What is the moral significance of territorial borders? There is no obvious moral difference between two children, siblings born on different sides of a national border. Yet the differing locations of their birth often guarantee many advantages to the one, and many disadvantages to the other. In the last two decades, a wave of liberal scholars asking the question of borders’ normative import have concluded that borders should not count when distributing privileges, or determining rights and duties of individuals.¹ Joseph Carens famously argued in a piece advocating for Open Borders that “citizenship in Western liberal democracies is the modern equivalent of feudal privilege--an inherited status that greatly enhances one's life chances. Like feudal birthright privileges,

restrictive citizenship is hard to justify when one thinks about it closely.”\textsuperscript{2} Similarly, scholars of citizenship and immigration have argued that we should distribute privileges of citizenship on the basis of criteria that are morally relevant, such as social nexus, time of residence in a new country or the extent to which the state coerces individuals or shapes a person’s identity.\textsuperscript{3}

These scholars’ proposals seek better criteria to distribute the privileges of citizenship than blood ties, or one’s relative distance to a line in the sand. However, none of these proposals are committed to saying that boundaries should not matter at all when allocating privileges or duties of citizenship-- they still presuppose the existence of political groups. And given that liberal egalitarians find it hard to sort people into groups without resorting to territorial boundaries, they reproduce the quandary of the siblings, for whom the border should not be relevant, and yet it structures their vastly different life chances. Unless scholars explain the moral significance of territory in terms compatible with their liberal commitments, their proposals reproduce the problem of unjust privilege.\textsuperscript{4}

This paper argues that the quandary is not a quandary: territorial borders are morally relevant. Borders demarcate a set of legal, political, and moral relations that are territorially bound and place-specific. On this view, unjust discrimination of aliens

\begin{enumerate}
\item For a clear account of the problem of ethical territoriality see Linda Bosniak, "Being Here: Ethical Territoriality and the Rights of Immigrants," \textit{Theoretical Inquiries in Law} 8, no. 2 (2007).
\end{enumerate}
present in a territory does not arise from the existence of borders, or territorial
demarcation, but rather from the often legally required overlap of territory and political
identity constructed along communal or cultural boundaries. By reflecting on the idea of
place and the physical aspect of institutions in the construction of territory, the paper
argues for a territorial-presence theory of citizenship, and offers a view of citizens’ rights
grounded squarely in terms of presence, rather than birthright, national, or communal
identity. The paper concludes that immigrants should be allowed to enter and stay in a
given polity if they can comply with their place-specific duties once they are in.

This presence-based view of citizenship honors the commitments of liberal
egalitarian thinkers, while at the same time acknowledging the reality of a territorially
divided political world. It allows us to make sense of the importance of territorial
presence for citizens, and understand the moral significance of borders in general. That
is, this view allows us to make sense of why people on either side of a border have
different rights and obligations. Moreover, reflecting on the moral import of place may
also allow us to tackle the separate thorny question of who has rights to territory, 5 and
where precisely should borders be drawn. 6

The paper is divided in six sections. In section I, I analyze “the quandary of the
siblings,” and examine some difficulties contained in the view that that borders do not
matter morally. Section II examines and critiques other arguments for the moral

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relevance of borders that are based on communal membership. Section III develops the claim that borders are morally relevant because political institutions are place-specific and territorially bound. Section IV then explains why liberal political orders must be bound, and defends the claim that presence can justify an unequal distribution of privileges among people living in different territorial jurisdictions without contradicting liberal egalitarian principles. Section V concludes.

I. The quandary of the siblings.

Sandy Venegas was trying to cross the southern border of the United States in the summer of 2014. She came from Honduras and made her way across Mexico travelling with her two children aged two and four, and at the time their story was published they were staying at a church-run shelter near the Texas border in the Mexican state of Tamaulipas. She had been waiting for weeks for the current of the Rio Grande to recede so that she could cross the border into the United States. However, her chances of crossing and staying in the US seemed dim. Sandy’s decision to attempt the crossing into the US coincided with a new “immigration crisis,” where the political debate and media spotlight were directed to women and children. Given the subsequent upsurge in border control, it is likely that she was deterred from crossing the river and she had to return to San Pedro Sula, Honduras, where she lived before trying to emigrate. That is, she probably had to return to the place where gang members allied with drug traffickers had threatened her, and where the murder rate is so high that she had good reason to fear for

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her life and the life prospects of her children. But Sandy’s fate could have been different: her own brother managed to cross to the US with four children in tow a couple of years earlier. Yet, unlike her brother and his children, who were in Alabama with their grandmother, Sandy’s children will probably not have access to education and the chance to grow up in a peaceful environment. The cousins’ life chances differ greatly due to the fact that they are in different sides of a territorial border. What justifies the differences between the siblings and their children?

This question, which we could call “the quandary of the siblings,” has concerned political theorists for the last two decades. Will Kymlicka, formulated the question thus: “What is the justification for distinguishing the rights of citizens inside the borders from those of aliens outside the borders?” A common answer to the question is that benefits of citizenship are an inherited right, and thus the siblings’ different life chances are not justified: Neither Sandy, nor her brother deserve the privileges of American citizens. Sandy’s brother crossed illegally to the US and thus, he and his children are not entitled to the benefits that accrue to Americans. However, this answer contradicts liberal egalitarian views of citizenship, including dominant beliefs, social practice, and jurisprudence in the United States. Liberal egalitarians hold that bloodline or ethnicity should not determine one’s moral and legal standing, and this is reflected in the American legal order: all children born in the US soil are American citizens, and according to most Americans, undocumented children should also receive the benefits of citizenship, such as education and health care, given that they are not themselves responsible of their legal status in the country. But if the difference between Sandy’s children and the children of

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other immigrants who were successful in their crossing, is simply their presence in US territory, then we must ask, “what is the legal magic of US soil?” If blood should not matter when giving political and social rights, why is soil morally relevant?

In sum, although many people believe that borders matter morally and foreigners are not entitled to the same privileges that are reserved to citizens because of their ethnic origins, their belief is hard to justify according to liberal egalitarian principles. So it is not surprising that liberals sacrifice the common sense view and argue that moral distinctions across borders cannot be sustained. Many liberal scholars have argued that territorial borders are not morally relevant and exclusions are not justifiable. Others hold that, prudentially, there may be reasons to prevent people from entering a state because the volume of newcomers could undermine the state’s capacity to absorb immigrants, but the prevailing view among liberal thinkers is that borders do not matter morally: borders are “arbitrary from a moral point of view.” Consistent with the view that borders do not matter morally, many liberal scholars have argued that we should distribute privileges of citizenship on the basis of other criteria that are morally relevant, such as social nexuses, or time of residence, or the extent that the state coerces would be immigrants, or it shapes a persons’ identity.

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10 Notable exceptions are Miller, Wellman and Blake. I discuss their views below.


13 Shachar, Birthright Lottery: Citizenship and Global Inequality.


15 Abizadeh, "Democratic Theory and Border Coercion."

16 Smith, "The Principle of Constituted Identities and the Obligation to Include."
However all of these liberal proposals concentrate on the rights of immigrants in relation to a receiving state, rather than on the rights of all persons in relation to any state. So these proposals imply that there is a relevant moral difference between immigrants (or would-be immigrants) and the people they left behind in their countries of origin. If the proposals were serious about the moral irrelevance of borders, then borders should not count at all: territorial demarcations should not matter for the purpose of making distinctions among persons. Yet, none of the proposals is committed to this view— even the more radical proposals are for “open borders,” never for “no borders.” While liberal cosmopolitans are committed to treating all people equally, I have yet to see a proposal giving all foreigners abroad the same benefits distributed to citizens within. That is: while many scholars hold that Sandy should be allowed to immigrate to the United States like her brother, and once settled in the US for a number of years she should receive the same privileges than other US citizens, I do not know of anybody who argues that Sandy should be entitled to the benefits of American citizenship while she is in Honduras. Should Sandy be allowed to claim unemployment benefits from the state of Alabama while living in San Pedro Sula? Moreover, nobody believes that she should be subject to the duties of citizenship. Would anybody expect Sandy to pay taxes to the government of the US, or for that matter the governments of Surinam, Ghana, or Italy once she is back in her city? While living in her Honduras home, would she have the duty to abide by the laws of Malaysia or receive benefits from the Swedish welfare state? Most scholars who believe that borders are morally arbitrary, also hold that borders are politically required and morally significant to the extent that they enable the existence of institutions that are necessary for establishing political orders.
If we take this reflection into account, territorial borders turn out to be particularly relevant for those who defend the doctrine of Open Borders. If distinctions based on blood are not justifiied, what accounts for the distribution of privileges then? As Carens has pointed out, even in an ideal world (where there are no relevant economic differences and liberties are roughly the same among all people) there would be reasons to migrate towards other regions.\textsuperscript{17} Living in different places would inevitably create social differences among persons, and being a citizen in one place rather than another would create different life chances. If inherited privileges are not justified and borders are open, then, the main factor for determining political belonging must be territorial presence. Yet, when they rely on territory liberals reproduce the quandary of the siblings. If there are different political jurisdictions in the world, the rights of citizens inside the borders would different from those of aliens outside the borders. How do we justify these differences?

In the rest of this paper I argue that borders are morally relevant; but not for the reasons that are commonly stated. Unlike the best-known arguments for the moral significance of borders, I do not hold that borders matter because they allow us to exclude individuals from the community. Rather, they matter because they differentiate polities on the basis of territorial jurisdictions. Together with the liberal egalitarian authors mentioned above, I believe that citizenship based on blood is not defensible and most existing arguments for the states’ right to exclude are not fully convincing. However, I will sustain that not all political rights and social privileges should be equally distributed among all human beings. The territorial borders of the nation state do matter morally because they demarcate places and indicate place-specific rights and duties.

\textsuperscript{17} Carens, "Aliens and Citizens: The Case for Open Borders," pages
II. **Membership-based Arguments for Borders’ Moral Relevance**

In my view, borders are morally relevant. By this I mean that there are genuine moral differences between people living in either side of a territorial border, and their territorial presence justifies differences in their rights and their obligations. The reason why these differences exist is that establishing political institutions and legal orders requires a set of legal and social relations, including legal rights and duties, that are place-specific and bound by territorial borders. So, a liberal political order requires borders. To the extent that establishing a liberal political order matters morally because it enables moral agency of self and others, ensures equality, and allows for coordination in a complex society, borders matter morally.

In the next sections I will clarify this argument and defend its most controversial premises, particularly the idea that a liberal order requires borders. But before I do that, I should underline how this argument differs from others that defend the normative relevance of borders: My argument deals with actual territorial borders; most others focus on the boundaries of belonging. Political theorists often use “borders” and “boundaries” interchangeably, but the concepts are distinct. The boundaries of the group refer to the limits of cultural membership and identity groupings. These boundaries are often determined by national identity, which determines whether a person has access to the privileges of citizenship. Boundaries mark membership then; territorial borders, instead, mark the territorial bounds of political power and legal jurisdictions.

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18 For a careful ontological analysis see Edward S. Casey, "Border Vs Boundary at La Frontera, ," *Environment and Planning* 29, no. 3 (2011).
When scholars claim that borders are morally relevant they often use territorial borders as a metaphor for the boundaries of belonging, and they derive from these boundaries the right to exclude other individuals from the privileges of citizenship in a polity. The best-known arguments for why borders matter tend to collapse the difference between the boundaries of membership and the borders of the democratic state. Will Kymlicka, for example, entitled his paper “Territorial Boundaries,” but deals almost exclusive with the rights of self-determination of “national identities, national cultures, national communities.” What matters for his analysis is not the territorial border of a state but rather, the boundary and rights of a cultural group.19 His aim is to find a justification for exclusion from membership in a nation. Yet, this sliding of territorial borders into boundaries of belonging is a mistake, because the relations among individuals who come together as members of social groups such as families, clubs, or associations differ starkly from the relations among individuals in a territorial political order. A territorial political relation exists regardless of one’s sense of identity or willingness to associate with others. Political practices, instead, coerce over a given area and they are sovereign, i.e. they trump all other individual commitments. Clearly, a person who is not a member of a national group but is within the borders of the state is also subject to state’s laws and expected to comply with them.

Borders and boundaries, then, are not the same, and the equivocation between the two terms matters. Often the consistency of arguments for closed borders depends on it.

Take for example Christopher Wellman’s well-known argument for a right to exclude.20 His argument rests on the state’s right of self-determination and individual freedom of association. Thus his argument for a state’s right to exclude aliens relies on the purported equivalence between territorial states and associations, or, in other words, the conflation of boundaries and borders. Yet, states are not like clubs. It is true that nations and other identity groups are similar to voluntary associations, but the political groupings that have a right of self-determination must have territorial extent.21 As Michael Blake convincingly argues, political societies involve more than shared understandings: they also involve “facts of shared liability and obligation” which relate all those present in a given territorial jurisdiction, rather than only the members of a “club” or association.22 Whether members, or non-members, all people in a territory are under the legal jurisdiction of a state. What needs to be explained when it comes to the moral significance of borders and the right to exclude from a political community is the state’s right to deport, or physically exclude, an alien from a given territory. While nobody would deny that the boundaries of belonging are important, collapsing them into the territorial borders of the state smuggles in a taken-for-granted conception of the state as national, a conception that should be under examination in a discussion over borders, immigration, and the rights of citizenship. Although the national and the territorial forms

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of inclusion and exclusion overlap in many ways, it is important to keep them analytically apart in order to understand and explain the quandary of the siblings.

Modern political institutions are territorial: they apply to all aspects of a person’s life and they are coercive within a given jurisdiction regardless of the persons’ cultural affiliation or personal identity. They involve a set of moral, legal and political relations that are place-specific and territorially bound. This is clear in existing jurisprudence in liberal states, which recognizes and enforces legal rights that are derived from the individual’s connection to a specific place. 23 Political science and theory (even the literature on territorial rights) has concentrated on membership and identity, and neglected place. Yet, that is precisely what we need to examine in order to understand why borders are morally relevant. Why are there rights and duties that attach to a person simply by being where they are? To answer this question we first have to examine the idea of place.

III. The Moral and Political Relevance of Place

Why should place matter to liberals? Liberal egalitarianism’s basic principle is the moral equality of persons. Shouldn’t people accord each other the same rights regardless of their relative distance to one another? In this section I argue that there is a morally relevant connection between people and places: concrete places are required to establish political institutions.

People live together, somewhere. In any organized society where people can live close to one another without deep conflict, some relations are tailored to the specific

23 Elsewhere (paper) I develop the idea of place-specific duties.
place where people dwell. These place-specific relations reflect common understandings that allow for predictability and ease in social life. The relations in question differ in each place according to local custom and the local environment; but everywhere they include the duties of being a good neighbor, sharing communal areas, allowing for the provision of services, respecting sacred (and other purpose-specific) places, and generally, the right to participate in schemes of cooperation that arise in concrete locations. These place-specific relations are noteworthy because most political, social or moral relations among individuals are often impervious to location: my mother is my mother wherever either of us happens to be; my friend expects me to remember her birthday whether I am in Mexico or in Europe; and I have particular relations to my compatriots because we share a culture and have common concerns regardless of where we are in the globe. In contrast, many relations are indexed to the place where people happen to be together at a given time. This means that there is something morally relevant in the relation between an individual and the particular place where she happens to be, something that is not immediately dependent on her personal relations to others. Place matters when distributing the privileges of citizenship because privilege cannot be granted unless the beneficiary shares common institutions with his fellow citizens, and a key part of political institutions depends on this connection between people and the place where they are.

Place affects how people relate to each other. The physical configuration of our surroundings as well as their meaning is very important in the way we act together, even if we do not think about this often. Just reflect of the kind of relations that we establish with other motorists on the road: when we roll into the highway we are all bound by a set of well determined place-specific practices that keep us all alive. We circulate on the
same side of the road, we keep in a lane, we notice where others are before we make a move, and we follow established practice when it comes to obeying, or disobeying formal rules (as when everybody speeds on the highway in certain stretches). The kind of knowledge required to circulate is theoretical to some extent, but the bulk of it arises from actual participation in the practices of a society in a given place. That is why it is often difficult to drive abroad, even when you are an able driver and have theoretical mastery of the rules of the road. To drive well you need to know the road in practice, you need to experience the place.

The highway is a clear example of how localized social behavior matters for life in common, given that making inappropriate movements or misunderstanding the distribution of space on the road can put other motorists at risk of death. Yet, most of the relations that we establish on a daily basis, including political relations, have a similarly located character. Just as it does when driving in the highway, place matters when we enter other complex institutions, including citizenship and the rule of law. Unlike the rules of the road, it may seem at first that political institutions are completely abstract and they can be applied everywhere one goes. However, these institutions also require place-specific practices of cooperation; and to know how to go about in everyday life you need grasp how these relations take place. Think of liberal citizenship, for example. Citizenship can be understood as a legal status that entitles a person to, among other things, participate in the making of the institutions that govern her. In order to fulfill this right and duty an individual has to participate in a set of practices like electing public officials by ballot. These practices are not abstract; they occur somewhere. And knowing how to join them presupposes a deep practical knowledge of what you and the others are
doing *where* you do it. Knowing how to move and relate to others in a voting station requires a common sense of place-- not just how to physically vote, but also the common understanding that polls matter and why; that the room where voting occurs may also be a classroom or a community hall the rest of the year, but during election time the place has a specific meaning and value. This sense of place does not diminish if you send your ballot by mail: we all know that whether or not you go to the polls, there will be polling stations, there will be counting, and storing of ballots, there will be announcements and gatherings that change the spatial order and the normal rhythm of a town’s life on election day. Citizenship is a status and a right, but like other institutions, it is also a practice.\(^{24}\) Given that practices require a concrete physical environment and a common sense of place to occur, a concrete place is also necessary to establish political institutions, such as citizenship.

IV. *Why liberal political orders must be territorially bound*

Social relations are tied to places, they are embodied. Even if this is not often explicitly acknowledged or taken into consideration in political theory, once we reflect on it, it should be fairly uncontroversial. Yet, we still need to examine how these place-specific relations relate to borders given that places are not clearly defined in space and they are never closed. Places are open; their boundaries are porous and ill defined. Take for example of a place like “the beach” or “the park”. It is clear where it is, but it is hard to determine where it precisely begins and ends. Other places such as the cultural places

of memory, or bioregions, are even harder to define precisely. So why then must liberal political orders be territorially bounded? There are two main ways to approach the question of the political boundaries of places, one is historical, the second, normative. In this section I look at both arguments, but concentrate on the normative account.

First, let us turn to the historical argument. In the last 500 years there has been a tendency to make polities socially and territorially uniform. This tendency is not exclusive to modernity but it is clearly found there. In the last two centuries territory has become associated with a “spatial block of sovereign control and authority.”

Moreover, there has been an ideological view that emphasizes the tendency towards the creation and consolidation of nation-states and a perception that such change is inevitable. Thus, there is also a tendency for scholars to focus on place-specific relations as bounded by territorial limits of states.

The second way of accounting for the limits of place-specific relation is normative. Political place-specific relations should be bounded in a territorial jurisdiction because this allows people who do not know each other to govern their interaction on the basis of the rule of law, rather than have to rely on cultural attunement among individuals who share an identity and a thick sense of cultural belonging. If we think again about the kind of complex place-specific relations required to navigate a highway in a foreign country, we will see that many of these relations can only be accessed by participating in local practices. They form part of the culture of the place. However, no two persons share their cultural assumptions and expectations fully. In any culture there is a wide range of

variation in the way one conceives of cultural norms, and even insiders disagree at times on how to interpret place-specific relations. In contemporary societies much of that tension can be eased when the state spells out the demand of place-specific relations in terms of legal rights and responsibilities. It is true that codified norms are a poor substitute for social practices and interaction. But in a complex society the fact that you can apply rules homogenously over a given area allows individuals to coordinate action, and also to make sure that rules are accepted by all those who participate in place-specific relations, and that they are applied evenly and equally to all regardless of culture, legal membership, or personal identity. When place-specific relations are legal, they also become territorially bound. So if we want the rule of law, we need place-specific relations in bounded areas: we need territorial jurisdictions.

A legal order then, needs borders for at least three reasons. First, to make rules predictable and fair we need to know in advance that they apply in a given area. In a complex society governing place-specific relations by formal rules eases tension, but formal rules need to be predictable and so we must know in advance where they apply. For this we need to know that rules apply in a given, clearly bounded, territorial expanse. Second, the territorial extent of the law also ensures equality because it should be evenly applied to all those present in a given area regardless of their personal status or position in the social hierarchy. 27 Finally, the territorial extent of the law allows for fair law enforcement because an area is easier to police than a territorially dispersed

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corporation.\textsuperscript{28} That is, in order to sustain legal equality place-specific relations must be territorially bound.\textsuperscript{29}

Now, summing up: In this section and the previous one I have argued for a presence-based view of citizenship, which explains why distributing privileges of citizenship unequally across borders can be justified according to liberal egalitarian principles. My argument is that privileges of citizenship cannot be granted unless the beneficiary participates in common institutions with others, and a necessary part of these institutions is indexed to a place. Such institutions-- including the rule of law, require specific local practices of cooperation, and given that these practices require a concrete physical environment and a common sense of place, a concrete place is also necessary to establish these institutions. Political institutions and legal orders, then, require a set of moral, legal, and political relations that are place-specific. In a liberal order, moreover, these practices must be legal and legal practices are bound by territorial jurisdiction. Moral agency in political life requires place-specific duties, and as long as we want them under the rule of law, this requires borders. So, a liberal political order requires borders-- and so does liberal citizenship.

For these reasons borders are morally relevant. Borders allow those present in a legal jurisdiction to know and comply with their place-specific rules, and complying with their place-specific duties makes them eligible to receive local citizenship privileges.

\textsuperscript{28} Think of the problems that arise when corporate law (military or canon law) clashes with state’s criminal law.
\textsuperscript{29} To think of spatial rules that attach to persons rather than to places, think of how a very influential person moves in a given place. A foreign high-ranking officer arriving in an official visit is often followed by security personnel, blocked roads, and people who open special personal space for the officer and his entourage. Special personal space is characteristic of hierarchical orders and caste systems: legal equality presupposes that all those in a given area relate similarly to place-specific rules.
V. Justifying Differences in Rights Across Territorial Borders

As I have argued, territorial borders matter morally because they allow for the creation of legal institutions in concrete territorial jurisdictions. However, what really concerns scholars in debates on immigration and citizenship is whether borders should be closed. Are polities justified in using their borders to keep people out? This debate’s main focus is whether borders should exclude individuals from privileges, and how borders are symbolically used to establish group membership. Recall Kymlicka’s question: What justifies that citizens inside get different privileges than foreigners abroad? Here I use the idea of place-specific rights and duties to explain and justify distinctions among people living in different territorial jurisdictions, but in a manner that is consistent with liberal egalitarian principles.

The basic assumption of liberal egalitarianism is the moral equality of all persons. We all have universal rights. However, we also have special rights and obligations to some others. All people deserve equal respect, but this is precisely what allows each of us to enter into relationships that generate special obligations. I don’t have an obligation to give everyone a call on their birthday, but my friends are entitled to expect such call. I like to suggest that political special obligations, or the obligations of citizenship, are not owed to compatriots (or to anyone else) on the basis of their identity, but rather on the role each plays in a given relation, particularly, on the role they play in place-specific schemas of cooperation. We have rights and obligations to others as role bearers in a relationship: a doctor to a patient, and teacher to a student, etc. One such role-relation is the one that you have towards people living close to you, a special relation that is place-
specific. Many of the rights and duties of citizenship are place-specific role obligations. You play a role in a place-specific schema of cooperation if you happen to be there, and as a part of the schema of cooperation you have duties and corresponding rights. It does not matter who you are, what matters is where you are.

In sum, all those who are required to fulfill place-specific duties should also be entitled to rights that allow them to participate in shaping those duties. This means that all those who are present in a territorial jurisdiction immediately acquire rights by virtue of being there-- no matter whether they are illegal immigrants, tourists or visitors. Strictly speaking they only get the rights required to fulfill their duties, but given that duties are hard to separate individual by individual, a person should get full local rights of participation in a legal jurisdiction if she has been there long enough to make these rights valid. I.e-- you can vote if you happen to be in the place where elections are being held, but only if you were also present to register and had time to fulfill the duties that entitle you to the right. So all those present, including immigrants, legal and illegal, as well as transients on visas, should be entitled participate politically, and a fortiori, to stay in a country if they so chose.30

However, does the moral relevance of territorial presence within borders justify their closing? Borders’ permeability is particularly important if we have already established that anyone who is physically present in a territory can attain the privileges of local citizenship as well as a right to stay. Yet, so far the argument for the moral relevance of territorial borders leaves unanswered the question of who can come in. Does a bounded territorial state have a right to exclude? The principles underlying liberal

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30 Elsewhere, (Taking Place Seriously: Place-Specific duties and the Rights of Immigrants) I have made a more detailed argument of why place-specific duties grant a right to stay in a locality as well as many of the benefits of political membership to those who are in a given territorial jurisdiction.
egalitarianism make it particularly difficult to justify closing borders on the basis of membership. However, they allow us to make a limited case for regulating borders on the basis of place-specific rights and duties. I believe that liberal egalitarian principles are consistent with restrictive citizenship and thus, policed borders could be justified on those grounds.

Restrictive citizenship, then, must start with equal rights. Equal individual rights are limited by the rights of others. In this case, a newcomer’s freedom to immigrate can be limited by a local’s freedom to stay put, if the immigrant’s arrival disrupts an existing local scheme of cooperation, and if it creates undue burdens to people who depend on this scheme for living their life according to a certain minimum standard. So, those who participate in place-specific scheme of cooperation are justified in excluding people from a place if the newcomer (or for that matter, a current local) unsettles their networks of cooperation. If a person free-rides, or explicitly upsets the patterns of cooperation, the remaining participants in the scheme would be justified in demanding cooperation by coercive means (such as taxation or detention) and eventually in removing her from a place. But this also implies that an immigrant should be allowed into a territory if she can comply with the place-specific duties in the place that will receive her. A community could refuse entry or the legal extension of citizenship benefits to a person who systematically upsets a scheme of cooperation and does not fulfill her place-specific duties.

This view may give rise to an objection. It may seem that a proposal to exclude on the basis of compliance with place-specific relations could justify and legalize xenophobia. If a community can physically remove or deny entry to those who do not
fulfill their place-specific duties, it seems that it would be justified in excluding those who move or behave differently that the majority of people in a given place. Talking about “bad neighbors” gives bigots and nativists reasons to complain that immigrants do not know the rules of town life, that they disrupt local customs with their foreign ways of occupying space, standing too close or being too distant, bothering neighbors with strange sights, sounds, and smells. This is a common objection against place-based normative arguments in scholarly work. For example, in a famous paper, David Harvey argues that an argument for defending a Baltimore neighborhood from crime was an excuse to justify a white gated-community and the perpetuation of racial and cultural ghettos in the city. Others have identified place-specific duties with xenophobia and urban segregation. In the name of creating a “better place to live,” local governments justify making life miserable for people deemed undesirable, such as the homeless, skateboarders, or simply people who like to sit in their houses stoop or like to hang their clothes to dry outside.

My response is that this objection presupposes a closer connection between culture and place that my rendition of schemas of cooperation and place-specific duties allows. The objector argues that if you can exclude on the basis of place-specific duties and these are culturally specific, then you are excluding on the basis of culture. However, even if it is true that culture matters when it comes to defining place, we can see that there are thin and thick versions of how culture matters. Thick place-specific norms are like those who rule inside the shrine of a temple: only the initiated know exactly how to move appropriately in such a place. However, those are not the place-specific rights and duties that matter for civic life. The kind of cultural knowledge that matters is the one
that allows you to move about and cooperate to solve coordination problems in public spaces. Place-specific duties are those that help people who live together to do right to one another and act in concert when such action is required. A person does not need to understand the thick version of a culture to live in a town and respect other citizens, all that is required is to fulfill the thinner obligations that allow you to participate in civic life. For example, it is not necessary to share a thick sense of culture or identity to ride the subway, but one is expected not to willfully block the doors. The kind of civic duties that matter in this presence-based theory of citizenship are legal requirements that all those living together could accept as necessary for regulating a life in common regardless of identity or cultural origin, and they do not resemble norms of etiquette, or codes of conduct for neighborhood associations in gated communities.

When it comes to immigrant’s rights, this does not mean that a community could deport “bad neighbors” because they don’t comply with some conventional norm such as mowing the lawn. However, it does mean that the local community is justified in excluding those who do not comply with genuine place-specific duties and who disturb a scheme of cooperation. For example, if a newly arrived Briton insists on driving on the left while in the United States, a local police would be justified in removing the immigrant from the road. A polity could also deport resident non-citizens who participate in subversive activities including violent political protests and certain kinds of civil disobedience (Activists who practice civic disobedience, for example, should know

31 This could give a justification to the practice of deporting immigrant criminal offenders-- but I would like to introduce two caveats. First, when an offense is not punishable by imprisonment, it could not be used to justify deportation. (For example, trespassing and illegal entry would not be sufficient grounds for deportation.) And second, physical removal from the state territory would be justified provided that a state does not don’t punish criminals before deporting them, or that deportation is not seen as punishment for an offense. In my view, a state that makes a criminal pay in situ includes him in the community, so a state has an obligation to let a person stay after he has served a sentence for his crime.
what they are getting into. Even if their cause is morally justified, part of the political force of their statement relies on the illegality of their acts. For example, “dreamers” who get themselves arrested and deported, rely on the deportation to call attention to the morality of their cause. A polity could also deny entry to people known to be free-riders, such as people who don’t pay their taxes systematically. In each case, the reason for denying entry to an immigrant is not her failure to know a culture, but a failure to cooperate in common institutions. The requirement is based on participating in a civic practice, not on sharing identity or cultural affiliation.

A second objection is that culture is not so easy to detach from a given place. To the extent that the factors that shape place are not only physical location, climate, and geography, but also cultural practices, there will always disputes regarding the meaning of places according to different cultures. For example, a cultural group may hold that a place is sacred, or that its natural value should be protected, while others only see in a site the prospects for urban development and financial gain. And it is obvious that planned urban development changes fundamentally a given place’s character of a place. So, real conflicts could arise regarding place specific duties. Similarly, the influx of immigrants could change the culture, and hence, the character of a place and radically transform existing place-specific duties. How does a presence-based view of citizenship deal with this type of situation? My view is that real clashes of place-conceptions (or ethno-geographies as Avery Kolers has called them) are very rare. Even in very difficult situations where two groups fight over control of a meaningful area, most people who actually live there agree that there are certain common practices that allow contending

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32 The cultural aspect of territorial disputes is explored in Kolers, *Land, Conflict, and Justice: A Political Theory of Territory*. 


groups to keep the site as a place of political contestation. The physical aspects of the place allow for \textit{modus vivendi}-type agreements among cultural groups. Territorial disputes on the basis of cultural differences, then, are a difficult problem, but one which can be initially detached (for scholarly purposes) from the issue of the moral relevance of borders. This is not a problem with which I can fully deal here, but place-specific duties provides a useful avenue for research in this topic.

In conclusion, place specific rights and duties are a good way of thinking about citizenship and immigration because the overlap of legal practices and a thick sense of culture is not as tight as scholars often imagine it to be. There are different layers and depths in cultural practices. People living in New Jersey and New York are morally equal, they are part of a single people, and they share a culture; but they have different place-specific rights and duties because they residence in different places. These differences apply to people living across international borders as well.

Sandy Venegas—the immigrant we encountered at the beginning of this paper—is probably living in Mexico while her brother lives in a different jurisdiction across the river. There are genuine moral differences between them, particularly, that Sandy owes duties to Mexico and the border region today, while her brother owes them to Alabama and the United States. Even though she has filial and national duties in both the United States and Honduras, her place-specific rights and duties are now in Mexico, and more concretely, in the state of Tamaulipas. These duties need not tie her down-- she is free to leave, and in my view she should be allowed to cross legally to the US provided that she respects the place-specific duties that allow her to maintain a schema of cooperation wherever she lands. But as long as she remains in Mexico she is responsible for
participating in civic practices, and correspondingly, the local and federal governments have an obligation to protect her, and her children.

VI. Conclusion

Borders matter morally because they mark where political and legal practices should take place. These practices structure life in common and thus, being physically present in a territory allows you to participate and claim responsibility for your political life. Physical presence also allows you to claim the rights that correspond to those practices. This view explains that what strikes people as unjust when we see siblings with different life chances on either side of a border is their leftover commitment to identity as a marker of political belonging. It offends them that two people with the same ethnic origins, who belong to the same identity group, should have different rights. However, if we see citizenship as a located practice, we can see that what gives individuals political rights is participating in practices and political processes. So, territorial-presence justifies giving rights to immigrants who comply with their place-specific duties, as well as temporarily excluding nationals who are outside of the state’s territory.

This conclusion is intuitively supported in the Mexican popular song: Corrido del Norte. In the song, a cowboy asserts that he is “Mexican, from this side of the border.” He is sometimes mistaken for a foreigner because he looks American: he sports a cowboy hat and leather jacket, he smokes American tobacco and wears his bandana in the Texan style. But he is pure Mexican, because he is “on this side,” and it is “on this side” that he fought with Villa. So his membership does not depend on how he looks, or what people
think he is, but on his actual experiences of participation in place-specific practices that
determine his political rights and duties. In my view, like in the song, these place-specific
practices and relations matter morally and politically. They matter more than the
cowboy’s culture and his looks, because they structure life in common, they allow us to
protect individual rights, and to live together.

This presence-based view of citizenship offers an explanation of why the
territorial divisions between countries matter. It offers an alternative to the defenses of
borders that rely on group membership and the idea of popular self-determination. But
the idea of place could help us unlock other problems in political philosophy. We still
have to see if relying on place could also help us answer the more specific question of
where to draw territorial borders, and thus, how to make compatible territorial rights with
liberal principles without having to go through a theory of group membership.

References

Abizadeh, Arash. "Democratic Theory and Border Coercion: No Right to Unilaterally
———. "Liberal Egalitarian Arguments for Closed Borders: Some Preliminary Critical
Agnew, John. "Space and Place." In Handbook of Geographical Knowledge, edited by
———. "The Territorial Trap: The Geographical Assumptions of International Relations
Banai, Ayelet. "Political Self-Determination and Global Egalitarianism: Towards an
and Citizenship: Legal Status, Rights and Political Participation, edited by Rainer
Blake, Michael. "Immigration, Jurisdiction and Exclusion." Philosophy and Public


