns of

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<sup>51</sup> It is harder to perceive social connections as supportive – and hence as supports which could help one stay out of what Webb and Gaszo describe as 'absolute homelessness' – when one is relocated to a strange place. Jason Webb and Amber Gaszo. 'Being Homeless and Becoming Housed: The Interplay of Fateful Moments and Social Support in Neo-liberal Context', *Studies in Social Justice* 11:1 (2017) 65–85.



interaction and cherished support networks, is being simultaneously housed and deprived of her home.

#### V. AN OVERLY EXPANSIVE UNDERSTANDING OF *HOME*?

It is not accidental that, in Adam's story, he remains close to a stable network of associates who *do* enjoy property rights.<sup>52</sup> Property rights are still doing something for Adam indirectly. But this indirect benefit, mediated as it is through close social relationships, takes us from *house* to *home* on our concept-ladder, affording a more nuanced understanding of social control. There are potential problems, however, with using this expansive understanding of *home*. Once we start to understand homes as more than – or, exceptionally, as something *other* than – secure access to four walls and basic amenities, we risk not talking about homelessness at all: the connection between homelessness and houses might become attenuated to the point of being severed.<sup>53</sup>

By saying that homelessness is more than rights of occupancy, we might seem to be saying that homelessness is not about housing at all, but about having enough of our social needs met for us to *feel homed*. In terms of how this might inform concrete policy decisions, we might be read as offering the bizarre suggestion that governments should focus only on reducing loneliness and encouraging belonging – investing in public libraries and community centres or social technologies – rather than securing housing. Of course, we are not suggesting this. Having legally guaranteed access to residential property is, in most societies, an important part of being and feeling safe, provided that the property is one within which the person is indeed safe, accepted, and respected. Moreover, the belonging that people can find in 'public' settings – with friends late at night on the school bleachers, in a knitting group at the local library, in an online setting – cannot approximate let alone replace the vulnerability-re-

<sup>52</sup> Cara Nine emphasises the importance of 'place attachments' provided by homes, which in turn help people's cognitive development in terms of '(1) the ability to form memories, attitudes, beliefs, and emotional attachments; (2) the ability to evaluate, reflect, and revise values, attitudes, and beliefs; (3) the ability to perform actions consistent with one's commitments'. Where Joyce lacked these in terms of her housing, Adam, though lacking property rights himself, could be seen as enjoying the benefits of place attachments that are secured by other people's property rights. Cara Nine, 'The Wrong of Displacement: The Home as Extended Mind', *The Journal of Political Philosophy* 26:2 (2018) 242.

<sup>53</sup> Cf. Iris Marion Young, *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton: Princeton University Press, 1997), 161–164.



quiring and vulnerability-honouring intimacies that distinguish the social world of a home. Nothing we have said seeks to weaken these legal guarantees. Strengthening tenancy laws is undoubtedly important to strengthening people's abilities to stay connected in their social spaces.<sup>54</sup> We aim only to stress that talk of enforceable property rights cannot do justice to the most important functions a home performs.

In other respects, however, the perceived counter-intuitiveness of our expansive conception of a *home* is a bullet we are happy to bite. As soon as talk turns to *valuable activities*, as it does with Essert's justification of property rights, we are inevitably taken beyond what the language of property relations can hope to capture. Take some members of what we might call 'the squatting community'.<sup>55</sup> Such groups could be understood as homed even when the shelter they enjoy is illegally acquired and occupied. Such spaces, though legally insecure, can offer the goods of a home precisely because of the communities that can occasionally thrive there. What this can mean is that the people squatting should be granted rights to occupy when, for instance, the place has been abandoned by its owners or is not ordinarily used as a primary residence: when property-as-asset meets home, home should win. Even more controversially, focusing on the valuable activities homes are supposed to secure will mean that people who must commute and work too much in order to retain their property, and who consequently must spend too little time together engaging in valuable relationships and activities, can be described as suffering from injustices that, when severe enough, render these people homeless, even though they are housed.<sup>56</sup> At the very least, we can say the quality of their homes is being undermined by parts of their lives over which they lack sufficient control.

One of the advantages of focusing on property rights is that it is more straightforward to legislate: a threshold of property rights sufficient to cure homelessness is established, and a person below that threshold is recognized as homeless. By contrast, the law seems unsuited to judge the quality of a person's *home* in the richer sense we describe. Indeed, we have even suggested that both squatters and

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<sup>54</sup> Wells, 'Right to Housing', *supra* note 7 at 408.

<sup>55</sup> Alexander Vasuvedan, *The Autonomous City: A History of Urban Squatting*. (London: Verso, 2018). Ch. 2.

<sup>56</sup> Charles Montgomery, *Happy City* (Canada: Doubleday, 2013), 51.

adult children living amicably with parents should not count as homeless even though both groups lack property rights and would be deemed homeless according to the property-relation criterion. Even if it would be preferable for these people to enjoy more secure property rights to sustain their respective homes over the long term, we nevertheless recognize possibilities for valuable activities where Essert does not. These difficulties notwithstanding, recent governmental interventions on issues such as loneliness suggest that the social needs we highlight in this paper are gaining traction, even though they are not always framed in terms of *home*. Social prescriptions, for example, where people presenting to their family doctor with symptoms of severe loneliness are offered assistance to join a local club or association, suggest that people's social needs are beginning to receive the attention they deserve.<sup>57</sup>

Ultimately, the main advantage of our approach is that it can accommodate the role of property rights while also recognizing that the harms of homelessness and the goods of a home are rooted in more than a legalistic assessment of the presence or absence of property rights. No matter how confected Norman Rockwell paintings and Robert Frost poems might feel, the functions that a home performs run deeper than what can be captured by a contract.

## VI. CONCLUSION

In this discussion, we have examined both the nature and harms of homelessness in its many forms and the goods that a home provides by way of remedy. We have also articulated a multi-runged concept-ladder pertaining to the notion of a *home*, which isolates the concept of *shelter* from that of *housing*, and *housing* from that of a *home*, and shows that the goods each protects are broadly distinct, though typically the goods protected by the lower-rung concepts are incorporated into the richer, upper-rung concepts: a person can be sheltered without being housed, and housed without being homed. Exceptionally, a person could be homed without being housed, as in the case of Adam, which we admit is exceedingly rare.

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<sup>57</sup> See Kimberley Brownlee and David Jenkins 'Prescribing social activities to lonely people prompts ethical questions for GPs', The Conversation UK, November 21 2018: <https://theconversation.com/prescribing-social-activities-to-lonely-people-prompts-ethical-questions-for-gps-105439>.

Centrally, we have shown that the core of a *home* pertains to belonging and specifically to belonging within a close social group. Once the concept of *home* attaches to interests in belonging, it inevitably refers to much more than the legally-enforceable control secured by sheltering rights or property rights. First, *home* must certainly be understood in terms of valuable activities, but, as we have shown, such valuable activities can both flourish without specific property relations and flounder with them. Second, employing a social-goods notion of *homelessness* best tracks the lived experiences of rough-sleepers who stress that the worst harms they endure are not exposure to the weather or even physical insecurity due to not having a house under their own lock and key, but shaming and ostracism: rough-sleepers typically lack access to a socially-constituted space within which they are safe, accepted, and respected on their own terms and can engage in the valuable activities of intimacy and reciprocal care. As such, rough-sleeping is not an aberration distinct from other kinds of homelessness. Instead, it is a point at the extreme end of a continuum that pertains both to a lack of belonging and a more general failure to meet people's basic social needs. Behind doors, between walls, and under roofs there is a world of unseen homelessness, of the type that saw Joyce Carol Vincent dying alone and lying undiscovered for close to three years. We *all* crave – and need – to belong, and to belong broadly on our own terms. This is the decisive function of a *home*.

#### ACKNOWLEDGMENTS

We are grateful to Katy Wells, our anonymous referees, and the participants of the Oxford Seminar in Jurisprudence (2020) for valuable feedback on this paper. We would also like to thank Simon Gansinger for comments on an early version of this paper.

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