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Gentrification and Occupancy Rights

Abstract: What, if anything, is problematic about gentrification? This paper addresses this question from the perspective of normative political theory. We argue that gentrification is problematic insofar as it involves a violation of city-dwellers' occupancy rights. We distinguish these rights from other forms of territorial rights, and discuss the different implications of the argument for urban governance. If we agree on the ultimate importance of being able to pursue one's located life-plans, the argument goes, we must also agree on limiting the impact of gentrification on peoples' lives. Limiting gentrification's impact, however, does not entail halting processes of gentrification once and for all.

Keywords: gentrification, justice, occupancy rights, territory, democracy, urban governance.

Imagine you are taking a walk in London's West End. Exploring the backstreets, the likelihood is high that you will pass by Berwick Street Market. Located at the heart of Soho, this was once a traditional street market selling food and household goods, but all that you will find today are a few relics of this and a number of hot food stalls. Yet even the remainders of the historical market, which dates back to the 18th century and saw its heyday in the 1920s, are under threat. For the council of the City of Westminster 'wants to "privatize" the market by bringing in a commercial operator as the stallholders' landlord, following a tendering process' (Rustin, 2016).

This decision immediately drew public criticism. The traders responded by launching a campaign called *Keep Berwick Street Market Independent*, stressing that their licenses, which Westminster City Council terminated without warning, 'are peoples livelihoods, businesses and relationships, and belong to traders who are part of Soho's history and culture.'¹ West End councilor and former Soho resident Glenys Roberts is on the campaigner's side. 'The land is obviously worth a fortune and people want to maximize it,' he says, 'so it's a fight between that philosophy and the people who remember the old Soho' (Rustin, 2016).

The ‘fight’ Roberts speaks of is one that is fought, in different ways, in many a city today. From the traditionally African American areas of Portland, where black residents are being pushed out as new businesses move in, to the now-famous Babilônia favela in Rio, where numerous poor residents were rehoused against their will in connection with the ‘upgrade’ the area underwent prior to the 2016 Olympics, the well-off routinely change the social composition and physical environment of neighborhoods in larger cities — often with troubling effects, and often triggering local resistance and protest. This phenomenon is widely known as *gentrification*, defined by the *Oxford English Dictionary* — rather benignly, one may add — as the effort to ‘renovate and improve (a house or district) so that it conforms to middle-class taste.’

Gentrification is a hotly contested trend. On the one hand, its adverse consequences, particularly for the less well-off, who are often ‘priced out’ of their neighborhoods, leads many city-dwellers and commentators to suspect that what is sometimes called ‘urban renewal’ is a mere euphemism for entrenching existing inequalities in contemporary cities (see, e.g., Gibson, 2015). On the other hand, though, from the viewpoint of justice these grievances stand in stark opposition to the basic liberty of all citizens to choose and change, within a given jurisdiction, the location where they dwell, work and do business — at least *prima facie* irrespective of the social ramifications.

Given its controversial and ambivalent nature, it does not come as a surprise that gentrification is a prominent subject of public debate, and that there is a large body of social-scientific literature devoted to the topic. Political theorists, however, have paid scant attention to gentrification so far.² This is somewhat surprising given the important justice-related issues gentrification raises. Most importantly, we need to ask what claims (if any) those adversely affected by gentrification have against it, and on what

grounds they might have such claims. The purpose of this article is to answer these questions.

Briefly, our argument is that gentrification is problematic insofar as it violates city-dwellers' occupancy rights, understood as their rights to continuously occupy the place in which their social, cultural, and economic practices are anchored. An occupancy-based approach to the wrong of gentrification, we suggest, can both justify substantive policy measures aimed at protecting local residents from economic expulsion and support the case for making neighborhood governance more democratic, allowing residents to take ownership of their neighborhoods.

The argument unfolds in three sections. We begin by introducing the basic phenomenon of gentrification. In the second section, we develop our account of occupancy rights, arguing that it can ground a claim against being displaced, on economic grounds, from one's location of dwelling. Section three argues that while such a right cannot render a neighborhood immune from the transformative effects of gentrification, it should be taken to include an entitlement to exercise democratic control over its character, shape, and physical appearance.

What is Gentrification?

What does it mean to say that a neighborhood or area is being 'gentrified'? The British sociologist Ruth Glass is often credited with coining the term gentrification in her 1964 book *London: Aspects of Change* (Atkinson and Bridge, 2005: 3). Glass's book was concerned with the displacement of lower-class residents by the influx of middle-class people in districts such as Islington; it arose from a preoccupation with an emerging

trend towards rehabilitating working-class neighborhoods at the expense of the working class and the districts inhabited by the latter.

Since the time of Glass's book, a vast literature on the topic of gentrification has emerged, notably in the fields of urban planning and urban sociology. Later works have expanded the focus from the 'rehabilitation of working-class and derelict houses and the consequent transformation of an area into a middle-class neighborhood' (Smith and Williams, 1986: 1; Hamnet, 1984: 284) to newly built designer neighborhoods and the construction of middle-class establishments on vacant land (usually in prior industrial use) — which were emergent urban trends in the 1980s and beyond.

Gentrification is often said to be a 'highly dynamic process' and thus 'not amenable to overly restrictive definitions' (Smith and Williams, 1986: 3). This is certainly true. Differences across local histories, politics and demographics have shaped urban structures and, with it, the ways in which gentrification proceeds. While in European cities gentrification usually takes the form of localized processes affecting neighborhoods all across the city, for example, in the American context it tends to be more streamlined: since the 1980s, cities such as Washington DC, New York or Chicago have witnessed a movement of affluent, creative and mostly white people from suburbia (back) into the inner cities, while growing numbers of minorities (in particular African-Americans) moved to the suburbs (Ehrenhalt, 2012).

But even if gentrification is multifaceted and encompasses a number of different and often overlapping forms of urban transformation, it is still possible to identify some core features of the phenomenon. In particular, we suggest to differentiate between several (interrelated) dimensions or 'faces' of gentrification. First, processes of gentrification usually unfold both on a *spatial* and a *social* level, that is, they change

both the physical environment of a neighborhood and the people residing or engaging in economic or social practices in it.

a) *Spatial* changes range from the emergence of so-called ‘third wave’ coffee shops — which in some cities have become almost synonymous with gentrification — to the replacement of affordable or subsidized forms of housing with luxury flats and ‘loft conversions’ (Hamnet and Whitelegg, 2006).³

b) *Social* changes usually accompany these transformations. Long-standing residents or shopkeepers are often forced to leave a gentrifying neighborhood as middle-class people, who can afford increased rents (for housing and business premises) and living expenses, start populating it. These two aspects are of course closely intertwined and mutually reinforcing: the new group of residents is attracted to the neighborhood in question precisely because of its ‘upgraded’ physical appearance and infrastructure, which they further shape in accordance with their tastes and preferences once they settled in.

The second distinction we introduce concerns the *effects* of gentrification. Here, we distinguish between *transformation* and *expulsion* as two extremes located at the respective ends of a continuum that accounts for the way in which gentrification impacts on the life of existing residents.

c) On the more benign ‘transformation side’ of the continuum, residents are faced with a changing ‘lifeworld,’ having to adapt to strangers in their midst and perhaps hitherto unknown social practices. They may have to get used to multiple different languages that were not previously spoken in their neighborhood, for

example, and to new shops that cater to the tastes of those who just started to populate the area. The induced diversity may lead residents to feel unable to express themselves culturally and sustain their cooperative structures, triggering a sense of alienation in an environment they were once familiar with. Likewise, the owners of local bars, restaurants or shops might increasingly struggle to find customers because those who start populating the neighborhood simply have different tastes and preferences.

d) On the more troublesome ‘expulsion side’ on the continuum, gentrification may compel the long-term residents of a neighborhood (or their friends and family) to move elsewhere. The sometimes-steep increase in prices, rents, and living costs caused by the processes set in motion by gentrification can subject less privileged residents to severe economic pressure and duress, to the point where they have no choice but to move elsewhere; they are ‘priced out’ of their neighborhood. This obviously also applies to local businesses: as the example of Berwick Street Market that we have mentioned at the outset shows, shopkeepers who do not necessarily *reside* in a particular neighborhood may equally be priced out of it.

In sum, we understand gentrification as a transformative process driven by the influx of middle class people into formerly lower class areas, which consists in a change of the spatial appearance and social composition of urban spaces, and which can yield implications for both residents and those who engage in economic or social practices in those spaces, that range from the mere transformation of neighborhoods to the expulsion of those who reside or work there. We stress again that we think of these different effects in ‘scalar’ terms, and we will therefore account for them within a

unified normative framework.⁴ It is important to keep these effects analytically distinct, however, given that they demand rather different normative and political responses.

Gentrification and Displacement

Let us begin investigating the normative issues raised by gentrification by looking at a case of gentrification in contemporary America.⁵ In the north-eastern parts of Portland, Oregon, the black population has dropped from 30 per cent to 17 per cent over the past fifteen years due to rising housing prices and the influx of white middle-class people. A group of black professionals who are disaffected by the disappearance of a significant aspect of their identity seek to reclaim what were formerly black neighborhoods with black-owned business developments (Sevcenko, 2016). The idea underlying this initiative is that the social structures, networks and practices to which their life-plans and (to some extent) their identity are closely connected have come under threat. As one activist puts it, ‘You can’t grow as a community if you’re scattered to the wind.’⁶

Appeals of this kind reflect the fact that people always operate within structures of relationships that give meaning to their lives, ones that are shaped by ‘loyalty to particular people, the sense of being at home with those people, the richness of a received tradition, and the longing for generational continuity’ (Walzer, 2003: 12). Obviously, the rapid extinction or relocation of these interpersonal networks can result in a loss of identity and community — a loss of (literally) feeling ‘at home’ (Jupp, 2013). Notice furthermore that those resisting gentrification appeal to the way in which their social relations and practices are ‘located,’ in the sense of being intimately tied to a specific geographic location. This observation is important because it indicates that

the social relations and practices on which gentrification typically impacts cannot plausibly be conceived as detached from a particular physical environment. Quite the contrary: the social networks of people are usually firmly anchored in particular places, and cannot be untethered from them.

So those negatively affected by gentrification suffer from the fact that it alters the external environment in which they dwell and/or the social networks embedded in this environment against their interests. One way or another, those protesting gentrification usually appeal to the ‘locatedness’ of their identity, their projects and social networks when pressing a claim to non-gentrification. This insight allows us to conceptually grasp the phenomenon of gentrification. Our contention is that the concept of ‘located life-plans’ (and the idea that there are occupancy rights adjacent to those life-plans) offers a useful conceptual foundation for theorizing claims against gentrification.

Located life-plans and claims against expulsion

The concept of located life-plans is predicated on the observation that the plans, projects and relationships of human beings are in numerous ways intertwined with certain spatial arrangements, in particular with one’s location of dwelling (Stilz, 2013; Stilz, 2014; Moore, 2015). In other words, many of the ends we set for ourselves are ‘located’ in the sense that we pursue them *somewhere* (Stilz, 2013: 338).

For example, our economic practices are often structured around a particular geography and climate (think of a farmer in rural Kansas). The same goes for many of our recreational (think of beaches and mountains) and religious (think of the significance of specific places of worship) activities. These practices and activities

could not simply be reconstituted in a different place. Obviously, this is also true for our social life, where many of our dearest relationships depend on, or are least built on the assumption of, the physical presence in a particular place of those with whom we share the most intimate bonds.

Furthermore, our commitment to certain located life-plans is driven and sustained by the presumption that spatial arrangements are relatively stable and will not be massively disrupted. Indeed, humans tend to structure the activities (and form the associations) that are central to their conception of the good on the assumption that no consequential spatial disruptions will occur. Someone who marries and builds a home for her family, for example, typically does so expecting that that home will remain affordable on the long run, and perhaps even that the neighborhood where it is located will remain liveable. When stability assumptions of this sort are proven wrong, individuals' life-plans and thus their flourishing are at risk.

One way of putting the point is to say that how well our life goes depends (to a significant extent) on our success in pursuing the projects we have set for ourselves and the relationships we value (Raz, 1986: 288-320), and since these projects and relationships are always spatially located, the occupancy of a particular place is of central importance for our personal well-being.⁷ Individuals thus have a strong interest in the continued use of, and secure access to, a place of residence, and indeed places in which their economic or social life is situated, in order to pursue their located life-plans, given that this is a necessary background condition for the pursuit of virtually any conception of the good.

The further thought is then that our plan-based interest in continuing to occupy (either by directly residing in or having continued access to) the places where our social, cultural, and economic practices take place is strong enough to ground 'occupancy

rights' (Stilz, 2013),⁸ that is, to justify *prima facie* duties on others to respect that interest. Occupancy rights thus conceived are usually taken to involve two instances: (1) the liberty to reside permanently in a particular space and/or to make use of that area for social, cultural, and economic practices,⁹ as well as (2) a claim against others not to remove one from the area, and not to interfere with one's use of that space in ways that undermine the shared social practices in which one is engaged (Stilz, 2013: 327-328).¹⁰

Importantly, while these rights are 'property-like' rights to remain permanently at a specific place, they only contain *some* of the instances of a full-blown property right as a more robust kind of control. That is, they are relatively weak and restricted use-rights over the earth's surface. They may be taken to exclude, for example, rights to the income from natural resources contained within the relevant piece of territory, to alienate or bequeath the territory, or to exclude others from it (given that their access does not disrupt the holder's residency there and her ability to participate in social practices) (Stilz, 2013: 327). The latter point is particularly important for us, as it pre-empts the objection that the concept of occupancy rights suffers from a fatal *status quo* bias. The fact that someone has occupancy rights in New York just because they happen to live there (possibly without even appreciating their city at all) does, at least in principle, not hinder others — who may have dreamt of moving there all their life — from pursuing their life-plans there. In contrast to property acquisition, there is nothing being 'seized' from what was available to all as an agent acquires occupancy rights. A variety of occupancy rights can coexist and overlap at one and the same location.

Our claim is hence that occupancy rights thus conceived ground a *right against expulsion*, thus protecting against the most extreme effect of gentrification processes.¹¹ That is to say, residents should be thought to have a plan-based right to remain in the

neighborhood where their social, cultural, and economic practices are located, which goes some way in protecting them from being ‘priced out’ of it.¹² Consistent with what we have argued thus far, this right can furthermore be attributed to those who are not residents in the more narrow sense of living in a given neighborhood, but pursue social, cultural, and economic practices there.

To be sure, the fact that the processes that lead to expulsion are typically market-mediated complicates things significantly. Its most immediate implication concerns the question *against whom* the right against gentrification we have just established can be brought to bear: given that it is difficult to single out particular agents that can be held responsible for displacing local residents, we suggest that there is an obligation incumbent on the political community as a whole to limit the pertinent market processes politically.

Notice that Stilz, on whose work we draw here to defend occupancy rights, denies that occupancy rights ‘extend to a duty to subsidize others against economic and social change’ (Stilz 2013, 344).¹³ For instance, a group that has historically practiced mining in a particular location (and has developed a way of life based around it) does not have a right to have their dying industry subsidized by the state if mining becomes unprofitable. Her main motivation for rejecting this idea is that others may potentially have countervailing interests in the continued functioning of the market economy (due to the distinctive benefits it yields, e.g., dynamic innovation, lower prices or greater opportunities) that outweigh occupancy-based interests.

However, this view is not incompatible with ours, for our claim is not that occupancy rights are the be-all and end-all of urban governance that always and necessarily override all competing claims, including market-based ones. Our claim is more limited: we argue that occupancy rights are a crucial normative consideration that

ought to be taken into account in organizing our cities, and taken into account more than is currently the case in most cities.

Moreover, even if we acknowledge, following Stilz, that there may be weighty competing interests, we argue that balancing those interests against occupancy-based interests cannot itself be left to markets. The latter may be the solution favored, for instance, by a Dworkin-inspired resource egalitarian. Assuming we had a fair distribution of purchasing power and individuals were protected from Pareto inefficiency and prejudice,¹⁴ a resource egalitarian might argue, markets are well placed to protect individuals' plans and rights. For example, if people started from a position of initially equal bundles of resources, they could purchase ownership rights that enable them to pursue their plans. Consequently, we could simply let the popularity, desirability, and ultimately also the affordability of a given neighborhood be determined by the decisions of all those who make use of their liberty to move, invest and work wherever they want within a city.

The problem we see with this approach is that market mechanisms are insensitive to the sorts of values at stake in the located life-plans that ground occupancy rights. This is because the kinds of rights we have in mind — rights that apply to a certain location but that are not property rights — cannot be commodified. Recall that there is a significant difference between my private ownership right over (say) my house, on the one hand, and my occupancy right that applies to the space in which my house is situated, on the other. The only way adequately to recognize the latter rights, then, is by tightening the reins on market forces, limiting their capacity to marginalize these non-marketable goods. This is why we reject the tendency, predominant in many of our cities, to consider individuals' entrepreneurial energies and market freedoms the only legitimate force behind urban change and renewal.¹⁵

Now, the resource egalitarian may well accept this point but argue, against our position, that in granting people a right against expulsion regardless of their relative standing in society, our account problematically rewards individuals who have life-plans that are relatively costly to realize. For is it not counterintuitive that, for example, a wealthy individual who resides in an expensive area has a right against being priced out of her neighborhood (in which she has located life-plans), even though many other areas of the city remain affordable to her? The resource egalitarian critic may accordingly want to deny the requisite protection to those with relatively ‘expensive’ life-plans, and suggest that gentrification is only objectionable to the extent that its victims have an unfairly small share of resources.¹⁶

The first thing to say in response to this is that we do not deny that our plan-based account has a welfare-egalitarian bent: the normative weight of located life-plans as we have conceptualized them is independent of whether those who hold them are relatively poor or wealthy. However, that does not mean that our account is unable to track the widespread intuition that concerns about gentrification are typically concerns about the less well-off being driven out of areas in which their lives and communities are located. To see this, recall first that the less well-off are especially vulnerable to gentrification-induced social transformation. Their social networks tend to be the most ‘local’ and least mobile, not least because they often depend on networks of informal support within their neighborhoods, both for themselves and for their families. Moreover, they lack the financial means to move around within and across neighborhoods in ways that would allow them to sustain or autonomously modify their located life-plans. Thus, even if their plan-based claims themselves are not weightier than those of wealthier co-citizens, the less well-off will more frequently be in a position to bring to bear the rights that derive from those claims.

It is also worth underlining in this context that our aim is not to provide a general framework of distributive justice, but to look closely at a specific normative phenomenon and examine what (if anything) is wrong with it. This means that we deliberately abstract from the fact that gentrification typically occurs under conditions of structural inequality and power asymmetries. We take this to be justified not least because — as we have seen earlier — those negatively affected by gentrification tend to give their grievances a rather ‘local’ framing, to do with the integrity, history, and well-being as it were of the particular neighborhood community in which they dwell and with which they identify. In short, the victims of gentrification typically raise claims against what they perceive to be a very *distinctive* wrong. Taking the perspective of those affected by gentrification seriously, our aim is to examine the question of what they might legitimately hold against it, while remaining agnostic concerning the just distribution of benefits and burdens across society as a whole.

Before we proceed to list some policy instruments by way of which the relevant processes can be regulated to honor the rights that derive from located life-plans, let us address a further objection. This starts from the observation that the extent to which conceptions of the good life are territorially grounded varies considerably with individual lifestyles and socio-cultural contexts. There are people — think of untenured academics, diplomats or touring musicians — who more or less voluntarily lead a quasi-nomadic life that is less heavily reliant on spatial arrangements in the sense we deem significant here. Are we not treating those unfairly when we assign such great normative weight to ties with a geographic location of dwelling?

While there are certainly (still relatively rare) cases of individuals who lead ‘quasi-nomadic’ lives, let us emphasize again just how wide the range is of — otherwise wildly diverging — conceptions of the good life that ultimately *do* depend on stable

residence in the place where they are pursued. The spatiality of life-plans is not just one aspect among many that are relevant for pursuing one's life-plans; it constitutes a more fundamental background condition that enables and structures all kinds of further choices that together determine how someone's life goes.¹⁷ As Margaret Moore puts it, '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.'¹⁸

We thus think that *typically* the relevant interests are strong enough to ground such a right, that is to hold others (in our case, the political community as a whole) under the requisite duty. We concede that insofar as someone's life-plans are not (or to a lesser extent) located, their claims in this regard are indeed weaker. This, however, is not to deny that individuals may very well have claims to urban space based on considerations other than occupancy (e.g. on their interest to effortlessly move around within and between different neighborhoods and cities). As we have just mentioned, our aim here is not to make the case that occupancy rights are a panacea for urban governance or that neighborhoods should be hermetically sealed from newcomers and their transformative impact. Rather, our claim is the more limited one that local dwellers, and those who pursue their economic, cultural and social practices in a particular neighborhood, have justified claims against gentrification processes that undermine their located life-plans; and that those claims ought to be taken seriously (more so than currently tends to be the case) in structuring our cities.

Displacement and urban governance

Let us now briefly run through a few policy responses that can counteract the sort of urban transformation that renders some groups vulnerable to expulsion. We do not want to commit to a strong claim concerning the overall effectiveness of these policies or prescribe a particular policy strategy as the ‘best practice’ model, for the success of the respective policies depends on a number of contingent external circumstances and will hence vary from city to city. The purpose of the following paragraphs is simply to show that the argument advanced thus far as concrete policy implications. That is to say, we take regulatory efforts of the sort described below to follow from our occupancy rights-based account of gentrification.¹⁹

One set of instruments that has proven especially effective in protecting residents from being ‘priced out’ of their neighborhoods are rent controls and stabilization mechanisms (Ellen and O’Flaherty, 2013; Vigdor, 2003).²⁰ Rent stabilization regulations, for instance, not only limit the amount by which some landlords can raise rents but also restrict a landlord’s ability to decline to renew a lease. This allows long-standing residents to withstand gentrification, removing the imminent threat of expulsion. Importantly, this also enables those who take part in, and benefit from, a neighborhood’s economic life — without necessarily residing there — to continue doing so. Think in this connection of the owners of food stalls on Berwick Street Market that we have mentioned at the outset of the article, or the group of black professionals who try to reclaim their gentrifying neighborhood in Portland with black-owned business developments. Rent controls and stabilization regulations guard against the disruptive effects gentrification can have on the livelihoods of these individuals when it forces them out of the neighborhood in which they pursue (some of) their located life-plans (cf. Freeman and Braconi, 2007).

Gentrification may also be *decelerated* through zoning laws that are directed at creating and maintaining a diversity of building types and, by implication, of residents. A classic policy strategy of this kind involves prescribing minimum amounts of subsidized or affordable housing (including, for instance, student accommodation) across whole neighborhoods or even (newly built) apartment blocks. Similar effects can be achieved by policies that regulate the conversion of former commercial and industrial spaces for upmarket housing purposes, such as luxury flats and ‘lofts conversions’ (Hamnet and Whitelegg, 2006). The decelerating effect this has on gentrification allows neighborhood-dwellers gradually to adapt to the changing environment without having to fear expulsion. Again, just as with rent controls and stabilization mechanisms, zoning laws also attenuate the negative impact of gentrification on individuals who engage in economic practices in a particular neighborhood without necessarily residing there. The Berwick Street Market example is a case in point: regulating the extent to which commercial spaces like that market can be bought up and converted into expensive private properties would arguably go a long way in avoiding the gentrification-driven expulsion of individuals pursuing their located life-plans.

Note that we do not claim that the above proposals are new: indeed, proposals similar to ours have been voiced and implemented in different cities. The notion of occupancy rights, however, provides a distinctive rationale for promoting and justifying such initiatives, namely that they allow honoring the occupancy rights of urban dwellers. We have no illusions that these measures will resolve all the problems that arise with gentrification processes. Nor, to repeat, do we here argue for a one-size-fits-all policy arrangement that will prove effective in any conceivable urban context (there is in fact evidence that, in some cities, some of these policies described have also had

problematic effects, see Williamson, 2010). Our point is simply that, by and large, the policies we have mentioned can serve to effectively regulate and hedge in gentrification processes, and that they can plausibly be justified on the grounds of occupancy rights.

Remember also that the normative argument set out in this section and the political measures we have outlined only work against the most radical effects of gentrification — economic expulsion and displacement. The question therefore remains whether our occupancy-based framework also offers some protection against the less harmful effects of gentrification, notably the physical transformation of neighborhoods, and indeed whether it matters that citizens enjoy such protection at all. These questions we address in the following section.

Gentrification and Transformation

So far, we have defended the claim that those who reside in and/or have their social, economic, or cultural practices located in particular urban neighborhoods have occupancy rights grounded in their interests to pursue their located life-plans. We further argued that these rights warrant policies that protect against expulsion from a particular urban space. As we have said earlier, however, gentrification typically also has less radical implications: it may involve the ‘mere’ (social and spatial) transformation of a neighborhood, without anyone being outright ‘priced out’ of it. We now want to turn to these more benign impacts. Do occupancy rights also safeguard against them?

On its face, our framework seems to suggest that this should be the case. Notice that the located life-plans of a dweller or ‘user’ of a neighborhood can be undermined

not only if they are ousted from the relevant area, but also if the area itself undergoes a drastic process of transformation. The implication could be that there is not only an occupancy-based right against expulsion, as discussed above, but also a right against the transformation the particular area itself (or of key locations therein). Our aim in this section is to withstand this move and show that there is an important *asymmetry* between the two scenarios: our affirmation of the former does not imply endorsement of the latter.

Occupancy rights and exclusive control

The existence of a rights-based claim against urban transformation would have wide-ranging practical implications: current dwellers or ‘users’ of a neighborhood would have entitlements against other citizens, who do not have any particular relationship to the neighborhood in question, not to alter their location of dwelling in ways that obstruct the pursuit of their aims, goals and practices. Clearly this would have questionable normative consequences, legitimizing (and likely leading to) the sort of segregation that would neither be conducive to social stability nor alleviate structural injustices.

For now, however, let us focus on the conceptual question: What would have to be the case, theoretically speaking, for our account of occupancy rights to imply a right that the area in which one’s life-plans are located remain unaltered? The answer is that an occupancy right would somehow need to entail a right to exclusively control the physical appearance of an area. However, we have already mentioned why individual occupancy rights do not entitle their holders exclusively to control the area in which

they dwell: we defined them as a weak and restricted use-right over a place that does not entitle its holders to exclude others from it or shape its physical appearance as they see fit. Many people can share occupancy in the same area (grounded in different projects linked to it), such that their rights overlap. This is particularly relevant in the context of gentrification, for in densely populated and dynamic modern cities, persons living door-to-door often pursue a variety of different practices and relationships within one and the same public space.

Now, there is a further argumentative strategy by means of which one might indirectly arrive at a right to exclusively control the physical shape of an area (a veto-right against urban transformation, so to speak). Conceding that individuals' occupancy rights lack the requisite normative powers, it might be argued that the accumulated occupancy rights of a set of individuals in a certain place, in conjunction, ground a *collective* entitlement to exercise (exclusive) control over the character, shape, and physical appearance of that place.

To see whether this is plausible, a brief recourse to the territorial rights literature may be useful (Kohn, 2016: 102-106). For the translation of weak, individual occupancy rights into stronger, collective rights that entitle their holders (the relevant group) exclusively to control a particular area, is a central argumentative move in this literature; and if we could make an analogous argument we might be able to defend a corporate right over urban neighborhoods.

David Miller, a well-known defender of strong collective rights over territory, has argued that what he defines as 'cultural nations' have a right (grounded in occupancy) not only against letting potential newcomers in (Miller, 2012; Miller, 2016), but also to an unchanged environment and the conservation of culturally shaped public spaces.²¹ Analogously, one might say that those affected by gentrification have

a collective right that the buildings, public spaces, and social composition of their local community remain as they are — a right to immunity from external influence, concerning both the social and spatial dimensions of gentrification. This is not a far-fetched analogy: in practice, those who protest and resist gentrification often invoke precisely such a right, as do urbanists who appeal to a ‘right to the city.’²² Think also of the Portland example we have mentioned in the previous section: there, the claims made against gentrification may straightforwardly be interpreted as group-based claims analogous to the corporate rights suggested by scholars like David Miller.

The problem is that the suggested analogy between neighborhoods and nations simply does not hold water. Despite some loose parallels, the dwellers and users of a neighborhood do not constitute a people in the sense that proponents of corporate rights over territory have in mind. Miller himself, for instance, argues that a people of the sort that is eligible for the pertinent rights must be ‘(1) constituted by shared belief and mutual commitment, (2) extended in history, (3) active in character, (4) connected to a particular territory, and (5) marked off from other communities by its distinct public culture’ (Miller, 1995: 27). While some of the mentioned characteristics may be observable in particular communities — Chinatown in New York may for instance be said to possess a public culture that is distinct from that of the rest of the city — in conjunction they are difficult to find in urban neighborhoods. Neighborhoods simply do not provide the conditions for the required kind of collective to emerge. Being enmeshed in a broader political structure without internal borders means that their residency is in constant flux — new people move in on a continual basis without sharing any of the majority beliefs present in those neighborhoods or any connection to their residents and histories.

While the focus on peoplehood brings out the disanalogy with neighborhood communities most starkly, the argument holds also if we relax the requirements a group must meet in order to qualify as a people in the normatively relevant sense. Take for instance Margaret Moore's definition of a people as a collective agent engaged in a shared political project, with the capacity to establish and maintain political institutions that enable the exercise self-determination (Moore, 2015: 53).²³ The very fact that cities are usually integrated in a larger political collective that is entrusted with the task of representing the community as a whole, both internally and externally, suggests that such a definition will equally fail to serve as the foundation for a strong, group-based right against gentrification.

Our conclusion is accordingly that we cannot translate weak, individual occupancy rights into the kind of collective rights that would justify exclusive control over the physical appearance or social composition of a neighborhood. While those affected by gentrification may well think of themselves as members of a particular group who share a place-related connection, on no plausible account of group rights can that group be conceived as the kind of collective agent that would qualify for having exclusive rights to control the piece of land on which they dwell or which they use.

Democratizing Urban Spaces

Margaret Kohn (2016: 105) has similarly argued that a veto-right against urban transformations is indefensible. From this, she concludes that 'the loss of a shared public world is a real harm,' though not a wrong that would warrant a justice-based claim. We disagree with this conclusion. It would be counterintuitive to say that

processes of urban transformation that do not result in outright expulsion lack normative relevance such that they should remain unregulated. For, as we said, gentrification-induced transformations significantly infringe on the plan-based interests of residents, and those who use a particular neighborhood for commercial, social or cultural purposes, which ought to be honored if the argument laid out above is accepted. But how should one regulate urban transformations (in cases where no expulsion takes place), such that the plan-based interests of said individuals are respected if their occupancy rights cannot ground a comprehensive rights-based claim against those transformations?

Perhaps one's initial inclination will be to think that the most effective way of honoring people's plan-based interests in cases of urban transformation is to ensure that general legislation tracks those interests (and is reliably enforced).²⁴ But even if general laws can undeniably have a positive impact on individuals' capacity to pursue their plan-based interests in a particular urban space, this approach risks overlooking the distinctively 'local' nature of the interests at stake. There are two parallel ways in which that 'locatedness' matters. First, to the extent that individuals who are negatively affected by gentrification-driven transformation processes identify with a particular neighborhood, and frame their claims against gentrification in terms of preserving what is 'theirs,' responding to their demands with general legislation — on which they at best have very indirect influence — is to relegate them to passive recipients of policy. To adequately honor the plan-based interests of, say, the members of *Keep Berwick Street Market Independent* or the black activists in Portland, it seems necessary to involve them more actively in the making of the collective decisions that concern their neighborhood.

Secondly, and perhaps even more importantly, relying exclusively on general legislation as a remedy runs the risk of simply missing the target of alleviating the problematic effects of urban transformation in *particular* local neighborhoods, since general laws by definition cannot be especially responsive to specific local grievances and demands. In other words, in virtue of being general, general laws that target urban transformation may well end up ill serving the individuals and groups whose plan-based interests are at stake. A more fruitful direction thus appears to be an approach that allows those who live in and/or pursue economic, social or cultural practices in a particular neighborhood to make the rules and regulations that pertain to their specific spatial surroundings.

In light of all this, it seems that to adequately honor people's plan-based interests in cases of urban transformation (independently of expulsion), urban governance must first and foremost be made *more democratic and inclusive*. Those whose plan-based interests are impinged by transformation processes must be provided with a channel for more directly and actively shaping the laws and policies that concern their neighborhood.

There are many instructive examples of how neighborhoods (and cities more generally) may be made more democratic, and in closing we will briefly mention two of them in order to illustrate how democratic neighborhood governance might look in practice. A particularly well-documented example is the 'participatory budgeting' initiative of the Brazilian city of Porto Alegre, the capital of the state of Rio Grande do Sul. Hailed by many observers as a 'real utopia' (Baiochi and Ganuza, 2013), a participatory budget (Orçamento Participativo) is a bottom-up decision-making process through which citizens control the larger portion of the city's municipal budget (rather than the city council, which is typically in control of municipal budgets), which

combines direct and representative mechanisms (for a detailed account, see Baiocchi, 2005; also see Fung, 2003: 360-361). This exceptionally strong form of neighborhood democracy lends individuals a great deal of authority in deciding over matters of common concern to their neighborhood and city in general, significantly marginalizing the market forces that tend to drive urban governance in contemporary cities. It thus promises to be an effective restraint on gentrification capable of softening its most adverse effects. Especially because representatives from each district can set priority themes for their respective districts and structure the official budget in accordance with these priorities, neighborhoods which are very susceptible to gentrification (and its adverse consequences) have the opportunity to counteract the developments that lead to violations of occupancy rights in a democratic fashion.

Less ambitious models of neighborhood democracy, such as neighborhood association systems, are perhaps more familiar. These also can provide useful channels for promoting the recognition of occupancy rights, even if they do not empower residents to the same extent as participatory budgeting schemes. By way of example, in 2005 the city of Portland, Oregon began a comprehensive strategic initiative to ‘strengthen involvement in Portland’s communities, create a welcoming environment for public participation, and reinvigorate the partnership between community and government’ (Community Connect, 2008). In part a response to the growing diversity and inequality in the city and the erosion of its long-standing system of neighborhood associations, this initiative involved above all an increase of funding for neighborhood association communications with their residents, and for collaborations between neighborhood district coalitions and under-engaged minority communities (cf. also de Morris and Paul Leistner, 2009: 52). The point of this was at once to mediate conflicts locally and establish a robust feedback loop between communities and the city

government that increases the responsiveness of urban policy to the demands and concerns of those whose plan-based interests are affected by gentrification.

We note in passing that democratizing urban governance is also an effective way of counteracting injustices in cities that result from political inequality. Political inequality, understood as the inability to influence the political agenda, typically stems from ‘electoral dynamics, such as the role of money and other private resources in campaigns, special relationships between some interest groups and candidates, and persistent legacies of racialized and gendered exclusion from political offices and organizations’ (Fung, 2006: 70-71). Participatory mechanisms that allow citizens to shape the laws and policies that affect them beyond periodic elections minimize political inequality and so can increase the justice of democratic governance.²⁵ Through forms of participatory urban governance like the ones we have briefly sketched above, citizens are able to create bottom-up pressures that compel authorized officials to act more justly, or, as in the case of Porto Alegre, replace decision-makers whose actions and decisions have become systematically unjust (Fung, 2006: 71).

To sum up, we argue that the plan-based interests of those who reside in or engage in economic, social or cultural practices in a particular neighborhood, in cases where the transformation of the neighborhood, rather than the outright expulsion from it, is at stake, can adequately be recognized by democratizing urban governance. As with the proposed policy measures against expulsion, we do not claim that this proposal is entirely new in substance. Nor, again, do we wish to suggest that democratizing urban governance is a magic bullet that always and necessarily provides the most effective way of dealing with the troubling consequences of urban transformation, or that it altogether removes the need for general legislation aimed at softening the impact of markets on cities. We do think, however, that the notion of plan-based interests (and

the attendant occupancy rights) grounds a strong and distinctive rationale for why urban democratization matters — and it helps us identify the nature of the injustice that is perpetrated when people's local stakes are ignored in the governance of their neighborhoods.

Conclusion

Gentrification is a pervasive trend in the cities of developed countries and many observers and ordinary citizens agree that there is something wrong with it. But what exactly does the wrong of gentrification consist in? On what grounds may one resist, restrain and police gentrification? The aim of this article has been to clarify these questions, offering a normative analysis of the rights upon which this much-debated phenomenon impinges. Political theorists have thus far remained largely silent on the topic of gentrification, and our goal has been to break that silence. If it is true, as David Harvey suggests, that we increasingly 'see the right to the city falling into the hands of private or quasi-private interests' (Harvey, 2008: 38), then the above discussion gives plenty of reason to think that the way in which our cities are being governed will have to be rethought. The occupancy rights of city-dwellers ought to be recognized and respected, and this requires limiting the power private or quasi-private interests exercise over them. In particular, we have made the case both for substantive policy measures that guard individuals from being expelled from a neighborhood in which their life-plans are located, as well as for subjecting the transformation of urban space to more democratic control. While we have no illusions that the strategies for regulating gentrification we have proposed would outright command widespread support among

all those implicated in the governance of contemporary cities, we do think that the ultimate importance of being able to pursue one's located life-plans is something most of us would likely agree on. And if we concur on that, then there can be little disagreement that there are occupancy-based rights against gentrification, too.

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Notes

¹ See: <https://www.change.org/p/edward-watson-keep-berwick-street-market-independent>, accessed 25 July 2015.

² With the exception of Kohn (2016) to whom we will refer at different points, the authors of the present article are not aware of any systematic treatment of gentrification in the field of analytic political theory.

³ For a particularly impressive case study of loft conversions (and its effects on gentrification) in the London neighborhood of Clerkenwell, see Hamlet and Whitelegg (2006).

⁴ In seeking to account for the various aspects of gentrification within a single unified framework we depart from Kohn (2016, 86-112), who deals with issues such as residential displacement, exclusion, transformation, polarization and homogenization *separately* and drawing on a number of different normative resources.

⁵ In studying gentrification from the “bottom up,” we depart from Kohn’s (2016, 95-102) attempt to account for the wrong of gentrification within a luck egalitarian framework that conceptualizes local residents’ attachment to their neighborhood as an “expensive taste” the satisfaction of which should be subsidized given that it was developed with no fault of their own. We worry that such an approach that theorizes the wrong of gentrification as largely detached from the lives of concrete, situated persons may yield misleading implications. This is a well-rehearsed theme particularly when it comes to luck egalitarianism. Paradigmatically, see Anderson (1999).

⁶ This case interestingly reverberates with recent debates about the significance of housing in the context of racial justice in the US. Elizabeth Anderson (2010) famously makes the case for an ‘imperative of integration’ across neighborhoods, schools, and workplaces in order to overcome racial discrimination. Tommy Shelby (2014), by contrast, has argued that the self-segregation of communities of color may often serve to protect their shared interests in a society where they are deeply vulnerable to political marginalization. Insofar as it protects the group’s members from race-based maltreatment, such forms of ‘black solidarity’ should be viewed as an effective and legitimate component of an ethic of resistance to injustice.

⁷ Spatial and temporal continuity are thus closely intertwined when it comes to the the stability and predictability of our life-plans. On the temporal component of valuing in general, see Scheffler 2013.

⁸ Moore (2015) develops a very similar conception under the label of individual ‘rights of residency’ and conceptualizes occupancy rights as group-related. The very idea of a “locational rights” was first articulated by Walzer (1983, 43).

⁹ Here we have in mind a Hohfeldian liberty-right that grants a permission to do something (see Hohfeld, 1919).

¹⁰ Moore (2015, 36) also adds a right to return when an individual has been unjustly excluded from land on which she has a right to reside.

¹¹ In another chapter of her book, Kohn (2016, 59-85) follows a similar line thought, invoking the concept of occupancy rights in order to ground a right against expulsion from public housing specifically.

¹² It is consistent with our framework that there be occupancy rights also in smaller (e.g. people’s home, see Nine 2017) or larger (e.g. the city as a whole) spatial units. Here we focus on neighborhoods not only because this is the site where gentrification processes are usually said to take place, but also because they host many important spaces like the workplace, the place of worship, the leisure or recreational facility, the school, and the meetinghouse. We thank a reviewer for urging us to clarify.

¹³ Moore (2015, 44), by contrast, does gesture at the possibility of conceptualizing claims against gentrification in the language of what she calls “residency rights.”

¹⁴ See Dworkin 2000.

¹⁵ Scholars of urban studies sometimes discuss this under the heading of ‘neoliberal urbanism,’ broadly understood as urban governance ‘driven by cost-benefit calculations rather than missions of service, equity, and social welfare’ (Leitner et al., 2006: 4; also see Brenner and Theodore, 2002; Geddes and Sullivan, 2011).

¹⁶ From the perspective of a Cohen-inspired account of *equal opportunity for welfare* (Cohen 1989), however, one may add that long-time residents of gentrifying neighborhoods did not choose to develop their ‘expensive taste’ for living there and, consequently, deserve the extra resources that would enable them to satisfy this preference (see also Kohn 2013: 301-304).

¹⁷ Occupancy rights thus do not entitle their holders to have their plans fulfilled. Rather, they are concerned with the spatial background conditions of their pursuit.

¹⁸ Moore 2015, p. 38.

¹⁹ Mathew Yglesias (2012), by contrast, argues that the problem of high rents can be solved precisely by *deregulating* cities: by allowing more housing to be built and doing away with obstacles posed by rules that, for instance, ban row houses and multifamily structures, generally require low buildings and large amounts of parking, and typically prescribe minimum apartment sizes. Regardless of whether these proposals would have the desired effect, our argument is not simply motivated by a concern with high living costs across the city as a whole.

²⁰ On this point, see also the recent comprehensive study of gentrification and residential displacement in the Bay Area and Southern California (see <http://www.urbandisplacement.org/>, accessed online 3 October, 2016)

²¹ Miller (2016) for example defends the Swiss ban on the construction of minarets, which was decided in a nation-wide referendum in 2009.

²² The idea of a ‘right to the city’ goes back to Lefebvre (2003). Since then, urbanists and critical geographers have written much on Lefebvre’s texts and ideas, yet what exactly the right to the city involves often remains hard to pin down (see e.g. Purcell 2002).

²³ Stilz (2011, 591-592) similarly emphasizes continued political cooperation as constitutive of a relevant “people”.

²⁴ One anonymous reviewer has suggested, for example, that the most effective way of counteracting the most troubling effects of gentrification-driven urban transformation is general legislation that redistributes resources more equally across community. But given that our analysis of gentrification as a particular normatively relevant phenomenon is welfare-egalitarian rather than resource-egalitarian in focus for reasons explained above, it cannot provide a justification for this sort of general legislation. At any rate, it would seem that justifying such redistributive measures is the task of a more general theory of justice — which we do not provide here.

²⁵ This is a key trope especially in deliberative democratic theory, see e.g. Fung (2003).