

The Right to the City

Social Justice and the Fight for Public Space

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- have monopoly power over space and place, and hence resistance can occur only in the interstices—that is, it can *only* be “placeless.”
34. In the next chapter I introduce the idea of a “brutal public sphere.” The dangers of public space should not be equated with this brutal public sphere. “Public space,” in this case, refers to an environment of risk, the risk necessary to any democratic politics. But “public sphere” refers to systematic oppression and exploitation, either organized by the state or by private interests.

The Annihilation of Space by Law

Anti-Homeless Laws and the Shrinking Landscape of Rights

No one is free to perform an action unless there is somewhere he is free to perform it. . . . One of the functions of property rules, particularly as far as land is concerned, is to provide a basis for determining who is allowed to be where.

—JEREMY WALDRON (1991, 226)

When some members of the Berkeley City Council feared that the university had ended its decade of support for People's Park because the City had not been “tough enough” on the homeless and other poor people, one must wonder just what constitutes “toughness” these days. For Berkeley, though often experimenting with “liberal” policies toward the homeless (such as establishing a program in which pedestrians gave vouchers for services to panhandlers in lieu of money), has been one of the leaders of a new legal assault on homeless people. This assault takes the form of passing and implementing a suite of “quality of life” initiatives and laws that seek to highly regulate street behavior, when and where (or if) people can sleep in public, and how people can and cannot beg. In 1994, the Berkeley City Council and voters approved an anti-panhandling law that prohibited “aggressive” panhandling, all begging at night, panhandling people as they got in and out of their cars, and begging inside a 10-foot “bubble” around every automatic teller ma-

chine. In addition, the law made it illegal to sit on the sidewalk. Berkeley's regulations were "among the strictest in the country" (*San Francisco Chronicle* 1994a). When the Berkeley regulations were held up in the courts for several years (Herscher 1995), a new, slightly revised version of the laws was passed by the city council in 1998.

The Berkeley ordinance is part of a species of law and policy that has developed over the past decade in response to the permanent crisis of homelessness. A few examples suffice to give a sense of what is at work:

- Over 11 months in 1998, San Francisco issued more than 16,000 "quality of life" violations, mostly to homeless people (NLCHP 1999). As part of its "Matrix" program, the city frequently "sweeps" city streets, squares, and parks of homeless people, and enforces a "zero tolerance" policy for violations of laws against camping in public, loitering, urinating and defecating in public, and drinking in public places (MacDonald 1995).
- In dozens of cities around the country, including Santa Cruz, Berkeley, Phoenix, St. Petersburg, and San Diego, it is illegal to sleep in public places. Similar laws are on the books in Seattle where they were used to arrest protesters at the December 1999 WTO meeting (Fahit-Baïanomie 2000).
- In Atlanta and Jacksonville, Florida, it is a crime to cut across or loiter in a parking lot (in 1 month alone in 1993 in Atlanta, 226 people were arrested for "begging, criminal trespass, being disorderly while under the influence of alcohol, blocking a public way or loitering in a parking lot" [*Atlanta Journal and Constitution* 1993]).
- In New York it is illegal to sleep in or near subways and to wash car windows on the city streets (Howland, 1994); most of the small squares in Manhattan have now been leased to Business Improvement Districts, whose private security forces vigorously enforce rules against dozing on benches or at tables (cf. Katz 2001).
- In Eugene, Oregon, and Memphis, Tennessee, beggars are required to obtain licenses, a process that requires being fingerprinted and photographed. Beggars are required to carry their photo-licenses at all times (*San Francisco Chronicle* 1994b).
- As in Berkeley, in Cincinnati it is illegal to beg from anyone getting into or out of a car, near automatic teller machines, after 8 PM., or within 6 feet of any storefront. It is also illegal to sit or

lie on sidewalks between 7 AM and 9 PM. (*Cincinnati Enquirer* 1995a, 1995c).² More than a third of all municipalities in the United States now have such laws (*Denver Post* 1999a). Denver, Colorado, enacted its law, in the words of the president of its Downtown Partnership, because "panhandling makes [visitors] cringe, especially if they don't know where they are" (*Denver Post* 2000a).

- Not content with these sorts of restrictions on the place and manner of begging, Baltimore is seeking to ban panhandling altogether after dark. Advocates of the new law there say that nighttime panhandlers disrupt people who want "to go to Little Italy at night to dine or to Fells Point to barhop" (*Baltimore Sun* 2001).

The intent is clear: to control behavior and space such that homeless people cannot do what they must do in order to survive without breaking laws. Survival itself is criminalized. But, as legal scholar David Smith (1994a, 495) argues in an article on the criminalization of homelessness, the "supposed public interest that criminalization is purported to serve"—such as the prevention of crime or the maintenance of order—"is dubious at best," since criminalizing necessary behaviors does nothing to address such root causes as the lack of affordable, safe housing in most cities, structural unemployment (or, as I would put it, the need to maintain a reserve army of the unemployed), and the pairing of poverty and despair that turns drug and alcohol addiction and mental illness into an issue of housing for a significant portion of the population. If Smith is correct, then two questions arise. First, just why have such anti-homeless laws become so prevalent in the past decade (and why are they continually touted as the key to "saving" America's cities)? Second, what do such laws portend for urban public spaces, and the practices of democracy and citizenship that such spaces do and do not allow? This chapter seeks to answer those questions. In the process of doing so, it shows that the "cry and demand" for the right to the city must become ever more insistent.

THE ANNIHILATING ECONOMY

For Neil Smith (1996), the rise of anti-homeless laws, coupled with a range of other punitive laws including so-called welfare reform, an-

nounces a new urban regime. This regime, Smith argues, is based on "revanchism," a right-wing movement of "revenge" for the presumed "excesses" of the liberal 1960s that seeks to revive what it sees as the "traditional values" of America.³ But, as Smith is quick to point out, this revanchism is not solely a right-wing movement. Indeed, some of its most infamous moments, such as the closing of Tompkins Square Park, were the result of liberal urban administrations (N. Smith 1996, 220). Indeed, what is at work is the implementation, at the urban scale, of a regulatory regime—and its ideological justification—appropriate to the globalizing neoliberal political economy that developed out of the global recessions of the 1970s, the debt crisis of the early 1980s, the economic crises of the late 1980s (and 1990s, for Asia), and the implosion of the Soviet Union and its satellites. Such liberal mayors as Paul Schell in Seattle, David Dinkins in New York, or Willie Brown in San Francisco have been no less insistent on the need to reregulate the poor and homeless than their conservative and even reactionary brethren, such as Dinkins's successor in New York, Rudy Giuliani, Brown's predecessor in San Francisco, Frank Jordan, or Schell's once-hopeful successor in Seattle, City Attorney Mark Sidran (whom we will get to know a little bit better in a moment). "Revanchism" describes an urban regime that cuts across mainstream party lines and has even taken on the cast of common sense. It is a powerful movement reacting to what seems to be a powerful set of trends shaping urban areas, trends that are organized under the capacious banner of "globalization."

On the one hand, globalization refers to the process of integration of economics across international boundaries. On the other hand, it refers to the sense that, not just in economic terms, but also in social, political, and cultural terms, the world is ever more connected—that time and space are constantly being compressed (Harvey 1989, 1990; Massey 1995) and places and borders are of decreasing importance. In this respect, globalization is, more than anything, a remarkably powerful ideology in and of itself. Indeed, the popular media remain enthralled by the prospect of "globalization" (despite the growing global protest movement against the form it is taking, and despite the "blowback" that lessily recounting the wonders it is leading to: instant communication, Big Macs available in every corner of the world, the sublime joy of being able to eat sushi in the middle of a Nebraska winter. Watchers of the news and readers of the papers are led to believe, simply, that space has

ceased to exist (despite occasional troublesome hiccups, such as a dozen undocumented migrants dying in the Arizona desert as they seek to elude the border patrol).

For the class the ideology of globalization serves, "globalization" is little more than an accurate moniker for the new experience of everyday life: the managerial elite who play and govern instantaneous markets in currency, futures, stocks, and even inventories; the Western and westernized middle and upper classes that can afford both the equipment and the time to instantly connect to the far corners of the globe through the World Wide Web; the wealthy students who jet across continents for long weekends with relatives or friends or skiing holidays in the fresh powder of the Rockies or Alps. For such people, space simply does not matter (at least once they have recovered from jet lag). Or better, it simply is not matter: it is rather some ethereal medium made increasingly irrelevant by networks of wires, fiber-optic cables, superhighways (asphalt or informational), jetliners, satellites, and, of course, money. A large number of people and, more importantly, capital itself have been unlettered (and perhaps just a bit disoriented) by time—space compression. There seems to have been, to use one of David Harvey's favorite insights from Marx, a further, and quite incredible, "annihilation of space by time." Even those who adopt a critical stance toward globalization (such as Harvey himself) but nonetheless see the "annihilation of space by time" as the overriding economic force of our era still tend to see capital as a global, translocal force able to behave, in Smith's (1990) imagery, like a plague of locusts circling the globe, touching down hither and yon, devouring whole places as it seeks ever better comparative advantage.

Yet, as a number of geographers have shown, such a globalization is in fact *not* predicated on the "annihilation of space by time," no matter how evocative that metaphor may be, but rather on the constant production and reproduction of certain kinds of spaces (Harvey 1982; Massey 1995; Storper and Walker 1989; N. Smith 1990, 1996; Walker 1996). For capital to be free, it must also be fixed in place. This is the central geographical contradiction of capitalism, and the one that makes the *ideology* of globalization, together with neoliberal, revanchist social regulation, so important. It is a contradiction that is rooted in capitalism's tendency toward a continually declining rate of profit. "Going global"—reconfiguring the spaces and scales of accumulation—is one means of staving off that decline, at least for some capitals, some

of the time. Not just at the global scale, but in all the locations that capital does business, perpetual attempts to stave off crisis by speeding up the circulation of capital leads to a constant reconfiguration of productive relations (and productive spaces). Together, these trends—toward rapid turnover and toward the concomitant appearance of globalization—create a great deal of instability for those whose investments lie in fixed capital, especially the fixed capital of the built environment.⁴ While capital simply cannot exist without some sort of fixity—in machines and factories, in roads and parks, in homes and stores—the very unevenness of capital mobility lends to places an increasing degree of uncertainty. Investment in property can be rapidly devalued, and local investors, property owners, and tax collectors can be left holding the bag. Or not. Together or individually, they can seek to stabilize their relationship with peripatetic capital by protecting long-term investments (and attracting new investment) in fixed capital—and as a home-base for globe-trotting capital—through tax, labor, environmental, and regulatory inducements. But establishing incentives and transforming regulatory environments can lead to a frenetic place auction, as new municipalities and states compete with one another both to attract new investment and to keep local capital “home.”

This is precisely where the ideology of globalization is so powerful: by effectively masking the degree to which capital must be located, the ideology of globalization allows local officials, along with local business and property owners, to argue that they have no choice but to prostrate themselves before the god Capital, offering not just tax and regulatory inducements but also extravagant convention centers, downtown tourist amusements, up-market, gentrified restaurant and bar districts, new baseball and football stadiums, and even occasional investment in such amenities as museums, theaters, and concert halls (Molotch 1976; Cox and Mair 1988; Zukin 1995).⁵ Image becomes everything. When capital is seen to have no need for any particular place, then cities do what they can to make themselves so attractive that capital—in the form of new businesses, more tourists, or a greater percentage of suburban spending—will want to locate there. If there has been a collapse of space, then there has also simultaneously been a new and important reinvestment in place—a reinvestment both of fixed (and often collective) capital and of imagery. For Scott Kirsch (1995, 529) a world thus structured leads to the obvious question “What happens to space *after* its collapse: how do these spatiotemporal transformations impact our everyday lives . . . ?”

For many cities in the United States, the answer to this question, quite perversely, has led to a *further* “annihilation of space”—this time not at the scale of the globe and driven by technological change, but now quite locally and driven by changes in law. New laws governing the use of space are not just a rhetoric or discourse of neoliberal rezaichism, but its actual practice, a practice that is a key front upon which the battle for the right to the city must be fought. In city after city concerned with “quality of life”—with, in other words, making urban areas attractive to both footloose capital and to the footloose middle and upper classes—politicians and managers of the new economy have turned to what could be called “the annihilation of space by law”—the space to live, sit, and take care of oneself if there is no house or home in which to do so. For this is what the new legal regime in American cities—the regime that is represented in the sorts of laws described above—is outlawing: just those behaviors that poor people, and the homeless in particular, must do in the public spaces of the city.⁶ And this regime does it by legally (if in some ways figuratively) annihilating the only spaces the homeless have left. The anti-homeless laws being passed in city after city in the United States work in a pernicious way: by redefining what is acceptable behavior in public space, by in effect annihilating the spaces in which homeless people must live, these laws seek simply to annihilate homeless people themselves, all in the name of re-creating the city as a playground for a seemingly global capital that is ever forced to engage in its own annihilation of space.

THE ANNIHILATION OF PEOPLE BY LAW

Sleepless in Seattle

The current restrictions on homeless people's behavior in public space are clearly an effort to regulate space so as to eliminate homeless people, not homelessness. Berkeley is quite advanced in this effort, though not nearly so much as San Francisco across the bay or Seattle to the north. The case of Seattle, in fact, is indicative of the whole tenor of the war against homeless people that cities are waging in the name of global competitiveness. It is also indicative of the tortured path that ideology travels as it is transmogrified from a form of urban liberalism into a form of urban neoliberalism.

In an article that recounted the Disney Corporation's failed at-

tempts at urban planning in Seattle during the 1980s and the subsequent development by the city of a more inclusive planning process—one that included homeless people and attempted to incorporate their needs and desires—Stacy Warren (1994) quotes the remarks of a homeless man included in a 1989 survey: "thank you for having me and other individuals to be part of the [Seattle] Center—warmth, etc. as a homeless person." On the basis of this and other evidence, Warren (1994, 110) concludes: "That a homeless person, as perhaps the strongest symbol of disenfranchisement in the city, should form a constituent part of the planning process for the new Seattle Center speaks to the power of true citizenship embedded in hegemonic processes."

Such benevolence toward homeless people in Seattle had its limits, even in the 1980s. In 1986 Seattle passed an "aggressive panhandling law" (*Los Angeles Times* 1987; *New York Times* 1987; Blau 1992), one of the earliest in the country. The law was struck down as unconstitutional (since it was seen as outlawing a form of protected speech). By the early 1990s, unconvinced of the effectiveness of laws merely regulating aggressive panhandling, Seattle's crusading City Attorney Mark Sidran sponsored a suite of new laws that outlawed everything from urinating in public to sitting on sidewalks and sleeping in public places. The new laws further gave the police the right to close to the public any alley it felt constituted a menace to public safety.⁷ Sidran argued that such laws (that is, laws that outlawed conduct that homeless people had to engage in to survive) were necessary to assure that Seattle did not join the cities of California as "formerly great places to live." The danger was palpable if still subtle:

Obviously, the serious crimes of violence, the gangs and the drug trafficking can tear a community apart, but we must not underestimate the damage that can be done by a slower, less-dramatic but nonetheless dangerous unravelling of the social order. Even for hardy urban dwellers, there comes a point where the usually tolerable "minor" misbehaviors—the graffiti, the litter and the stench of urine in doorways, the public drinking, the aggressive panhandling, the lying down on the sidewalks—cumulatively become intolerable. Collectively and in the context of more serious crime, they create a psychology of fear that can and has killed other formerly great cities because people do not want to shop, work, play or live in such environments. (Sidran 1993, B5)

The logic is fascinating. It is not so much that "minor misbehaviors" are in themselves a problem. Rather, the context within which these behav-

iors occur ("more serious crime") makes them a problem. Sidran is expressing a variation on the "broken windows" thesis of James Q. Wilson and George F. Kelling (1982; Kelling and Coles 1996), which we will explore in more detail in the next chapter. For now it is enough to note that the answer to the problems associated with "minor misbehaviors" and their context of "serious crime" is neither to focus on the context nor to try to understand the reasons why people might need to lie on sidewalks or urinate on doorsteps. Instead, "[t]o address misbehavior on our streets, we need to strengthen our laws. We need to make it a crime to repeatedly drink or urinate in public, because some people ignore the current law with impunity" (Sidran 1993). Sidran recognizes that "law enforcement alone is not the answer" and thus supports expanded services for the homeless. "At the same time, however, more services alone are also not the answer. Some people make bad choices"—such as the choice to urinate in public or to sit on sidewalks. "We also need to address those lying down day after day in front of some of our shops. This behavior threatens public safety. The elderly, infirm and vision impaired should not have to navigate around people lying prone on frequently congested sidewalks."

There is another, perhaps more important, danger posed by those sitting and lying on sidewalks: "many people see those sitting or lying on the sidewalk and—either because they expect to be solicited or otherwise feel apprehensive—avoid the area. This deters them from shopping at adjacent businesses, contributing to the failure of some and damaging others, costing Seattle jobs and essential tax revenue" (Sidran 1993). Sidran argues in the end that homeless people in the streets and parks "threaten public safety in a less-direct but perhaps more serious way. A critical factor in maintaining safe streets is keeping them vibrant and active in order to attract people and create a sense of security and confidence." And security is precisely the issue:

If you were to write Seattle's story today, you might borrow Dickens's memorable opening of "A Tale of Two Cities," "It was the best of times, it was the worst of times." From *Fortune Magazine's* No. 1 place to do business to the capital of "grunge," from high-tech productivity perched on the Pacific Rim to espresso barristas on the corners, it is the best of times in Seattle. We're even a good place to be sleepless.⁸

Especially if you are homeless, it seems, since under Sidran's proposal there would simply be no place for you to sleep. The regulation of pub-

the space takes on a different "caste," however, depending on who you are. Under Sidran's proposals (eventually passed by the Seattle City Council), exceptions to the "no sitting" provisions were made for "people using sidewalks for medical emergencies, rallies, parades, waiting for buses or sitting at cafes or espresso carts" (*Seattle Times* 1993a). The target of these laws is obvious.⁹ And their effect was both predictable—when enforcement was emphasized downtown, many homeless people moved to outlying business districts, prompting numerous complaints from merchants in those areas (Balter 1994)—and important to understand. To the degree that laws can annihilate spaces for the homeless (the sidewalk, the park, the alley), they can annihilate the homeless themselves. When such anti-homeless laws have come to cover all public space, which is certainly the hope of residents and merchants in outlying areas when downtown ordinances push homeless people in their direction, then presumably the homeless will just vanish.

The Annihilation of People

This is the crux of the matter. Arguing from first principles in a brilliant essay, the legal scholar Jeremy Waldron shows that the condition of being homeless in capitalist societies is most simply the condition of having no place to call one's own. "One way of describing the plight of the homeless individual might be to say that there is no place governed by a private property rule where he is allowed to be" (Waldron 1991, 299). Homeless people can only be on private property—in someone's house, in a restaurant's toilet—by the express permission of the owner of that property. While that is also true for the rest of us, the rest of us nonetheless have at least one place in which we are (largely) sovereign. We do not need to ask permission to use the toilet or shower or to sleep in a bed. Conversely, the only place homeless people may have even the possibility of sovereignty in their own actions is on common or public property.¹⁰ As Waldron explains, in a "libertarian paradise" where all property is privately held, a homeless person simply could not be. "Our society saves the homeless from this catastrophe only by virtue of the fact that some of its territory is held as collective property and made available for common use. The homeless are allowed to be—provided they are on the streets, in the parks, or under bridges" (Waldron 1991, 300).

Yet, as city after city passes laws specifically outlawing common be-

haviors (urinating, defecating, standing around, sitting, sleeping) on public property:

What is emerging—and it is not just a matter of fantasy—is a state of affairs in which a million or more citizens have no place to perform elementary human activities like urinating, washing, sleeping, cooking, eating, and standing around. Legislators voted for by people who own private places in which they can do these things are increasingly deciding to make public places available only for activities other than these primal human tasks. The streets and subways, they say, are for commuting from home to office. They are not for sleeping; sleeping is what one does at home. The parks are for recreations like walking and informal ball-games, things for which one's own yard is a little too confined. Parks are not for cooking or urinating; again these are things one does at home. Since the public and private are complementary, the activities performed in public are the complement of those performed in private. This complementarity works fine for those who have the benefit for both sorts of places. However it is disastrous for those who must live their whole lives on common land. If I am right about this, it is one of the most callous and tyrannical exercises of power in modern times by a (comparatively) rich and complacent majority against a minority of their less fortunate fellow human beings. (Waldron 1991, 301–302)¹¹

In other words, we are creating a world in which a whole class of people cannot be—simply because they have no place to be.

As troubling as it may be to contemplate the necessity of creating "safe havens" for homeless people in cities (and we will see just how troubling that is in the next chapter),¹² it is even more troubling to contemplate a world without them. The sorts of actions we are outlawing—sitting on sidewalks, sleeping in parks, loitering on benches, asking for favors, peeing—are not themselves subject to total societal sanction. Indeed, they are all actions we regularly and even necessarily engage in. What is at issue is *where* these actions are done. For most of us, a prohibition against asking for a donation on a street corner is of no concern; we can sit in our studies and compose begging letters on behalf of the PTA or even ourselves. So too do rules against defecating in public seem entirely reasonable. When one of us—the housed—finds himself or herself unexpectedly in the grips of diarrhea, for example, the question is one of timing—not at all of having no place to take care of our needs. Not so for the homeless, of course: the homeless person with diarrhea is entirely at the mercy of property owners or must find a place on public property on which to relieve him- or herself. So too with the everyday

need to delectate. And similarly, the pleasure (for me) of dozing in the sun on the grass of a public park is something I can, quite literally, live without, but only because I have a place where I can sleep whenever I choose. The issue is not murder or assault, in which there are (near) total societal bans. Rather, the issue, in the most fundamental sense, is an issue of geography, a geography in which a local prohibition (against sleeping in public, for example) becomes a total prohibition (for example, on sleeping) *for some people*. That is why Jeremy Waldron (1991) understands the promulgation of anti-homeless laws as fundamentally an issue of freedom: such laws destroy whatever freedom homeless people have, as people, not just to live under conditions at least partially of their own choosing, but to live at all.¹² And that is why what we understand public space to be, and how we regulate it, is so essential to the kind of society we make. The annihilation of space by law is unavoidable (if still only potentially) the annihilation of people.

The degree to which anti-homeless legislation diminishes the freedom or rights of homeless people is not, of course, an important concern for those who promote anti-homeless laws. Rather, they see themselves not as instigators of a pogrom but rather as saviors: saviors of cities, saviors of all the "ordinary people" who would like to use urban spaces but simply cannot when they are chockful of homeless people lying on sidewalks, sleeping in parks, and panhandling them every time they turn a corner. These are our latter-day "Little Arnolds," and theirs is not simply a good or just cause; it is a necessary one. "The conditions on our streets are increasingly intolerable and directly threaten the safety of all our citizens and the economic viability of our downtown and neighborhood districts," according to Seattle's Mark Sidran (*Seattle Times* 1993c). Or, as columnist Jont Balter (1994) put it: "Seattle's tough laws on panhandling, urinating and drinking in public, and sitting and lying on the sidewalk are cutting edge stuff. Anybody who doesn't believe in taking tough steps to make downtown more hospitable to shoppers and workers wins two free one-way tickets to Detroit or any other dead urban center of their choice." The argument couldn't be clearer: Urban decline is the result of homelessness. Detroit is "dead" because people "make bad choices" and panhandle on the streets, urinate in public, or sit on sidewalks, thereby presumably scaring off not only shoppers, workers, and residents, but capital too. This is a monumentally ignorant view of urban political economy (and, for that matter of racism in the United

States), but it is not at all an uncommon one. Without the elimination of homeless people, Seattle will go the way of Detroit and Newark; hence, the homeless must be eliminated.

THE PROBLEM OF REGULATION

While the mode of regulation of homeless people proposed by Seattle's Sidran and Berkeley's City Council may be relatively new, the desire to regulate the homeless out of existence is not. Indeed, what is a work in American cities is a *recriminalization* of homelessness. The criminalization of poverty and homelessness has a long history, of course. Aspects of the Elizabethan poor laws (which, as Marx showed, were so crucial to the rise of capitalism and the development of a reserve army of labor) were transferred to America and helped shape how colonial cities regulated the poor. During the depressions of the 1870s, 1890s, and early 1900, and their associated "tramp scares" (Cresswell 2001), American varieties of English poor laws were revived. And, as Piven and Cloward (1992) showed so well, welfare and other policies for "regulating the poor" have been an integral aspect of the American state's 20th-century desire to mediate the social pressures that arise from capitalism's fluctuating booms and busts. But all this regulating of the poor should not blind us to their absolute necessity to actually existing capitalism. In a striking passage, Marx (1987 [1867]) discusses the growth of the very poor as a function of the accumulation of capital. But he also points to the contradiction that this dual growth (of wealth and poverty) leads to:

The greater the social wealth, the functioning of capital, the extent and energy of its growth, and, therefore, also the absolute mass of the proletariat and the productivity of its labour, the greater is the industrial reserve army. The same causes which develop the expansive power of capital, develop also the labour-power at its disposal. The relative mass of the industrial reserve army increases therefore with the potential energy of wealth. But the greater this reserve army in proportion to the active labour-army, the greater is the mass of a consolidated surplus-population, whose misery is in inverse ratio to its torment of labour. The more extensive, finally, the lazarus-like layers of the working-class, and the industrial reserve army, the greater is official pauperism. This is the absolute general law of capitalist accumulation. Like all other laws it is modified in its working by many circumstances. . . . (p. 603)

(Chief among these circumstances is the simple fact that "paupers" often simply will not stand for the status they are assigned, and this becomes a problem of social regulation, which may itself take on a particular historical logic. The very existence of such an army of poverty, which is so necessary to the expansion of capital, means there is an army of humanity that must be strictly controlled or else it will undermine the drive toward accumulation. If this has been a constant fact of capitalist development, then what sets the present era, and the present wave of anti-homeless laws, apart is the degree to which such regulation has also become an important ingredient in not just expanding capital but in either attracting it in the first place or in protecting it once it is fixed in particular places. This is what anti-homeless laws are meant to do. The contradiction, then, is that the homeless and poor are desperately needed, but not at all wanted, and so the solution becomes a geographical one: regulating space so that homeless people have no room to be here.¹⁴

In the mid-1980s, Andrew Mair (1986, 351) made a similar claim—about the necessity of removing homeless people from contemporary urban centers so as to assure their continued viability as sites for capital accumulation—for the case of Columbus, Ohio. He suggested that "while the removal of the poor may appear merely incidental with respect to urban redevelopment . . . it can be argued that the poor must necessarily be removed for post-industrial development to occur." But necessary as it may be, it is abundantly clear that as long as removal depended on the relocation of services (as described by Mair 1986; see also Dear and Wolch 1987; Takahashi 1998; Wolch and Dear 1993), it has not really worked. Closing down and relocating soup kitchens and shelters in city after city—or the creation of service-dependent ghettos (Dear and Wolch 1987) in marginal parts of the city—proved at best a temporary solution as more and more homeless people came to colonize the streets of downtown business and commercial districts. Excluded from housing by the destruction of single-room-occupancy hotels and other inexpensive housing (Baum and Burnes 1993, 139; Blau 1992, 75; Groh 1994; Hartman 1987; Hopper and Hanberg 1984; Kasnitz 1986); marooned by the retrenchment from federally subsidized housing for the poor beginning with the Carter administration, reaching full steam during the Reagan years, and fully consummated in the Clinton administration (Leonard, Dolbear, and Lazere 1989; Crump 2002, in press); made redundant by a quickly shifting economy that has seen real wages stagnate and even decline for most workers even during

an economic boom; and thrown onto the streets through deinstitutionalization unaccompanied by a concomitant commitment to community-based care (Wolch 1980; Dear and Wolch 1987; Wolch and Dear 1993), homeless people turned to begging, hanging out, sleeping on the very streets they were meant to be excluded from. Similarly, these years saw fledgling movements by homeless people to protest their attempted exclusion from public space. When, in 1993, the Santa Monica City Council considered enforcing a law closing public parks from midnight until 5 A.M., for example, organized homeless people demanded that the sponsoring councilmember tell them where they could sleep if not in the parks of the city. The councilmember responded, "Why not City Hall?" About 100 homeless people—single men and women, families and the elderly—moved onto the City Hall lawn for 2½ months until the city agreed not to enforce the sleeping ban, essentially admitting that the legal control of public space rendered life impossible for homeless people (Howland 1994, 34–35).¹⁵

Yet despite, and quite likely because of, such protests, the legal exclusion of homeless people from public space (or at least the legal exclusion of behaviors that make it possible for homeless people to survive) has increased in strength during the 1990s, creating and reinforcing what Mike Davis (1991) has called for Los Angeles "a logic like Hell's." This hellish logic is, of course, a response to another quite hellish one: the logic of a globalized economy that is successful to the degree that people buy into the ideology that makes their places to be little more than mere factors of production, factors played off other factors in pursuit of a continual spatial fix (Harvey 1982) to ever progressive crises of accumulation. It is a response, then, that seeks to reregulate the spaces of the city so as to eliminate people quite literally made redundant by the very capital the cities now so desperately seek to attract.

It might seem absurd to argue that the proliferation of anti-homeless legislation is part of continual experimentation in devising a new "mode of regulation" for the realities of post-fordist accumulation (cf. Lipietz 1986). After all, the disorder of urban streets seems to bespeak precisely the inability to regulate the contemporary political economy. But, as Lipietz (1986, 19) argues, a "regime of accumulation" materializes in "the form of norms, habits, laws, regulating networks, and so on that ensure the unity of the process, i.e. the appropriate consistency of individual behaviors with the schema of reproduction", and, as Harvey (1989, 122) further comments, such talk of regulation "focuses our at-

tenion on the complex interrelations, habits, political practices, and cultural forms that allow a highly dynamic, and consequently unstable, capitalist system to acquire a semblance of order to function coherently at least for a certain period of time." Hence, cities are grappling with two—perhaps contradictory—processes. On the one hand, they must seek to attract capital seemingly unfettered by the sorts of locational determinants important during the era when fordism was in development. That is, they must make themselves attractive to capital—large and small—that has the luxury of choosing one location among the many proffered. On the other hand, the cities (together with other scales of the state) must create a set of "norms, habits, laws, regulating networks" that legitimizes the new rules of capital accumulation, rules in which not only is location up for grabs but also companies seek returns of greater relative surplus value by laying off tens of thousands of workers in a single shot, outsourcing much labor or resorting to temporary employment agencies—that is, in which the creation of a reserve army of labor is seen as a positive good.

These two processes—making the city attractive to capital and encouraging the formation of a reserve army labor—are in many (but not all) ways contradictory, and they are continually negotiated within the urban landscape itself. Within capitalist systems, the built environment acts as a sink for investments at times of overaccumulation in the "primary" circuit of capital, the productive system (Harvey 1982, Ch. 8). This statement, however, should not be read to imply either that the landscapes thus produced are somehow "useless" to capital or that local elites, growth coalitions, or a more nebulous "local culture" has no direct influence on the form and location of such investment (see D. Wilson 1991). Rather, investment in the built environment is cyclical, occurring within an already developed built environment. "At any one moment the built environment appears a palimpsest of landscapes fashioned according to the dictates of different modes of production at different stages of their historical development" (Harvey 1982, 233). The key point, however, is that under capitalism this built environment must "assume a commodity form" (Harvey 1982, 233). That is, while the use values incorporated in any landscape may (for different parts of the population) remain quite important, the determining factor of a landscape's usefulness is its exchange value. Buildings, blocks, neighborhoods and districts can all be subject, as market conditions change, as capital continues its search for a "spatial fix," as other areas become

more attractive for development, to rapid devaluation. Quoting Marx, Harvey (1982, 237) argues that "[c]apital in general is 'indifferent to every specific form of use value' and seeks to 'adopt or shed any of them as equivalent incarnations.'" People feel this in their bones; they understand the incredibly unstable, tenuous nature of investment fixed in immovable buildings, roads, parks, stores, and factories. If, therefore, the built environment appears as "the domination of past 'dead' labour (embodied capital) over living labour in the work process" (Harvey 1982, 237), then the goal of those whose investments are securely tied to the dead is to assure that the landscape always remains a living memory, a memory that still living capital finds attractive and worth keeping alive itself. Investments—dead labor—must therefore be protected at all costs.¹⁶ If a built environment possesses use value to homeless people (for sleeping, for bathing, for panhandling) but that use value threatens what exchange value may still exist, or may be created, then these use values must be shed. The goal for cities in the 1990s has been to experiment with new modes of regulation over the bodies and actions of the homeless in the rather desperate hope that this will maintain or enhance the exchangeability of the urban landscape in the global economy of largely equivalent places. The annihilation of space by law, therefore, is actually an attempt to prevent those very spaces from being "creatively destroyed" by the continual and ever revolutionary circuits of capital.¹⁷

Hence, what cities are attempting is not a tried-and-true set of regulatory practices but rather a set of experiments designed to negotiate the insecure spaces of accumulation and legitimation at the dawn of the 21st century. The goal is to create, through a series of laws and ideological constructions (concerning, for example, who the homeless "really" are), a legitimate slay against the insecurity of flexible capital accumulation. That is, through these laws and other means, cities seek to use a seemingly stable, ordered urban landscape as a positive inducement to continued investment and to maintain the viability of current investment in core areas (by showing merchants, for example, that they are doing something to keep shoppers coming downtown). In this sense, anti-homeless legislation is reactionary in the most basic sense. As a reaction to the changed conditions of capital accumulation, conditions themselves that actively (if not exclusively) produce homelessness (see Marcuse 1988), such legislation seeks to bolster the built environment against the ever possible specter of decline and obsolescence. It actually

does not matter that much if this is how capital "really" works; it is enough that those in positions of power and influence believe this is how capital works.¹⁸ As Seattle City Attorney Mark Sidran told the city council, the purpose of stringent controls on the behavior of homeless people is "to preserve the economic viability of Seattle's commercial districts" (*Seattle Times* 1993b); or, as he wrote more colorfully in an op-ed piece, "we Seattleites have this anxiety, this nagging suspicion that despite the mountains and the Sound and the smugness about all our advantages, maybe, just maybe we are pretty much like those other big American cities, 'back East' as we used to say when I was a kid and before California joined the list of 'formerly great places to live'" (Sidran 1993). The purpose, then, is certainly not to gain hold of the conditions that produce so much anxiety. Regulation is designed not to regulate the economy but to regulate its victims.

Regulation is thus always ideological—a means of displacing scrutiny and blame. Indeed, regulating the poor (Piven and Cloward 1992) has long been a primary ideological function of the state at both local and national scales. Such regulation is necessary, as Piven and Cloward (1992) show, because it is the means by which wages and other "drains" on capital accumulation may be minimized; it is how the state seeks to safeguard accumulation—and to maintain its own legitimacy by dividing factions of the exploited classes from one another. That we are in the midst of an ugly class war, centered on the "structural adjustment" of the welfare state and the criminalization of poverty, is certainly no news. But, beginning at least with the recession of the early 1980s, what does seem novel is the ferocity with which this goal is pursued: the rapid rise of the "revanchism" that Smith (N. Smith 1996, 1998) so compellingly details. Such revanchism as regards the homeless has worked in two steps. First there has been a reinvestment in a language of deviance and individual disorder at the expense of structural explanations for (and solutions to) the problem of homelessness. This accomplished, the second step has been to find the means to regulate—through law—this deviance and disorder, completing the turn away from any sense that homelessness might have extraindividual causes. The history of this shift in thinking about homelessness is worth briefly reviewing.

During the relatively stable long-term boom from the end of World War II until the early 1970s, homelessness in American cities was scripted quite clearly by discourses centered on deviance, disaffiliation,

and alcoholism. The stereotypical homeless person was a single white male skid row bum subsisting on mission charity and fortified wine.¹⁹ Considered misfits, wasted humans incapable because of their personal problems of realizing any part in the affluence the postwar period guaranteed to all those who wanted it, they were perhaps to be pitied, certainly to be shooed away from downtown, and carefully confined within traditional skidrows or other districts that had served the casual labor markets of the first half of the century.

The explosion of homelessness, and especially the "discovery" that women, children, and whole families were part of the homeless population in the 1970s and 1980s, brought with it the beginning of a change in discourses on homelessness. While the language of disaffiliation and deviance retained a certain prominence, homeless advocates worked hard to emphasize the structural determinants of homelessness (economic decline; the dismantling of the welfare state, of which deinstitutionalization can be seen as a part;²⁰ gentrification and redevelopment in areas susceptible to it; etc.).²¹ This change in the tenor of the debate, however, was quickly met with a reassertion of claims about homelessness as an individual problem, claims that explicitly sought to turn debate away from economic causes. Perhaps the clearest sustained example of this reassertion of personal disorder as the primary cause of homelessness is Baum and Burnes's (1993) *A Nation in Denial*, which argues that not until we admit that the problem of homelessness is located within addicted and mentally ill individuals can we understand that structural explanations have done more harm than good. Greeted by a great sigh of relief by much of the media (cf. Raspberry 1992; Hamill 1993; Leo 1993), Baum and Burnes's argument can be seen as a primary plank in legitimizing the recriminalization of homeless people's behaviors (even if that was not the intent of the authors). Hamill (1993), for example, uses *A Nation in Denial* as a springboard for advocating "quarantining" homeless people on closed military bases.

Should anti-homeless legislation succeed, Hamill's "solution" will be redundant. The proliferation of anti-homeless legislation clearly indicates that the battle has largely been won by those who seek to repersonalize homelessness. Such legislation is possible only in the absence of an understanding that homelessness has extrapersonal structural determinants. Or, more accurately, troublesome homelessness is seen to reside in those who refuse the numerous social services proffered to them to help them negotiate the conditions that make them

homeless. Whether homelessness is structurally produced or not, this logic goes, people *remain* homeless by choice.

So, for example, in an article praising San Francisco's Matrix program (a set of initiatives designed to enforce "public order" and force homeless people into the tattered social services system), MacDonald (1995, 80) wrote that the "city's efforts to place people in shelter have proved disappointing." Over 2 months, Matrix enforcement teams²² tried to distribute 3,820 vouchers for a night's stay in a church shelter for men. But "less than half the vouchers were taken, and only 678 actually used." MacDonald (1995, 80) found even more alarming the fact that of 3,000 general assistance (GA) recipients who claimed homelessness in San Francisco during the mid-1990s (and who received \$345 a month), only 700 took advantage of a voluntary program "whereby GA recipients can turn over their checks to a non-profit housing advocacy group which arranges for a discounted room in a clean and city-inspected single room occupancy hotel." In exchange, the homeless person is given a \$65 allowance for the month for all other expenses. When numerous contacts with homeless GA recipients failed to increase participation in this program, San Francisco voters made receiving GA contingent upon proof of housing. If a rent receipt could not be produced, a GA recipient would be offered shelter under the "volunteer" program. If the recipient refused, she or he would be stricken from the relief rolls. MacDonald's conclusion?

In passing this measure, San Franciscans acknowledged that providing more housing and other services will be unavailing unless society no longer allows the utilization of those resources to be optional. Funding such services is, in any case, often irrelevant to achieving greater civility in the streets. Matrix has made an enormous difference in San Francisco, though it has placed few people in permanent housing. This suggests that merely enforcing long-standing norms of public conduct may have far more effect on reducing disorder than any number of social programs. (MacDonald 1995, 80)

Note the shift in logic here. No matter what the cause of homelessness, homeless people refuse to take advantage of all that society offers them. In that sense they *are* voluntarily homeless, and thus disciplining them is not only desirable but also necessary. Successfully reducing homelessness to a "lifestyle choice," MacDonald legitimizes all manner of punitive measures against those who "choose" it. "San Francisco is both a

symbol of the past and the wave of the future. Pursuing freedom it got chaos. It is now re-discovering that liberty consists not in overturning social rules, but in mutual adherence to them" (MacDonald 1995, 80). As with all "little Arnolds," MacDonald fails to raise the question of who establishes these rules and who they serve (much less the question of how one is to live in San Francisco on \$65 a month without pariah-ding); the implication that poor, homeless people have no right to the city could not be clearer. As Waldron (1991, 324) so clearly shows, "what we are dealing with here is not just the problem of homelessness, but a million or more persons whose activity and dignity and freedom are at stake." But so too are we creating, through these laws and the discourses that surround them, a public sphere for all of us that is just as brutal as the economy that spawned the conditions in which homelessness developed.

CITIZENSHIP IN THE SPACES OF THE CITY: A BRUTAL PUBLIC SPHERE

Now one question we face as a society—a broad question of justice and social policy—is whether we are willing to tolerate an economic system in which large numbers of people are homeless. Since the answer is evidently, "Yes," the question that remains is whether we are willing to allow those who are in this predicament to act as free agents, looking after their own needs, in public places—the only space available to them. It is a deeply frightening fact about the modern United States that those who have homes and jobs are willing to answer "yes" to the first question and "no" to the second. (Waldron 1991, 304)

In the decade since Jeremy Waldron wrote these words, the crisis of homelessness in the United States has only deepened, and the vigor with which those of us with homes who answer "no" to Waldron's second question has only increased. But we often fail to realize the degree to which this "no"—and its codification in anti-homeless laws—is creating a truly *brutal* public sphere in which not only is it excusable to destroy the lives of homeless people but also there seems to be scant possibility for a political discourse concerning the nature and types of cities we want to build.²³ That is, anti-homeless laws reflect a changing conception of citizenship which, contrary to the hard-won inclusions in the public sphere that marked the civil rights, women's, and labor move-

ments in past decades, now seeks to reestablish exclusionary citizenship as just and good.

Craig Calhoun (1992, 40) has argued that the most valuable aspect of Habermas's *The Structural Transformation of the Public Sphere* (1989) is that it shows "how a determinate set of sociohistorical conditions gave rise to ideals they could not fulfill" and how this space between ideal and reality might hopefully "provide motivation for the progressive transformation of these conditions." In later work, Habermas turned away from such an historically specific critique to focus on "universal characteristics of communication" (Calhoun 1992, 40). Others, however, have retained the ideal of a critical public sphere in which continual struggle seeks to force the material conditions of public life ever closer to the normative ideal of inclusiveness (as we saw in Chapter 1). Calhoun (1992, 37) suggests that social movements, not just dispassionate individuals, have been central in "reorienting the agenda of public discourse and bringing new issues to the fore" (see also Fraser 1990). As Calhoun (1992, 37) notes, the "routine rational-critical discourse of the public sphere cannot be about everything at once. Some structuring of attention, imposed by dominant ideology, hegemonic powers, or social movements, must always exist." Theories of the public sphere—and practices within it—therefore must always be linked to theories of public space (see Howell 1993). The regulation of public space necessarily regulates the nature of public debate: the sorts of actions that can be considered legitimate, the role of various groups as members of the legitimate public, and so forth. Regulating public space (and the people who live in it) "structures attention" toward some issues and away from others.

Similarly, the perhaps inchoate interventions into public debate made by homeless people through their mere presence in public forces attention on the private bodies and lives of homeless people themselves. This is the "crucial *where?*" question to which Tim Cresswell (1996) has drawn our attention in his studies of social transgression. Cresswell argues that regulating people is often a project defined by the attempt to "purify" space, by the attempt to create for any space a set of determinant meanings as to what is proper and acceptable. Yet these proprietary rules are continually transgressed; and these transgressions are just as continually redressed through dominant discourse that seeks to reinforce the "network or web of meanings" of place such that the pure and proper is shored up against transgression. The object of such discourse,

Cresswell (1996, 59) writes, "is an alleged transgression, an activity that is deemed 'out of place'"—for example, just those sorts of "private" activities of the homeless in public space (see Staeheli 1996) that are now the subject of such intense legal regulation. By being out of place, homeless people threaten the "proper" meaning of place.

But there is more to it than that. By being out of place, by doing private things in public space, homeless people threaten not just the space itself but also the very ideals upon which we have constructed our rather fragile notions of legitimate citizenship. Homeless people scare us: they threaten the ideological construction that declares that publicity—and action in public space—must be voluntary (see Chapter 4). Efforts such as Heather MacDonald's (1995) to show the voluntary nature of homelessness are therefore crucial for another reason than that suggested above: Such efforts provide an ideological grounding for reasserting the privileges of citizenship, for assuring ourselves that our democracy still works, despite the unsettling shifting of scales associated with the globalization of the economy (eroding boundaries, unsettling place, throwing into disarray settled notions about home, community, nation, and citizenship), homeless people marooned in public frighten us even more. Not there but for the grace of God, but rather there but for the grace of downsizing, outsourcing corporations, go I. So it becomes vital that we reorder our cities in such a way that homelessness is "neutralized" (Marcus 1988) and the legitimacy of the state, and indeed our own sense of agency, is maintained. The rights of homeless people do not matter (when in competition with "our" rights to order, comfort, places for relaxation, recreation, and unfettered shopping) simply because we work hard to convince ourselves that homeless people are not really citizens in the sense of free agents with sovereignty over their own actions.²⁴ Anti-homeless legislation helps institutionalize this conviction by assuring that the homeless have no place in public to be sovereign.

Anti-homeless legislation, by seeking to annihilate the spaces in which homeless people must live—by seeking, that is, to so regulate the public space of the city that there is literally no room for homeless people—re-creates the public sphere as intentionally exclusive, as a sphere in which the legitimate public only includes those who (as Waldron would put it) have a place governed by private property rules to call their own. Landed property thus again becomes a prerequisite for legiti-

mate citizenship. Denied sovereignty, homeless people are reduced to the status of children: "the homeless person is utterly and at all times at the mercy of others" (Waldron 1991, 229). Reasserting the child-like nature of some members of society so as to render them impotent is, of course, an old move long practiced against women, African Americans, Asians and some European immigrants, and unappropriated radical workers throughout the course of American history.

But such moves are not just damaging to their subjects. Rather, they directly affect the rest of us too. "[I]f we value autonomy," Waldron (1991, 320) argues,

[w]e should regard the satisfaction of its preconditions as a matter of importance; otherwise, our values simply ring hollow so far as real people are concerned. . . . [I]f though we say there is nothing dignified about sleeping or urinating, there is certainly something inherently undignified by being prevented from doing so. Every torturer knows this: to break the human spirit, focus on the mind of the victim through petty restrictions pitilessly imposed on the banal necessities of life. We should be ashamed that we have allowed our laws of public and private property to reduce a million or more of our citizens to something like this level of degradation.

We are re-creating a society—and public life—on the model of the torturer, swerving wildly between paternalistic interest in the lives of our subjects and their structured degradation. In essence, we are re-creating a public sphere that consists in unfreedom and torture. Or, as Mike Davis (1990, 234) puts it in a chillingly accurate metaphor: "The cold war on the streets of Downtown is ever escalating." To the degree we can convince ourselves that the homeless are the communists of our age, we are calling this public sphere right and just. And that has the effect of legitimizing not only our own restrictions on the autonomy of others but also the iniquitous political economy that creates the conditions within which we take such decisions.

LANDSCAPE OR PUBLIC SPACE?

Building a city depends on how people combine the traditional economic factors of land, labor, and capital. But it also depends on how they manipulate symbolic languages of exclusion and entitlement. The look and feel of cities reflect decisions about what—and who—should be visible and what should not, [about] concepts of order and disorder, and [about] uses of aesthetic power. (Zukin 1995, 7)

The relationship between the annihilating economy and the annihilation of space by law made visible through anti-homeless legislation is clearest in discourses on what could broadly be considered "aesthetics." When Senator Patry Murray (D-WA) was first elected to Congress in 1992, she was shocked by what she saw on the streets of Washington, DC: "I look around and see a city in shambles. . . . I see people in the streets with cups next to me, and as I come to stop signs, begging for money" (*Washington Post* 1993b). After quoting Senator Murray, the *Washington Post* reporter continued: "The beggars, many but not all of whom are homeless, are among those sights in the nation's capital that tourists don't enjoy." And the executive vice president of the DC Convention and Visitors Association, Dan Mobley, added: "Panhandlers are not a pretty picture." He also noted, however, that "we have never had anyone say they won't come here because of the panhandlers" (*Washington Post*, 1993b). Even so, in numerous cities around the country, concern with removing homeless people so as to restore the "pretty picture" remains a paramount obsession.²⁵

The executive officer of Downtown Cincinnati (a business association), for example, has argued that "Panhandling today prevents many visitors—from Cincinnati's suburbs and from out of town—from experiencing and enjoying our beautiful downtown" (*Cincinnati Enquirer* 1995b). In Akron, a law criminalizing any (not just "aggressive") panhandling was supported by the mayor because "the city was trying to clean up its downtown image with the opening of the new . . . Convention Center and the expected opening next year of Inventory Place, the home of the Inventors Hall of Fame" (*Cleveland Plain Dealer* 1994). And the interim president of the Atlanta Convention and Visitors Bureau (ACVB) supported a comprehensive "crackdown on vagrants, thugs and general trespassing": "I urge the ACVB and the community to clean up our streets first; otherwise, all the marketing in the world will not help Atlanta" (*Atlanta Journal and Constitution* 1991). "We would like as many tools as possible to keep the city clean," concurred San Diego Police Captain George Saldamando (Rodgers 1992). Indeed, by 2000, the city of San Diego had turned the cleaning of streets—of both litter and homeless people—over to a private program sponsored by the Centre City Development Corporation and the downtown Property-based Business Improvement District named "Clean and Safe" (Mitchell and Staeheli 2002). As described by an official of the Downtown Partnership, which manages the program, "Clean and Safe" uses power-hoses to wash the sidewalks of inanimate waste and "ambassadors" to "get in

the face" of homeless people and convince them to move out of the parks and off the sidewalks of downtown (quoted in Mitchell and Staeheli 2002). By doing so, the city, property owners, and merchants are convinced that tourists and middle-class suburbanites will find the downtown attractive and want to spend more time there.

In each of these instances the concern is with the appearance of the built environment of the city, with creating a landscape that does not "leave [a] bad impression on visitors by feeding the impression that our downtown is unsafe" (Cincinnati Enquirer 1995a). The preferred method for doing this—the promulgation of anti-homeless laws (and in many instances turning their enforcement over to private security forces)—in essence seeks to re-create downtown streets as a *landscape*. The point I am making revolves around a particular definition of "landscape." As Denis Cosgrove (1984, 1985, 1993), Stephen Daniels (1993), and others (cf. Schein 1997) have shown so well, "landscape" implies a particular way of seeing the world, one in which order and control over surroundings takes precedence over the messy realities of everyday life. A landscape is a "scene" in which the propertied classes express "possession" of the land and their control over the social relations within it. A landscape in this sense is a place of comfort and relaxation, perhaps of leisurely consumption, unsullied by images of work, poverty, or social strife. Landscape, Cosgrove (1985, 49) shows, developed from and reinforces a "bourgeois rationalist conception of the world." More recently, Daniels and Cosgrove (1993; see also Cosgrove 1990, 1993) have explored the ways in which the landscapes operate not just as text, or as visual representation, but as the "theater" or stage upon which the "dramas" of life are enacted.²⁶ Yet, the sort of stage being constructed through the redevelopment of downtowns and their protection through anti-homeless laws is, like the festival marketplace or mega-mall that serve as its models, a theater for a "pacified public," as Crilly (1993) puts it (see Chapter 4), and as such it stages a spectacle in which the homeless have little or no part to play. Indeed, homeless people's constant intrusions onto the stages of the city seems to threaten the carefully constructed suspension of disbelief on the part of the "audience" that all theatrical performances demand, thereby seemingly turning that audience away and toward other entertainments: the suburban mall or the theme park (Sorkin 1992).

Anti-homeless laws are thus an intervention in urban aesthetics, in debates over the look and form of the city: "Aesthetic judgments,"

Harvey (1990, 429) has written, "have frequently entered in as powerful criteria of political and social action."²⁷ When these aesthetic judgments have the effect of valuing the spaces of the city as landscape rather than public space, they serve up a double "suspension of disbelief":

The power of a landscape does not derive from the fact that it offers itself as spectacle, but rather from the fact that, as mirror and mirage, it presents any susceptible viewer with an image at once true and false of the creative capacity which the subject (or Ego) is able, during a moment of marvelous self-deception, to claim as his own. A landscape also has the seductive power of all pictures, and this is especially true of an urban landscape—Vence, for example—that can impose itself immediately as a work. Whence the archetypal touristic delusion of being a participant in such a work, and of understanding it completely, even though the tourist merely passes through a country or countryside and absorbs its image in a quite passive way. The work in its concrete reality, its products, and the productive activity involved are all thus obscured and indeed consigned to oblivion. (Leleuvre 1991, 189, emphasis in original)

Creating a city as a landscape therefore is important because it restores to the viewer (the tourist, the suburban visitor, or even the housed resident) an essential sense of control within a built environment, which is rather "controlled" through the creative, seemingly anarchic, destruction of an economy (operating at all scales) that can just as easily destroy the careers and lives of the viewer as it has already the people "downsized":

Even in boom times, downtown Dallas was no field of dreams. In the early 1980s developers built it—stacking glass, steel and masonry ever skyward—but the people did not come.... Too soon, boom times departed as well. The corporate merger and acquisition phase that followed was marked by downsizing and consolidations that caused the office vacancies to skyrocket. Downtown Big D became the Big Empty. Decay followed. (Houston Chronicle 1995)

With the promulgation of anti-homeless laws, "as absolute political space extends its sway" in the name of safeguarding urban accumulation, "the impression of transparency" inherent in the landscape "becomes stronger and stronger" (Leleuvre 1991, 189).

If the illusion of control is one aspect of making over a city as landscape (through the "privatization" of public space that accompanies

laws such as those directed at the homeless), then a second aspect is the reinforcing of an ideology of comfort, or what Sennett (1994, 18) has called the "freedom from resistance." To extend Sennett's argument, the urban landscape is increasingly designed not just to facilitate the movement of capital but also so that "citizens" can "move without obstruction, effort, or engagement" (Sennett 1994, 18).²⁸ "This desire to free the body from resistance," Sennett (1994, 18) argues, "is coupled with the fear of touching, a fear made evident in modern urban design." It is made even more evident in debates surrounding "aggressive panhandling" laws. The Washington, DC, begging ordinance passed in 1993 is typical. It prohibits "approaching, speaking to or following . . . in a way that would cause an ordinary person to fear bodily harm" (*Washington Post* 1993a; *Roll Call* 1993). Assault, of course, is already against the law, as is threatening harm. This law criminalizes not assault or threatening but rather making someone feel uncomfortable. And panhandling, sleeping in public parks, or urinating in alleys makes us, myself included, necessarily uncomfortable. As it should. Discomfort, however, is a far cry from either "wrong" or "dangerous," even if we are frequently reluctant to make such distinctions. "He said, 'I want you to do me a favor.' I said, 'I don't have any money.' I figured that is what he wanted. It really scares me," an elderly woman in Memphis reported. "I don't have a gun, but this is one time [I wish I did]" (*The Commercial Appeal* (Memphis), 1994). The fear of bodily contact is often less palpable than that expressed by this woman,²⁹ but it shows up in concerns over our ability to move down a street or into a place of business without encountering a homeless person. "The city street gauntlet may include six panhandlers in one block. A few sit silently on a bench or crouch against buildings, thrusting plastic-foam cups at the strangers who rush past them. Most, either through their signs or pleas, make more direct requests for money" (*Washington Post* 1993b). Even the most passive of beggars are threatening: the street becomes a "gauntlet" and the silent continually "thrust" toward you.

Sennett argues that "the ability to move anywhere, to move without obstruction, to circulate freely, a freedom greatest in an empty volume" has come to be defined as freedom itself in "Western civilization."

The mechanics of movement has invaded a wide swath of modern experience—experience which treats social, environmental, or personal resistance, with its concomitant frustrations, as somehow unfair and unjust.

Ease, comfort, "user-friendliness" in human relations come to appear as guarantees of individual freedom of action. (Sennett 1994, 310)³⁰

There are two important points here. First, such freedom of movement is only possible by denying others the same right (cf. Blomley 1994a, 1994b). Anti-homeless laws have been challenged on the grounds that, by effectively banning some people from public spaces, they are in violation of homeless peoples' constitutional right to travel (Ades 1989; Stimon 1995; Mitchell 1998b). Hence, *our* mobility is predicated on the immobility of the homeless. The homeless provide "resistance" to our unfettered movement, cause discomfort as we try to navigate the city. And those homeless people who persist in challenging our right to walk by without helping them to survive are anything but "user-friendly."

The second point is that this ideology of comfort and individual movement as freedom reinforces the "impression of transparency" that works to make the urban landscape knowable by erasing its "products and productive activity." "[R]esistance is a fundamental necessity of the human body," Sennett (1994, 310) concludes: "Through feeling resistance, the body is roused to take note of the world in which it lives. This is the secular version of the lesson of exile from the Garden. The body comes to life when coping with difficulty." Reflecting on the construction of a city built on the ideal of the *flâneur* in the 19th century, Sennett (1994, 347) further argues that "a public realm filled with moving and spectating individuals . . . no longer represented a political domain." And in places like contemporary Greenwich Village (where Sennett lives) or other urban neighborhoods, "ours is a purely visible agora" where "political occasions do not translate into everyday practice on the streets; they do little, moreover, to compound the multiple cultures of the city into common purposes" (Sennett 1994, 358). This, of course, is ever more the case as city government after city government seeks to enhance city images by engaging in "quality of life" campaigns.

In short, "quality of life" initiatives such as anti-homeless laws raise a politics of aesthetics above the politics of survival. They substitute an image of the urban landscape for a grounded politics of place designed to improve the lives of all the people of the city. They reduce the "right to the city" for all to a "right" for some to be free from the annoying "resistance" of those thrown into the streets they want to walk on. Crilley (1993, 157) sets "megastuctures" like Canary Wharf in London or the World Financial Center in New York—structures fully controlled such

that they reproduce the life of the city as nostalgia—against the “traditional city.” “Traditional cities,” he writes, “with their connotations of vitality, social interaction and heterogeneity, cannot be ‘programmed’ or ‘animated’; history and memory in the city do not have ‘essences’ reducible to visual images; and a genuine public presence cannot be engineered through the application of correct forms, dazzling spectacle, or the lure of free bread and circuses.” Yet, this is precisely what cities are attempting with the crackdown on homeless people. They seek to replace the public spaces of the city with landscape, to substitute the visual for the (often uncomfortable and troublesome) heterogeneous interactions of urban life.

If malls and festival marketplaces represent one pole of what Michael Walzer (1986) has called “closed-minded” public spaces (those spaces designed for a single function, spending at the expense of hanging out, for example, or, better yet, hanging out as a means to induce spending), then anti-homeless laws represent the other pole. “In 1994, the message in many U.S. cities to people on the street,” noted columnist Coleman McCarthy (1994), “was either get lost or get arrested.” Things have only deteriorated since then (Foscarinis, Cunningham-Bowers, and Brown 1999).

CONCLUSION

Public space—like the right to the city—is always a negotiation (see Goheen 1993). The proliferation of anti-homeless laws ups the ante in these negotiations by seeking explicitly—and within the realm of law—to remove some people from the negotiators’ table through the simple expedient of turning them into criminals. These laws have as a goal—perhaps not explicit, but clear nonetheless—the redefinition of public rights so that only the housed may have access to them. They further the goal of redefining the public space of the city as a *landscape*, as a privatized view suitable only for the passive gaze of the privileged as they go about the work of convincing themselves that what they see is simply natural.

The genealogy of these laws in the insecurity the contemporary bourgeoisie feels within the “globalizing” economy seems clear enough. In an era in which the “symbolic economy” has risen to replace a seemingly more stable industrial-based economy, the “culture of cities” is everything (Zukin 1995). This “culture”—this landscape—is itself a

tenuous thing, not at all a sure or permanent attraction to footloose capital. The rise, then, of what Zukin calls the “aestheticization of fear” seems a quite understandable, if still appalling, thing. By creating superficially pleasing landscapes we hope to stave off the inevitable, to steal from history a few more months or years of prosperity. If this genealogy is clear, however, so too are the costs. Anti-homeless laws are perhaps the clearest indication of the Faustian bargain we are daily making to protect our own relative affluence. The cost to homeless people we so willingly sacrifice is of course the greatest cost. But so too is the rather unthinking construction of a brutal public sphere a high price to pay for an attractive downtown. “Fear proves itself,” Mike Davis (1990, 224) quotes William Whyte as saying, while adding himself that the “social perception of threat becomes a function of the security mobilization itself, not crime rates.”³¹

Indeed, anti-homeless laws indicate the degree to which the public sphere, modeled as it is on the palpable fear of the bourgeoisie, has become less a place of critique, debate, and struggle—a place where the cry and demand for the right to the city is heard over and over again—and more an arena for the attempted legitimization of a brutal political economy and landscape as a just political economy and landscape.

NOTES

1. As we will see, the use of quality-of-life laws for such purposes is quite consistent with their overall purpose: the elimination of public space.
2. Cincinnati’s ordinances, passed in 1995, were struck down in court. New ordinances, more narrowly drawn, but achieving the same thing were passed in 2002. See *Cincinnati Enquirer* (2002).
3. The original revanchism was a movement of reaction against both the royally and the working class in late-19th-century France. Deeply nationalist, it mobilized around “traditional values” (Smith 1996, 45).
4. For an excellent analysis of this dynamic, see Henderson (1999, Ch. 2).
5. It is remarkable how often, now, investment in museums or concert halls (and even more so stadiums) is sold to the public not because it might make the city a better place to live but because it will make it “competitive”—a remarkably anemic reason for public investment.
6. In July 2001, the Los Angeles City Council voted to approve the installation of pay toilets around that city’s skid row, so perhaps defecating in alleys will no longer be as great a need there. The provision of toilets was approved after a 20-year debate. Really (*New York Times* 2001).
7. Designed to control homeless people, these laws were found to be of great value during the 1999 protests at the WTO meeting in Seattle, when hun-

- dreds of activists were arrested, not for rioting, but for such quality-of-life offenses as sleeping in a public place (Fadli-Baillamonte 2000). The mutability of law—its ability to be transferred from one realm of control to another—is something we ignore to our great peril.
8. The reference is to the 1993 Meg Ryan and Tom Hanks movie *Sleepless in Seattle*, about a relationship formed in a cyberspace of sorts: a late-night coast-to-coast chat radio show.
 9. This despite a protestation from the Assistant City Attorney that the law did not target panhandlers. The original *Seattle Times* article quoted above included the phrase "ordinances that would ban panhandlers from sitting on sidewalks." Later editions carried the following: "Correction: The City's sidewalk ordinance prohibits sitting or lying on sidewalks in business areas and does not target panhandlers according to Assistant City Attorney Laurie Mayfield. This article indicated otherwise." The law certainly did not target espresso sippers.
 10. Shelters are no exception. Homeless people are required to behave according to the rules established by their operators, and their ability to remain in the shelter is at the sufferance of the management.
 11. It is also why advocates for the homeless have sought to contest anti-homeless laws—so far without much success—on both "right to travel" (and stay put) and cruel and unusual punishment principles (Simon 1992; Mitchell 1998b).
 12. As Robert Ellickson (1996) details, this is the direction a number of cities are being forced to move in by courts as they respond to the sorts of arguments that Waldron lays out.
 13. As we will see in the next chapter, the urban right takes a very different view of freedom. According to legal scholars such as Ellickson (1996), it seems to consist only in not being jailed.
 14. Of course, Engels made much the same point a century and a half ago in his examination of the condition of the working class in Manchester. He argued there that the bourgeoisie had no real solution to the housing problem except to move the poor about, shifting the crisis from one district to another. Too little has changed in the ensuing years.
 15. Similar actions have been repeated elsewhere in California: see Johnson and Norse (1996).
 16. I develop a theory of landscape based on "dead labor" more fully in Mitchell (2001a) and (2003).
 17. My point is not at all that the globalization of capital is some sort of *deus ex machina* over which we have no control. Rather, it is that a contradiction exists between the need for ever faster turnover times by capital in general and the need to fix some capital in particular places. Capital needs places. But the question is always one of which places, endowed with what sorts of attributes, and this is a question that is only answered in practice. That being so, people with investments rooted in particular places find their investments to be quite insecure. Property, a necessary condition of capital accumulation, can also be rapidly devalued, in essence mortgaging the suc-

- cess of some kinds of investment against the loss of other kinds. Capital is not united, and its complex divisions and contradictions are precisely what lead to the overweening sense of insecurity that governs most American cities.
18. As the Berkeley merchant's self-fulfilling argument quoted in the preceding chapter indicates.
 19. For reviews and examples of discourses on homelessness (in chronological order), see Sollenberger (1911); Anderson (1923); Dees (1948); Bahr (1970, 1973); Spradley (1970); Blumberg, Shipley, and Bartsky (1978); Hopper and Hamberg (1984); Schneider (1986); Hoch and Slayton (1989); Rossi (1989); Baum and Burnes (1993); Wolch and Dear (1993); Takahashi (1998).
 20. This was not the only reason for deinstitutionalization, of course. Its history is much more complex than that and incorporates much that is good, such as the desire to dismantle "total institutions" for the physically and mentally ill.
 21. Some examples include Hombs and Snyder (1982); Hopper and Hamberg (1984); Kasinitz (1986); Mair (1986); Dear and Wolch (1987); Hartman (1987); Marcuse (1988); Deutsche (1990); Blau (1992); Veness (1993); Wolch and Dear (1993). Good recent reviews are Takahashi (1996, 1998, 4-13).
 22. The program has two components. First, police engage in something like "a military campaign. Retaking the city block by block. Every ten days or so, the Matrix teams would announce a sweep of an additional area chosen on the basis of citizen complaints." Second, "Matrix also included social service outreach. A team of two social workers, two mental health workers, a substance abuse specialist, and two police officers roams the city trying to coax the homeless into shelters, housing programs, or treatment for addiction and mental illness" (MacDonald 1995, 79).
 23. This issue has certainly been raised in the wake of the September 11, 2001, terrorist attacks and is now subject to at least some debate. Jeffrey Rosen's (2001) article in the *New York Times Magazine* on closed-circuit television in Britain and its panoptic features is an important prominent intervention into the rising tide of discourse that takes "security" to be the primary issue at stake in public space. The problem with much of the discussion in the month immediately following the attack was that it, perhaps understandably, occurred in a vacuum. Rosen's article was one of the few that I have seen that drew, if only partially, on the years of research and debate about surveillance in public space and its relationship to freedom, politics, and the rights of the most vulnerable.
 24. Let me be clear: the various ideologies through which we understand the homeless and homelessness are indeed contradictory. On the one hand, we need to show that homelessness is a voluntary rather than a structural condition. On the other hand, we also need to show that homeless people are not citizenly "free agents," a position that seemingly undermines the ideology of volunteerism. Yet, the contradiction is resolved quite simply: since

- homeless people have chosen to be (or remain) homeless, they are therefore ineligible for legitimacy.
25. The paradigmatic accounts are Davis (1990) and Sorkin (1992).
26. For a fuller examination of the stage metaphor in landscape geography, see Mitchell (2000, Ch. 5).
27. This point is driven home with force for the case of upper-class suburbia outside New York by Duncan and Duncan (2001).
28. In this regard, those aspects of "bubble laws" (see Chapter 2) that establish a safe zone around individuals as they move through cities become doubly interesting: could it be that we are beginning to see the development of a legal regime that takes personal sovereignty as a state of legal isolation from all that one does not wish to encounter? It is not hard to imagine a world in which individuals are legally granted a "sovereign space" that moves with them through the city, keeping beggars, leeches, and strangers at bay.
29. I am certainly not implying that the fear felt by this woman was not real. Rather, the question is whether our fear or discomfort should be allowed to dictate the destruction of the means of survival for other people. Is the drawing of a gun really an appropriate response to being panhandled?
30. The degree to which Sennet is describing a largely white, male, and bourgeois ideology should be obvious. Clearly the dream of a resistance-free public sphere for some—that is, a fully derailed "right to the city" for the pampered classes—has been historically predicated on a dystopian nightmare for most.
31. Again, see the recent *New York Times Magazine* article by Rosen (2001) on this point.

No Right to the City

Anti-Homeless Campaigns, Public Space Zoning, and the Problem of Necessity

To what degree are the political economy, landscape, and public sphere brutal? In Colorado, more than one homeless person dies—from exposure, assault and murder, lack of medical attention, being hit by a car, and so on—every week (*Denver Post* 2000b); one a week also dies in California's Santa Clara County (*San Francisco Chronicle* 2000). Rates of death vary considerably by city. Boston averaged about one death every 2 weeks during the 1980s and 1990s, but that dropped to only four deaths for all of 1999. City officials declared that a new concerted effort to reduce street deaths was responsible for the decline (*Boston Globe* 2000). Such efforts are immensely important but rare. In "liberal," warmer San Francisco, some 157 people died on the streets in 1998. In 1999, that number increased to 169, continuing an almost constant rise in homeless deaths throughout the 1990s—that is, throughout the period of San Francisco's much lauded Matrix program (*San Francisco Chronicle* 1998, 1999).¹ Such statistics are hard to come by. They are relatively abundant for San Francisco only because a small, social-action-oriented newspaper, the *Tenderloin Times*, began compiling police reports and news records. In other cities, such as Denver and Boston, homeless advocates try to keep track of deaths and every year sponsor a "homeless memorial day" to remember those who died on the streets, but in most American cities the number of homeless deaths is simply not tracked. There is no way of knowing just how many home-