Acknowledgments

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Introduction

The Fight for Public Space
What Has Changed?

On the Sunday following the horrific terrorist plane crash attacks on Tuesday, September 11, 2001, the New York Times ran a full-page feature story asking what it would take to make New York's "public spaces safe from attack" (Barstow 2001, 1:16). The Times interviewed "nine security and terrorism experts" to "envision a New York City of maximum security where money was no object in the pursuit of safety." The discussion was compelling. "Security options once dismissed as unpalatable, impractical or too expensive would be embraced," the Times wrote. "There would be long lines and intrusive and random searches, new identification systems and a strange new vocabulary of terms like biometrics, bollards, bomb mitigation containers and smart doors." One of the experts said, plainly, that "You would have to develop a fortress mind-set" (quoted in Barstow 2001, 1:16).

To some extent, New Yorkers have been preparing for that mind-set for quite some time. Well before September 11, public space had already been significantly fortified—or at least radically transformed—in the name of security over the past generation. Parks had been reconstructed and fenced, and special enclosed areas for children and their guardians had been established. The policing of public spaces ranging in size from small squares to fairly large urban parks and train stations had been turned over to private police forces paid for by, and under the direction of, Business Improvement Districts. New strictures on behavior had become not only commonplace but also expected (and always indicated...
by prominent signs) in the city's streets. Surveillance cameras had become an everyday part of the landscape. Whole public spaces had been closed off for much of the day, locked tight against unwanted users.

The context for these transformations in New York, as in most American cities, of course, was not the threat of terrorist attack but rather the fear of inappropriate users: the homeless, drug dealers, loitering youth—and, not inconsequentially, political activists protesting in front of city hall, marching in the streets, or rallying in parks and squares. The solution to the perceived ills of urban public spaces over the past generation has been a combination of environmental change, behavior modification, and stringent policing. The putative reason is to assure that public spaces remain "public" rather than hijacked by undesirable users.

The experts the Times interviewed in the wake of the terrorist attacks all agreed that further environmental modification was now necessary, including the closing off of the steps to churches, cathedrals, and synagogues, the installation of hundreds of surveillance cameras around important public spaces and along "vulnerable" streets, the installation of more "bomb-proof" windows, trash cans, and so forth. Policing too, they agreed, should be stepped up. Some argued for the deployment of armies of bomb-sniffing dogs and their handlers, even the authority to engage in random stop-and-searches. Others, such as New York City's former police commissioner Howard Safir, urged the integration of facial imaging software into a system of video street surveillance so that pedestrians could be "compared with photographs of known terrorists" (Barstow 2001, 1:16), a technology already used in Britain (Rosen 2001) and at the 2001 Super Bowl, where petty thieves were picked out of the crowd of fans entering the stadium (Los Angeles Times 2001).

A graphic covering much of the page indicates in detail just what might be in store for New York's public space (and by extension those of other American cities): face-recognition cameras on lamp poles; police or security officers on every corner; dogs and their handlers roaming the squares and parks; reinforced, more bunker-like buildings; traffic restrictions sensitive to changing conditions (through the use of automatic barriers that can rise up through the pavement and close off streets nearly instantly); the elimination of "all above- and belowground parking" near key public spaces and important buildings; continual broadcasts of public-service announcements throughout public squares (much like the messages that are broadcast in airports telling citizens to be on the lookout); and the installation of numerous planters, bollards, and blast-resistant trash cans. But interestingly, at the same time all of this is being proposed, Safir (one of the key architects of New York's "quality of life" policing campaign of the 1990s that sought to stringently police public spaces in the presumed interest of the safety of middle- and upper-class residents and visitors) argued against adopting a "bunker, bomb-camp mind-set" (quoted in Barstow 2001, 1:16).

This sentiment was echoed in the Times a week later by the Cooper Union's acting dean of architecture, Anthony Vidler (2001), but his inflection was decidedly different. Briefly reviewing the history of 20th century urban development and its relationship to ongoing fear of attacks (ranging from concerns over Zeppelin bombardments to IRA bombings), a history that has brought with it a strong impulse toward metropolitan deconcentration, Vidler suggests that in the wake of the terrorist attacks "there will be an understandable impulse to flee" the city (Vidler 2001, 4:6). 2 But, Vidler argues, other cities' experiences with terrorism suggest that, in fact, "terrorism alone will not decrease the importance of city centers for the public life of societies," because "real community, as evident over the last week [of spontaneous public gatherings and memorials], is bred in cities more strongly than suburbs" (Vidler 2001, 4:6).

Vidler (2001 4:6) paints a decidedly different picture of public space than those "security experts" who see it as a threat: "The street as a site of interaction, encounter and the support of strangers for each other; the square as a place of gathering and vigil; the corner store as a communicator of information and interchange. These spaces, without romanticism or nostalgia, still define an urban culture, one that resists all effort to 'secure' it out of existence.” Rather than wonder how public spaces can be made secure and how much it might cost (the experts in the earlier Times article estimated that "you could do a hell of a job with less than a billion dollars" [quoted in Barstow 2001, 1:16]), Vidler argues that true security—or at least an urban life worth living—consists in publicness itself. The sorts of proposals put forth by the panel of security experts, Vidler insists, would create "a world hardly worth living in and would inhibit the very contact through density that cities encourage" (Vidler 2001, 4:6). He goes on to argue that "urban public space has suffered major onslaughts in the last 20 years, from the increasing privatization encouraged by reliance on Internet services to the expansion of the mall-effect—whereby only the largest consumer out-
lets survive. In the current crisis, it is all the more important that the idea of public space, and its relations to urban community be sustained" (Vidler 2001, 4:6).

This book is about that "idea"-and, even more importantly, the practice-of public space in American cities. The terrorist attacks on September 11, 2001, did not so much launch a new debate about public space as serve to intensify one that already exists-and has existed for as long as there has been the "democratic" city. It is a debate-or more accurately an ongoing social struggle-that flares up, in varying forms, throughout the course of the 20th century (and in fact earlier too): as antiterror activists take to the streets; as labor activists seek to make the space necessary to press their claims; as free speech activists occupy ground meant for official pronouncements; as women make a space for themselves as part of "the public;" and as city after city tries to decide what to do about the homeless, about teenagers, and about other "undesirables." The question that drives this book is the question of who has the right to the city and its public spaces. How is that right determined-both in law and on the streets themselves? How is it policed, legitimized, or undermined? And how does that right-limited as it usually is, contested as it must be-give form to social justice (or its absence) in the city?

Much early commentary in the aftermath of the terrorist attacks suggested that Americans (and perhaps especially foreigners living in America) had better prepare themselves for the inevitable elimination of certain civil liberties. As the Times noted, even the American Civil Liberties Union was refraining from its usually automatic denunciations of such talk (Barstow, 2001). But what frequently gets lost in such discussions is the degree to which those liberties are always contested, always only proven in practice, never, that is, guaranteed in the abstract. Rights, as we will see in Chapter 1, do not work that way. For homeless people civil liberties and the right to public space have already been all but eliminated in the interests of enhancing the quality of urban life-and the "security"-for housed residents and visitors. For various movements of free speech-in the 1910s no less than the 1960s-the right to speak has often been undermined by spatial restrictions on where one can speak. For workers-and in recent years for anti-abortion picketers-the very act of picketing has frequently been declared by no less than the Supreme Court of the United States to be a violent act. If, as Anthony Vidler suggests, the idea of public space and its role in urban life needs to be preserved, then we also need to be aware that that idea has never been guaranteed. It has only been won through concerted struggle, and then, after the fact, guaranteed (to some extent) in law.

If Vidler's (2001, 4:6) vision of the city-especially his call to "search for design alternatives that retain the dense and vital mix of uses critical to urban life, rethinking the exclusions stemming from outdated zoning, real estate values and private ownership"-is attractive (and I think it is), then the need to continue to struggle over and for public space is now greater than ever. The automatic impulse during the current sense of emergency is to defer to the security experts and their vision of the orderly and safe city. The alternative implicit in Vidler's vision seems, by comparison, highly unpalatable. The sort of city he promotes must necessarily retain some tolerance for risk and danger. It must take for granted that at least some level of "fear" will always be present in urban life. There is no way around that, as unattractive as such a vision had become even before September 11. Struggle-which is the only way that the right to public space can be maintained and the only way that social justice can be advanced-is never without danger of violence. How that potential for violence is policed, encapsulated in law, sublimated in design, or turned toward either regressive or progressive ends makes all the difference in the world.

My goal in this book is to examine some of the contours of that struggle over the past hundred years in American cities. Much of what follows has been previously published, though all is rewritten and updated, sometimes extensively, sometimes only a bit. My reason for bringing this work together in a single volume is to make an argument about the tenuous nature of what the French Marxist and social theorist Henri Lefebvre called "the right to the city." That right, as I hope becomes clear in the course of this book, is dependent upon public space. But just what public space is-and who has the right to it-is rarely clear, and certainly cannot be established in the abstract. I present it rough, historical order, therefore, a series of linked case studies that explore the relationship between social exclusion, social rights, and social justice in American public space. The links between these studies are many, but include a concern with the relationship between social activism and changes in public space law; the role of marginalized actors (migratory workers, the homeless) as a focus of social exclusion; the need not just to produce public space (as so much work in geography
has studied) but to actively take it, if a claim of right is to be made; and a set of questions about the dialectic of order and disorder as it is worked out in specific places at critical times—the streets of San Diego in 1912 as the Industrial Workers of the World were on the march, People's Park in Berkeley, California, in 1969 as an imagined alternative to alienated bureaucratic society, the Civic Center of Santa Ana in the 1990s when the homeless were seen as only so many broken windows marring a landscape poised for economic revitalization, or New York City in those booming years immediately before September 11 when the “quality of life” was up for grabs.

Chapter 1 lays out a theory of social justice as it relates to urban public space. Working through a striking argument by Raymond Williams about Matthew Arnold's reactions to the Hyde Park riots of 1866, I examine some recent statements by commentators that Williams would have called “little Arnolds”—those who see order as properly trumping rights in urban space in nearly all instances—to show how debates and struggles over who has access to public space, and who is excluded, define the “right to the city”—and why a right to the city must be at the heart of any vision of a progressive, democratic, and just world. Part of my argument is that, in fact, rights matter (a position with which some on the left disagree)—and so does law. I suggest that “rights talk”—and even more the practical assertion of rights—remains a critical exercise if social justice is to be advanced rather than constricted.3 Such a claim demands at least a brief indication of how social justice should be theorized, and so the chapter concludes with a discussion of the relationship between rights, social justice, and urban space.

Social justice, rights, and their relationship to urban space, as I have indicated, are not determined in the abstract, but rather in practice. So, in Chapter 2 I turn to these practices. In particular, I try to show how specific social struggles over public space (and the assertion of rights therein) lead to transformations of public space law as courts seek to either adjudicate or eliminate conflict.4 Sometimes the most important practices are not ones that we like. The most significant recent U.S. Supreme Court cases about protests in public space have concerned anti-abortion protesters outside clinics and the homes of abortion providers. These cases draw on a long history of case law that in fact has more to do with controlling (and sometimes eliminating) labor dissent than it does with the sorts of political dissent exercised by anti-abortion protesters. I trace this history from its origins in struggles over the right to speak on the streets by the Industrial Workers of the World around 1910, through a series of celebrated, and rather reactionary, cases concerning “subversive” protesters during World War I and labor picketers in the 1920s and 1930s, and to the eventual codification of what came to be known as “public forum doctrine” in the 1950s and 1960s. These struggles and court cases all involved the right to speak—or what we so often carelessly call free speech—in public spaces, and they involved a rather torturous, but still exceedingly important, distinction the Supreme Court has made between “pure speech,” “expressive conduct,” and behavior. This distinction is important because it helps limit rather than open up what can be said and done in public space and thereby helps to protect the interests of capital and the state.

By 1939, the U.S. Supreme Court had codified, and presumably vouchsafed, the right to speak in public spaces. But that did not stop (and has not stopped) innumerable jurisdictions from hemming in that right, and often eliminating it altogether. Sometimes the means of eliminating is expressly geographical. Jurisdictions often try to “protect” the right to speech in public space by assuring that it occurs in such out-of-the-way places that it has little chance of being heard. Such was the case at the University of California at Berkeley in the early 1960s. Conflict over the right to speak became a conflict over who controlled specific spaces (and indeed over the content of that control). Chapter 3 examines this episode and some of its consequences.5 The Berkeley Free Speech Movement did not inaugurate campus activism in the 1960s (its roots lie more in the civil rights movement), but it did solidify certain aspects of it, including the implementation of a critique not only of politics and justice in America (and beyond), but a critique of modern alienation—a critique that blossomed most fully, perhaps, in the streets of Paris and Prague during the spring of 1968 (and which Lefebvre was anticipating with his polemic on the right to the city). In Berkeley, this critique eventually coalesced into the People's Park movement, and so the chapter ends by exploring the roots of and early struggles over People's Park.

Activists established People's Park (and baptized it in riot) as what they hoped would be a small unalienated space within a city as a whole defined by alienation. As such, it became a refuge for many of the outcasts of society, including the homeless. By the 1980s, according to many (including some nearby residents, merchants, and the university), the sheer number of homeless people in the park had allowed it to
degenerate from a space of freedom to a space of depravity. As a consequence, the university and the city of Berkeley entered into an agreement to redevelop the park and thereby to discourage its "inappropriate" use, especially by homeless people. I argue in Chapter 4 that this plan, and the riot that it touched off in 1991, illustrate just the sort of dichotomy in our ideas about public space noted above in the contrast between the vision of public space advanced by "security experts" and that advanced by Anthony Vidler. This chapter is an updated and revised version of an article published in 1995 (Mitchell 1995). I used the article, and now the chapter, to raise questions about the kinds of public spaces available in the contemporary world, and thus the limits on what sorts of "publics" can be formed. I assess the argument that we have reached the "end of public space" in the contemporary city and find that that argument is overly simplistic, since it assumes that public space already simply existed (rather than was socially produced through struggle). It is also overly simplistic in that it does not necessarily appreciate how new kinds of spaces have developed, creating new opportunities for publicity. One of those kinds of public space, of course, is the space of the electronic media. What I found most interesting as I revised my argument for this volume was the degree to which I underestimated the privatization of, and economic control over, the World Wide Web, and hence overestimated its potential as a "public space" and the sorts of democracy that public space helps advance. And yet, at the same time, I also underestimated electronic media's role in organizing political action, and hence the possibility of democratic struggle in urban public spaces. I try to address this dual underestimation in the present version.

But my real interest lies with the fate of homeless people in material, urban public spaces and the ways that our efforts to eliminate them from these spaces are leading to a remarkably constricted public sphere and a rather shrunken notion of rights, a notion that radical workers in the first half of the century-like those for whom much public forum doctrine was written-would not much recognize (but also would not be much surprised by). Chapters 5 and 6 turn to these issues of homelessness, public space, and rights in the contemporary city. Chapter 5 returns us, also, to issues of law and its role in affecting social and political exclusion by examining the roots and consequences of the implementation of anti-homeless laws around the country. In this chapter I build on the preceding one to explore how movements to regulate public space so as to remove homeless people lead to a specific, and highly constricted, sort of public sphere. I do not find this kind of public sphere to be very attractive. Indeed, to me it speaks of a highly sanitized city and a fully deracinated politics-a politics that elevates the importance of aesthetics over the needs of some people simply to survive. My main point in this chapter is that the new spate of anti-homeless laws and other "quality of life" initiatives in the contemporary City rely on fear as a driving force and thus tend toward not only the sort of security state that the New York experts outline but also the wholesale elimination of a class of people who have nowhere else to be but in public. In short, anti-homeless laws undermine the very right to the City.

Chapter 6 continues this analysis but places anti-homeless laws within two contexts: the "broken windows" theory of policing and urban policy that has provided their justification; and a recent proposal to begin zoning public spaces. I argue that the current city is one in which the upper hand of "justice" itself has been firmly taken by the urban right, forcing the left into arguing, at best, for some awfully paltry rights-such as the right to sleep on the sidewalk, the right to beg, and the right to urinate in an alleyway. These are hard rights to either get excited about Winning, or in fact to continue struggling for, no matter how absolutely central they may be in the current political-economic climate where the right to housing, to a livelihood, or to decent physical and mental health care has simply been wiped from the agenda by the stunning success of neoliberalism. My focus on homeless people in public space-and the attempts to regulate them out of existence-in these chapters derives from the fact that homelessness has become so prototypically the bellwether of urban justice. If anyone needs the right to the city, surely it is the homeless. But such a right must entail not just the right to sleep or piss in public but also the right to inhabit, to appropriate, and to control. And it must be affected through a radical wrestling of power and a much fuller democratization of public space. Neoliberal urban reform calls for the constant increase of urban order. Struggle for social justice in the city-for the right to the city-must therefore seek to establish a different kind of order, one built not on the fears of the bourgeoisie but on the needs of the poorest and most marginalized residents.

By way of conclusion, therefore, I turn to a brief examination of how that order should be conceptualized. I do not suggest what it should be, for any social order will be a product of social practice-the
politics of the street. It is not simply the result of normative argument, even though any politics of the street, as I hope this volume makes clear, is always mediated through normative argument. And so, in the Conclusion, I do suggest that certain forms of normative conceptualization of the city and of public space—indeed, certain utopian images of what the city could or should be—have been and remain crucial in these politics of the street. While much of my analysis in this volume may seem pessimistic, the undercurrent of each of the chapters is that social action—protest, the bringing of lawsuits and other legal actions, the active taking of space—has been the fulcrum upon which the right to the city has been leveraged, both in its actual (limited) practice and in the way it can serve as a beacon for a more open, more just, more egalitarian society. The undercurrent of radical activism that shapes space in and against the "regimes of justice" that regulate it should not be underestimated or dismissed, no matter how often such activism is either defeated or co-opted. Where I see hope is in exactly those moments when radical activist movements have arisen—again and again—to take back the city and to make into something better, movements that "rethink the exclusions" of the past (as Vidler puts it)—and that struggle to remake the city in a more open and progressive light.

Remaking the city in an image of openness and justice in the wake of September 11 will be harder than ever. But it is also more necessary than ever. One of the common refrains in those shocked days immediately following the attacks was that "everything has changed." Yet, as Bertell Ollman (1990) never tires of reminding us, change is the norm; what needs to be explained is fixity. If that is the case, then public space, solid as it is (and its materiality does matter immensely), is ever in a state of flux, ever subject to reformation. What September 11 has likely done is deepen tendencies already in place. Those arguing for security and order over openness and the messy risks of street politics will find further reasons and means for advancing their agenda. At the same time, the prodemocracy, anticapitalist movement has been sent scrambling, wondering not only what its object is but also whether it can ever protest in the streets again. But that too is just a deepening of trends, as the increasingly violent response to protesters in Washington, Quebec, and Genoa during the first part of 2001 made clear. Finally, there are the trends in the content and shape of public space itself. We were already moving toward the sorts of mall-like public spaces that Vidler notes in his Times article, toward a sort of suburbanization of downtown. Even the largest of new public spaces, like the soon-to-be-built Downsview Park in Toronto, are more and more modeled not on an ethic of interaction but an ethic of seamless, individuated movement and circulation: public interaction based on the model of commodity and capital flows.9

I make no sure guesses as to what the future holds. But I do have some sense of—and I hope this volume helps to convey—what the past, and past struggles over public space, have held. If any of the events, trends, and struggles I have identified in this book have value, my hope is that it will be in pointing us both to the degree to which public space is always an achievement (invariably against very steep odds) and therefore to what a just city could be. Lefebvre argues that the right to the city is "like a cry and a demand." Now, more than ever, that cry, that demand, must be heard. And it must be put into practice.

NOTES

1. Interestingly; Vidler does not discuss the decentralization schemes sponsored by the U.S. government out of fear of nuclear attack during the cold war. Such schemes—ranging from the development of the interstate system for defense purposes to the planned deconcentration of industry in Detroit—have had a profound effect on American cities.

2. Certainly aware that the prominent "new urbanist" James Howard Kunstler (writing with Nikos Salingaros) had already done so in a widely circulated essay written within a day of the attack, Vidler suggested that "the 'new urbanism' movement, with its low-density developments like Seaside or Celebration in Florida, designed to replicate small-town life in pre-modern America, will no doubt take the opportunity to denounce tall buildings as inherently mistaken." A version of the Kunstler and Salingaros essay, "The End of Tall Buildings," and some responses to it, can be read at http://www.peoplesgeography.org/space.htm.

3. The argument I make about rights in Chapter 1 was first laid out in Mitchell (1997a); the remainder of the chapter is new.

4. Chapter 2 is a significantly revised and updated version of Mitchell (1996b).

5. This chapter is a revised version of Mitchell (1992). In particular, I fill in and update some of the historical-geographical detail of just what happened on the Berkeley campus in the fall of 1964.

6. Among other things, I update the current status of the park. Once again, UC is considering building dormitories on the land occupied by the park, which was precisely the plan that set off the 1969 riots in the first place.

7. Chapter 5 is a slightly revised version of Mitchell (1997b).

8. While most of the analysis in this chapter is new; the examination of "bro-
ken windows" and public space zoning revise an argument I put forth in a recent book chapter (Mitchell 2001b). That chapter asserted that we now live in a "post-justice" (rather than the more neutral "postmodem") city, an argument I do not develop in the present context.

9. Richard Van Deusen and I evaluate the plans for Downsview in a recent chapter (Mitchell and Van Deusen 2002) of a book (Czerniak 2002) that explores the design competition for the park. The competition itself, and the sorts of plans it called forth, is deeply indicative of current corporate public space ideology.

To Go Again to Hyde Park
Public Space, Rights, and Social Justice

Public space engenders fears, fears that derive from the sense of public space as uncontrolled space, as a space in which civilization is exceptionally fragile. The panic over "wilding" in New York City's Central Park in the late 1980s (rampaging young men violently terrorizing joggers and other park users for the sheer joy of it), the fright made palpable by the explosions in Atlanta's Olympic Park in 1996, and the newfound fear of public space spurred by the sense of vulnerability attendant upon the September 11, 2001, terrorist attacks, no less than the everyday gnawing uneasiness we feel when we step around a passed-out homeless person on a sidewalk, often convince us that public space is the space of anarchy. Such an association of public space with anarchy is, of course, not new; it is not just a feature of the contemporary city, of the current media-encouraged, overweening concern about crime, homelessness, and random terrorism that makes public space seem such an undesirable attribute of the contemporary American city.

Raymond Williams (1997 [1980], 3-5) reminds us, for example, that Matthew Arnold's (1993) famous declaration in *Culture and Anarchy*—that culture represents (or ought to represent) "the best knowledge and thought of the time" (1993, 79)—was made in response to working people forcing their way into Hyde Park in 1866 to hold an assembly in support of the right to vote. For Arnold, the Hyde Park demonstrators were "a symptom of the general anarchy" (Williams 1997...
All this, I say, tends to anarchy” (Arnold 1993, 85, quoted in Williams 1997 [1980], 6). Even more—and even more shrilly—Arnold objected to a working person’s “right to march where he likes, meet where he likes, enter where he likes, hoot as he likes, threaten as he likes, smash as he likes. All this, I say, tends to anarchy” (Arnold 1993, 85, quoted in Williams 1997 [1980], 6).

The proper response, according to Arnold, was repression, the reigning in of “rights,” and the asserting of firmer control over public space, for “without order there can be no society; and without society there can be no human perfection” (Arnold 1993, 181, quoted in Williams 1997 [1980], 6). Only with order can culture flourish, can cities be centers of civilization. Williams’s point in resurrecting the context of Arnold’s arguments about culture is important: those rights we take as “immemorial,” such as the right to assemble in and use public space, are not only relatively new, they are always hotly contested and only grudgingly given by those in power. Always hotly contested: rights over and to public space are never guaranteed once and for all. New struggles emerge, if not only over the right to vote then over the right to live a sane and peaceful life in the nuclear age, the right to control over government in totalitarian states, or, especially in the “postmodern” cities of the Western world, the right, in the absence of decent, affordable housing, simply to live. As Williams (1997 [1980], 8) rightly proclaims: “it will always be necessary to go again to Hyde Park.”

But, just as it is always necessary “to go again to Hyde Park”—for people to take control of public space in defiance of the order, control, and contempt imposed upon them in the name of vouchsafing the vested interests of the few—so too in response do there arise legions of Matthew Arnold imitators. “Our own little Arnolds,” Williams (1997 [1980], 8) called them, who claim they are promoting “excellence and humane values on the one hand; discipline and where necessary repression on the other.” It is not just spectacular protests, riots, or mass demonstrations that draw out these “little Arnolds.” In the contemporary United States, these “little Arnolds” have multiplied most rapidly around the perceived disordering of city streets that has come with the persistent growth of homelessness, with the growing numbers of the un- and underemployed, the mentally ill, and the drug-addicted who have no other recourse than to live their lives in full view of the urban public. For the homeless “to go to Hyde Park” is often a matter of survival; for their detractors this “occupation” of public space by homeless people is seen as a clear affront to the order, dignity, and the civilization of the City.

In the United States, where the crisis of homelessness is now beginning its third decade, perhaps best known among these “little Arnolds” is the nationally syndicated newspaper columnist and regular television talk-show guest George Will. Will frequently uses his newspaper column to promote the idea that the need to maintain “order” and “civility” in public space is simply commonsense. Those who work to promote the rights of homeless people to use public space (as a refuge, as a place to sleep, as a stopping point, as a place of community and conviviality) are nothing more than “gladiators of liberation” engaged in the "business" of "abstract compassion" (Will 1995, 7B). Over the course of the homelessness crisis, Will has been impressively consistent. For nearly two decades, bidding fair to be our era’s Matthew Arnold, our era’s defender of the sweetness and light that is his version of culture and civility, he has argued forcefully that the need for “order” trumps individual or collective liberty (see, e.g., Will 1987, 1995, 1997). Will, echoing the comments of Anatole France, but with none of the latter’s piercing irony, is fond of asserting that there simply “can be no right to sleep on the streets” (Will 1987). The need for a certain kind of collective order outweighs whatever putative right a homeless person might have to find a space for living in the public spaces of the city. The right for the housed residents and visitors of a city to move about without encountering any sights that might trouble them outweighs the right of a homeless person to urinate in a park or alley when there are no public toilets and she or he has been barred admission to restaurants or other semipublic places. The need for order, the need to guard against anarchy, demands at least that much, according to George Will.

Will is hardly alone in his arguments. Rather, he is supported by the concentrated energies of such organizations as the Manhattan Institute (a conservative think tank in New York), the American Alliance for Rights and Responsibilities (a conservative public interest lawyers guild), nationally based policy and opinion mills like the Heritage Foundation and the American Enterprise Institute, and big-city mayors from New York and Cleveland to Los Angeles, San Francisco, and Seat-...
tle. When Will argues that there can be no right to sleep on the streets, Robert Tier (1993, 287) of the American Alliance for Rights and Responsibilities echoes him (and Matthew Arnold) by pointing out that what is at stake is actually not rights at all, but a question of choices. He argues that while the struggle for civil rights might once have had a place in American society (it "helped end American apartheid"), hard-won civil rights are now "used to try to trump many legitimate community interests, and to elevate all kinds of individual desires into assertions of rights. They are now used to defend the colonization of parks by people wishing to sleep there, to assert the right to sleep and eat in the public place of one's choosing, and to beg in any way one pleases" (emphasis added). The problem of homelessness, according to Tier, is not a lack of affordable housing or decent public services, but one of "civility" Adopting a language of inclusiveness, Tier (1998, 290) argues that laws restricting homeless people open public space up for all to enjoy: "those with Armani suits and those with nose rings; elderly people and gay couples; residents and visitors; rich, middle, and struggling classes" (but presumably not those who have no other place to be but in the public spaces of the city). The means of assuring such an open and accessible space, such a civil space, Tier (1998, 290) continues, is to practice "tough love." Rather than working toward the construction of a vibrant public housing program that would make housing affordable; rather than fashioning a decent mental health system that would make the "care" that Tier advocates better than the disease (see Winerip 1999); rather than seeking ways to transform an economic system that requires high levels of structural unemployment to function, Tier (1993, 291) argues that we need "the protection of pedestrians from unwanted solicitations, harassments, and assault." Government should promote the interests of some, Tier is suggesting, even if doing so requires undermining the even more basic rights of others. Tier's (1993, 286) "call for public order" to counteract the descent of urban public space into anarchy shades quickly into repression. No further evidence is needed than New York Mayor Rudy Giuliani's (in office from 1993 to 2001) order to the police, in November 1999, to arrest any homeless or other street people who did not "move along" when told to do so, even if they committed no crime (a practice a federal appellate court in New York had several years earlier already declared unconstitutional).7

The desire to control the streets and other public spaces of the city is not limited to issues concerning homeless people. "Our own little Arnolds" have wider targets. As Mayor Giuliani has made clear, the desire to counteract "anarchy" with repression runs the gamut of public space uses from rallies and demonstrations (as with the police department's violent response to both the "Million Youth March" and the Matthew Shepard memorial march in 1998), to ridding the streets of unlicensed peddlers, to a crackdown on public "vice" throughout Manhattan, to destroying community gardens so as to hand over the property they occupy into the waiting arms of private developers.9 Often this assault on homeless people, community gardeners, small-time peddlers, and young people seeking a place to hang out is couched in the language of liberty. Without order, the argument (from Arnold, through Will and Tier, to Giuliani) goes, liberty is simply impossible. And that order must be explicitly geographic: it centers on the control of the streets and the question of just who has the right to the city.

PUBLIC SPACE AND THE RIGHT TO THE CITY

"The right to the city" is a slogan closely associated with the French Marxist philosopher Henri Lefebvre. Writing on the 100th anniversary of the publication of the first volume of Capital and just before the student and worker uprising of May 1968, Lefebvre's short book, Le droit à la ville, sought to outline what a specifically urban postbourgeois philosophy might be. Much of the book (now published in English as part of a collection of Writings on Cities: Lefebvre 1996) is highly abstract and arcane, little more than a set of notes, many of which would later be expanded upon in Lefebvre's (1991 [1974]) magnum opus, The Production of Space.11 But within this rather arch argument about the content of philosophy and its relationship to the changing social relations of cities were a set of aphorisms and a key set of concepts that had immediate popular resonance. The most important is Lefebvre's normative argument that the city is an ouvre-a work in which all its citizens participate.

There are several issues here that are critical to the development of the argument about public space and social justice that I will make in this book. The first is Lefebvre's insistence on a right to the city. Lefebvre was deeply attached to the rural countryside, especially the village of his birth (Merrifield 2002; Shields 1998), but he shared with...
Marx a disdain for the idiocy of rural life. Idiocy in this sense does not refer to the intelligence of the inhabitants, or even the nature of their customs, but to the essential privacy—and therefore isolation and homogeneity—of rural life. In contrast, cities were necessarily public—and therefore places of social interaction and exchange with people who were necessarily different. Publicity demands heterogeneity and the space of the city—with its density and its constant attraction of new immigrants—assured a thick fabric of heterogeneity, one in which encounters with difference were guaranteed. But for the encounter with difference to really succeed, then, as we will see in a moment, the right to inhabit the city—by different people and different groups—had always to be struggled for. This is the second issue. The city is the place where difference lives. And finally, in the city, different people with different projects must necessarily struggle with one another over the shape of the city, the terms of access to the public realm, and even the rights of citizenship. Out of this struggle the city as a work—as an œuvre, as a collective if not singular project—emerges, and new modes of living, new modes of inhabiting, are invented.12

But the problem with the bourgeois city, the city in which we really live, of course, is that this œuvre is alienated, and so not so much a site of participation as one of expropriation by a dominant class (and set of economic interests) that is not really interested in making the city a site for the cohabitation of differences. More and more the spaces of the modern city are being produced for us rather than by us. People, Lefebvre argued, have a right to more; they have the right to the œuvre. Moreover, this right is related to objective needs, needs that any city should be structured toward meeting: "the need for creative activity, for the œuvre (not only of products and consumable material goods), the need for information, symbolism, the imaginary and play" (Lefebvre 1996 [1968], 147). More sharply: "The right to the city manifests itself as a superior form of rights: right to freedom, to individualization in socialization, to habitat and to inhabit. The right to the œuvre, to participation and appropriation (clearly distinct from the right to property), are implied in the right to the city” (Lefebvre 1996 [1968], 174).

When it was published, this call—this cry and demand—for the right to the city resonated immediately, because Lefebvre was clearly reflecting, and reflecting on, the growing season of unrest that was the 1960s. From his (often uneasy) links to the Situationist International and other radical groups in Paris (see Jappé 1999; Merrifield 2002; Shields 1998), Lefebvre took to heart the argument that current situations—current geographical spaces—had to be radically transformed if the project of human emancipation was to be advanced. As the Situationist Guy Debord (1994 [1967], 126) was simultaneously arguing, "the proletarian revolution is that critique of human geography whereby individuals and communities must construct places and events commensurate with the appropriation not just of their labor, but of their total history" (emphasis in original).

This was not just philosophical position or radical posturing by either Lefebvre or Debord. From the civil rights movement, the Port Huron Statement of the Students for a Democratic Society, and the Berkeley Free Speech Movement in the United States, to the stirrings of the anti-war and anti-imperialism movements that were in fact global in reach, to the specific complaints of Parisian students fed up with being molded into uncomplaining "organizational men" (and women), radical social transformation really seemed possible. And for Lefebvre, this implied the development (finally) of a fully urban society. The right to the city was the right "to urban life, to renewed centrality, to places of encounter and exchange, to life rhythms and time uses, enabling the full and complete usage of ... moments and places ... " (Lefebvre 1996 [1968], 179). That is to say, the use-value that is the necessary bedrock of urban life would finally be wrenched free from its domination by exchange-value. The right to the city implies the right to the uses of city spaces, the right to inhabit. In turn, and highly germane to the current American city, where we are reduced to arguing over whether one has the right to publicly urinate if he or she is homeless (Mitchell 1998a, 1998b), the right to inhabit implies a right to housing (Lefebvre 1996 [1968], 179): a place to sleep, a place to urinate and defecate without asking someone else's permission, a place to relax, a place from which to venture forth. Simply guaranteeing the right to housing may not be sufficient to guaranteeing a right to the city, but it is a necessary step toward guaranteeing that right.

That is to say, the right to housing is one form of appropriation of the city, and that is why Lefebvre was at pains to set this off from the right to property. For property, of course, is the embodiment of alienation, an embodied alienation backed up by violence (Blomley 1998, 2000a; in press; Rose 1994). More accurately, property rights are necessarily exclusive: the possession of a property right allows its possessor to exclude unwanted people from access (Blomley 2000b, 651;
MacPherson 1978). And this act of expulsion, this right of property, Blomley (2000a, 88) notes, frequently involves invoking the power of the state: "Police can be called to physically remove a trespasser; injunctions prepared, criminal sanctions sought. As such, expulsion is a violent act. Violence can be explicitly deployed or (more usually) implied. But such violence has state sanction and is thus legitimate." This issue is particularly important in a world where some members of society are not covered by any property right (Waldron 1991) and so must find a way to inhabit the city despite the exclusivity of property-either that, or they must find ways, as with squatting, and with the collective movements of the landless, to undermine the power of property and its state sanction, to otherwise appropriate and inhabit the city. In the contemporary city of homelessness the right to inhabit the city must always be asserted not within, but against, the rights of property. The right to housing needs to be dissociated from the right to property and returned to the right to inhabit.

In the United States and Canada, Lefebvre’s concerns about the right to inhabit the city were echoed by the radical geographer William Bunge in his “expeditions” in Detroit and Toronto. Bunge argued strongly for the rights of resident communities over “foreign invaders” (such as outside capital, suburban commuters, etc.) and for the rights of people over machines (such as cars) (Bunge 1971; Bunge and Bordessa 1975; Horvath 1971, 1974; see Merrifield 1995). Radicalized by the Detroit riots of 1967, and working both among and for community activists, Bunge focused on the urban life spaces of poor children, particularly African American children. His Fitzgerald: The Geography of a Revolution (1971) is certainly a cry and a demand—and a brilliant exploration into the daily geography of life in a disinvested, redlined, violent capitalist city. The right to inhabit was tenuous, and Bunge exposed its nature in the American city through a remarkable cartography of rat bites, broken glass, empty lots, and hit-and-run accidents. The right to inhabit—such as it was—existed within a web of violence and deprivation, a web of violence and deprivation that, as Blomley (2000a) makes clear, is both in part a result of, and also hidden by, the seeming naturalness of property.

Central to Bunge’s revolutionary geography, as to Lefebvre’s, was the right to housing and the right to control over public space. In the first case, for Bunge and Bordessa (1974), housing was not only desperately needed but also desperately in need of redesign. Public housing in Detroit and Toronto and other North American cities was designed so as to be “anti-children.” High-rises, for example, had no space for play—at least no safe and decent space. Likewise what sufficed as public space in the inner city—empty lots, busy streets, and barren, windswept, unsupervised playgrounds—represented more a geography of death than of life. The right to housing, the right to inhabit the city, thus demands more than just houses and apartments: it demands the redevelopment of the city in a manner responsive to the needs, desires, and pleasures of its inhabitants, especially its oppressed inhabitants. Against this, the actually existing city, the arguments of the "little Arnolds," with their overweaning concern for order and "civilization," with their defenses of the geography of privilege, begin to seem paltry and mean-spirited at best. The cry and the demand for the right to the city is the best means there is to begin to assure what Bunge has called "the geography of survival."

"Rights Talk"

If such arguments about rights were of great importance at the time of the upheavals of 1968 and if they remained important to social movements and activists in the 1970-if, that is, the discourse about rights was central to those particular "returns to Hyde Park"; then such arguments, such discourses, have in more recent years fallen out of favor among much of the academic left and to some degree urban social movements, as well. Complaints about the limits of "rights talk" to progressive social change are legion and are clearly linked to the rise of a more "postmodern" discourse in the wake of the defeat of the 1968 uprisings. The defeat of the left after 1968—perhaps a little later in the American context, even though the relatively conservative Richard Nixon was elected president that same year—indicated to many that the left had for too long hung its hopes on unrealistic (and ontologically suspect) universalist notions of social justice and emancipation. The "enlightenment project," subscribed to by everyone from the signers of the Declarations of Independence, the Declaration of the Rights of Man, and the Declaration of Sentiments to Karl Marx and Martin Luther King, had proven itself to be, many argued, not just easily corruptible by, but actively complicit in, the rise of fascism, the development of
weapons of mass destruction, and the transformation of people not into enlightened subjects but passive bearers of techno-bureaucratic rationality:

Often labeled "postmodernist," especially after Lyotard's (1985) broadside against "metanarratives," 14 such skepticism toward "rights talk," like the call for repressive order in public space, is not in fact particularly new. Indeed, Marx himself was famously skeptical toward the value of "rights" as an organizing principle of social struggle. After all, when rights conflict (as they inevitably do) "force decides" (Marx 1987 [1867], 225). But, as David Harvey (1996, 345) correctly notes in regard to this passage, Marx's point was not at all to abjure completely the efficacy of rights (see also Harvey 2000). Rather, his point was that rights remain efficacious only to the degree they are backed by power, by at least the implicit threat of violence-violence that is at times the "property" of the state and at other times, and crucially, "extra-legal" (Harvey 1996, 346, following Derrida 1992,35).15 To put that another way, rights are at once a means of organizing power, a means of contesting power, and a means of adjudicating power, and these three roles frequently conflict. The difference between Marx's skepticism toward rights (and justice more generally: see Merrifield and Swyngedouw 1996, 1-2) and more postmodern skepticism of rights as a universalizing or totalizing discourse (Lyotard 1985) is that, while the latter sees rights' indeterminacy as their Achilles' heel, more Marxian (and hence more modernist) approaches are concerned with the degree to which rights, despite whatever degree of indeterminacy they may possess, are still to some degree determinant in social life. "Rights"-to the degree they are institutionalized and protected within specific social situations, to the degree that they are and are not backed by the violence and the power of the state, and to the degree that they protect the interests of some at the expense of others (despite and because of the universalizing qualities)-are social relations and hence a means of organizing the actual social content of justice.16

Yet, the specific arguments against rights as a focus of progressive social justice and political organizing are important and worth considering. The most cogent arguments against "rights" as a rallying cry for progressives are expressed in Mark Tushnet's (1984) landmark "An Essay on Rights."

A leftist law scholar, Tushnet argues that "rights talk" is merely distracting, turning progressive attention away from what really needs to be done in the interests of social justice: "People need food and shelter right now, and demanding those needs be satisfied—whether or not satisfying them can today be persuasively characterized as enforcing a right—strikes me as more likely to succeed than claiming that rights to food and shelter must be enforced" (Tushnet 1984, 1394). This is the case because rights suffer from four flaws that are, according to Tushnet, fatal. First, rights suffer from instability. That is, they are not universal and abstract, as the discourse about them often claims, but rather exist only as products of particular political and social moments. As these moments change, so too do the content of rights. Second, rights suffer from indeterminacy. That is, "the language of rights is so open and indeterminate that opposing parties can use the same language to express their positions" (1371). Third, rights suffer from reification. That is, they treat real, complex experiences as an instance of the Simple exercise of abstract rights, which "mischaracterizes" (1382) and devalues those experiences, eliminating what is most important from any social action—its political efficacy. Finally, and most importantly, rights suffer from political disutility. That is, rights often protect privilege and domination instead of the oppressed and minorities, as when commercial speech or the ability of rich donors to buy candidates in an election is "guaranteed" by the First Amendment right to free speech.

Tushnet (1984, 1386) is forceful on this last point: "It is not just that rights-talk does not do much good. In the contemporary United States, it is positively harmful." This is so, in part, because

The contemporary rhetoric of rights speaks primarily to negative ones." By abstracting from real experiences and reifying the idea of rights, it creates a sphere of autonomy stripped from any social context and counterposes to it a sphere of social life stripped of any content. (Tushnet 1984, 1392-1393)

And equally important, "the predominance of negative rights creates an ideological barrier to the extension of positive rights in our culture." Yet, this is not just a matter of progressives needing to do a better job of promoting positive rights, for, as already noted, Tushnet argues that focusing political action on such a goal would detract from the struggle for the real needs at hand (such as food and shelter for the hungry and homeless).

In the context of the radical restructuring of both capital and the state that has quickened since the structural crises that came quickly on
the heels of the 1968 uprisings, arguments such as those by Tushnet need careful attention. Such arguments raise precisely the sorts of questions that ought to be addressed by those who would fight for a more just world in the context of a reordered political, economic, and social life. In an argument against rights, targeted at a popular audience and anticipating much of the transformed discourse about class and economic power that crystallized in the anti-World Trade Organization (WTO) protests in Seattle at the end of 1999, Richard Rorty (1996,15) asserts that the most serious problems facing the United States (and the rest of the world) center on the "power of the rich over the poor" and that "as Karl Marx pointed out, the history of the modern age is the history of class warfare, and in America today, it is a war that the rich are winning, the poor are losing, and the left, for the most part, is standing by." The left is standing by, Rorty argues, because it has brandished a particularly weak weapon against the rich: rights. Rorty argues that "rights" are weak because they do not directly attack "economic injustice." Instead, they are, at least in the contemporary United States, concerned mostly with issues of cultural domination. Therefore, Rorty suggests that both economic and cultural injustice is better attacked with the "robust, practical, and concrete language" of "moral discourse" (Rorty, 1996, 16).

Like Rorty, Tushnet (1984,1402) hangs his argument on the (hard to dispute) claim that "[t]hings on the whole are terrible" since the United States (or, more accurately, capital coordinated through the political and military might of the United States) has created "one of the great empires in world history [where] life in the metropolis goes on as well as it does only because the metropolis exploits the provinces." Under such conditions (conditions that we now have grown accustomed to signifying with the deceptively neutral name "globalization"), "rights talk" seems decidedly secondary. There are far more important and immediate battles to be fought: the battle for housing, for income redistribution, for worker power, against corporate colonization of every aspect of our lives, against racism, against sexism, and against the homophobia that rules everyday life.

Yet, for all the strength of Tushnet's (and Rorty's) analysis, something is lacking-something that the current restructuring of capital and the state makes so readily apparent that it is hard to see how such perceptive analysts can so easily sidestep it. And that is simply this: at a time when the globalization of capital is aided and abetted every step of the way by what Stuart Hall (1988) famously called (in the British case) "authoritarian populism";21 when, under the name of free trade and unfettered markets, capital is free to systematically crush any vestige of social life not yet under its sway, free to create a world in which the immiserization of the many so as to enrich the very few is packaged as inherently just (and liberatory); then those who seek to create a better world have few more powerful tools than precisely the language of rights, no matter how imperfect that language may be (Blomley 1994b). Rights establish an important ideal against which the behavior of the state, capital, and other powerful actors must be measured-and held accountable. They provide an institutionalized framework, no matter how incomplete, within which the goals of social struggle can not only be organized but also attained. As Iris Marion Young (1990, 25) argues, "rights are relationships not things; they are institutionally defined rules specifying what people can do in relation to one another. Rights refer to doing more than to having, to social relations that enable or constrain action."

To put that another way, and to generalize the point, there is a central contradiction that all social movements must face, a contradiction that must be faced squarely even though it is hard to see just how it can be overcome. On the one hand, one of the greatest impediments to freedom, to a just social life, to the kind of world Rorty and Tushnet would like us to struggle for, is the state itself. Tushnet is correct in arguing that rights codified through the institutions of the state can be enormously destructive. They can suffer greatly from disutility; the wrong interests can be protected by rights. Moreover, the (capitalist) state is so fully complicit with the program of capital that it seems hopelessly utopian to think that it could ever be extricated and turned into a force of liberation. That is precisely why so many on the left are willing to abandon state-centered approaches to social change (calling these approaches, rather than the state and capital, "totalizing") and substitute for them either the stern moralism that Rorty (1996) advocates, the cultural politics that he and others Critique (Gitlin 1995; Tomasky 1995; see Kelley 1998), or the reliance on extraparliamentary, extrajudicial politics that Tushnet proposes in place of "rights-talk."

On the other hand, the (liberal) state has proved itself precisely through the institutionalization of rights-to be a key protector of the weak. These protections have not been freely given; they have been won, wrested through moralism, direct action, cultural politics, and
class struggle, from the state and from those it "naturally" protects. Importantly, these fragile victories, incomplete as they are, counterproductive as they may sometimes be, are themselves protected only through their institutionalization in the state. To take only one example, Meghan Cope (997) has argued persuasively that for women and children the state-the U.S. federal state at that-has been, in many ways, the best friend that they have had. The creation of a progressively democratic state (or even a first step toward that old dream of seeing the state wither away) must itself, in good part, begin by strengthening the state-especially in an era of "globalization." Put another way, the state is an essential player in contemporary capitalism and will remain so, no matter how much current political trends promote the appearance of its demise after Keynesianism (Meszeros 1995), the defeats of 1968, and the economic crises of the 1970s. To abandon the state to the forces of capital, or to those so efficient in organizing authoritarian populism (and political quiescence [Singer 1999]) through the state, is shortsighted in the extreme. "Rights talk" is one means by which the struggle to "capture" the state by progressives can be organized. "Rights" are one means by which progressive social policies can be instituted. Rights and rights talk, as the conservative legal scholar Robert Tier implicitly recognizes, are simply too important in the contemporary world to abandon in favor of some even more nebulous notion of morality (Rorty) or uninstitutionalized social struggle (Tushnet). 25

What Rights Do

To make such a claim raises the obvious question: Just how do "rights" and "rights talk" do what I claim they do? For, while it is commonplace, it is also inaccurate, to assert that "discourse" produces things (like the social justice hopefully attendant upon socially progressive policies). Yet, this is not to say that discourses have no power. Quite the contrary, discourse helps set the context within which social practices occur and are given meaning. This power lies in the ability of words organized as discourse to instruct. Take the example of legal discourse. Laws and the discourse surrounding them can seemingly do all sorts of things. As laws, they can grant freedom or deal in oppression; they can order and regulate; or they can lead to mayhem. Yet, in reality, of course, it is not at all the legal words that do this. Words alone do not prevent striking workers in the United States from engaging in secondary boycotts; words alone do not prevent (or allow) women to attend military school or engage in combat; words alone do not enable a corporation to take subsidies to locate its plants in certain communities-only to pull up its stakes a few years later, leaving in its wake a path of destruction. Rather, it is police power-the state-sanctioned threat of violence or other penalties—that permits these outcomes. At most, words can instruct and perhaps provide the discursive justification for the restraint or use of police power; they can help define other institutions of power that mayor may not provide a check on the police power of the state. In this sense, words can provide a valuable tool for restraining power or for justifying it in particular ways. That is precisely what "rights" do: they provide a set of instructions about the use of power. But they do so by becoming institutionalized—that is, by becoming practices backed up by force (as Marx recognized).

Tushnet 0984, 1384) would counter that such an argument fails because of the indeterminacy of rights: "To say that rights are particularly useful is to say that they do something; yet to say that they are indeterminate is to say that one cannot know whether a claim of right will do anything." But Tushnet here ignores the way that a claim of right, no matter how contested, establishes a framework within which power operates. It matters less that power may breach this framework as often as honor it, because it is precisely in the breach that the political utility of rights talk does come to the fore. The abrogation of rights becomes a focus of political action, of social struggle. The argument (such as Tushnet would make) that claims of right cannot be determined within the discourse of rights is absolutely correct. The adjudication of rights, as Marx argued, is a function of force, a result of political action. It cannot be otherwise. But that does not thereby diminish the power of rights talk, as Tushnet claims it does.

For example, how would Tushnet, with his example of the need for food and shelter as pressing areas for social struggle, react to the widespread adoption of anti-homeless laws around the country (see Chapters 5 and 6)? Surely he would agree with Jeremy Waldron’s 0991, 296) startlingly obvious assertion in this context that "no one is free to perform an action unless there is somewhere he is free to perform it." No matter how appalling it might be to argue and struggle in favor of the right to sleep on the streets or urinate in an alley, it is even more appalling, given the current ruthless rate at which homelessness is produced, to argue that homeless people should not have that right. That is, to the
degree that we deny homeless people the right to sleep on sidewalks, we reinforce the “right” of the housed never to have to see the results of the society they are (at least partially) culpable in making. By denying the right to sleep, defecate, eat or relax somewhere, Waldron (1991) concludes, contemporary anti-homeless laws—predicated as they are on the rights of property—simply deny homeless people the right to be at all. In this instance, then, the denial that rights do anything (even if not autonomously) is genocidal. Likewise, absent the institutional power that rights talk helps to organize and constrain, it is hard to see how Rorty’s call for compassion and moral persuasion will have any purchase against anti-homeless laws that take as their basis the twin “commonsense” notions that property rights must be protected and that there is no reason why people should urinate and sleep in parks and on streets.

More directly to the point, moral arguments and compassion create no institutions that can protect moral and compassionate argument—at least not in a world still structured by states and their apparatuses. Rights, by contrast, have the force-physical, if partial-of law. What would happen if, in a few years and in the continued absence of enumerated rights to housing and livelihood, American society no longer produced homelessness quite so efficiently—that is, if homelessness became, because of reduced numbers, no longer quite so pressing a matter in most cities? How would the interests of those who remained homeless be protected when the attention of activists and advocates turned elsewhere, when moral and compassionate arguments were no longer quite so prevalent? Indeed, by what mechanisms can moral arguments protect a minority against a malicious (or simply selfish) majority?

It is helpful in this regard to understand the institutionalization of rights (or more generally the establishment of laws) as a moment in the production of space—especially material, physical space, not only the sort of metaphorical space that has been the currency of progressive theoretical development in recent years. While “production of space” theories are now quite complex, it is in their barest outlines that one may best appreciate their utility for social movements seeking to create a just world. Lefebvre (1991) has argued that with the rise of capitalism came the hegemony of “abstract space.” As labor was “abstracted” from social life (and as abstract labor came to dominate the social relations of production) under capitalism, abstract space was produced. This abstract space is different from “absolute space” (understood as a contentless container) because abstract space was and is socially produced under particular universalizing social relations. As this abstract space becomes predominant, it becomes the site for the radical transformation of social life, establishing social life as merely a series of abstract, highly mediated, social relations (d. Lukacs 1968). Abstract space is the arrangement of space that makes capitalism possible, even as the social relations of capitalism make abstract space possible in the first place. Lefebvre (1991, 55) thus argues that “it is struggle alone which prevents abstract space from taking over the whole planet and papering over all differences.”

The struggle for rights and for just laws is one aspect of this struggle to resist the hegemony of abstract space and to produce what Lefebvre calls “differentiated space.” The struggle for rights is a determinant of the actual social content of the dialectic between abstract and differentiated space; the struggle for rights produces space. The rules for how capital moves across boundaries, for how firms develop in locations, for how public space is created, used, and transformed within cities are all, in part, rules of law, rules of right. Social action is structured through law, and social action creates abstract or differentiated spaces in proportion to the power possessed by each side in a struggle. So social action—including oppositional work by social movements—always operates simultaneously to influence the production of law and the production of space. As Blomley (1994a, 46) concludes, “law is, as it were, produced ... in spaces; those spaces in turn are partly constituted by legal norms.” The struggle for rights—for example, the right to sleep unmolested in a City park if you are homeless—becomes, as we will see in Chapters 3 through 6, an important, if still limited, tool in the production of space against powerful abstracting forces. But rights talk is more than a tool; if successful (and thus inscribed in law and policy), it provides institutional support for produced differentiated space to be maintained against the forces of abstraction that seek to destroy it. Rights themselves, therefore, are part of the process of producing space. Lefebvre (1991, 54) stakes out the end point of this argument: “A revolution that does not produce a new space has not realized its full potential; indeed it has failed in that it has not changed life itself, but has merely changed ideological superstructures, institutions or political apparatuses.” The “cry and demand” for rights is a means for producing the right to the city—it is “that critique of human geography” Debord called for.
Space, Rights, and the Content of Justice

Any "critique of human geography" must be closely tied to normative philosophies of social justice. Without forging such a link, all the arguments by "little Arnolds" about order, freedom, and privilege will remain unchallenged in their claims to common sense. The critique of human geography, in the eyes of these "little Arnolds," is seen as a call for or an excuse for disorder, and thus dismissible. Linking social critique to social justice makes the invocation of "order" by those with material and property interests to protect less tenable: it can be shown to be the particular ideological move that it is. It shows that in fact the question is not one of order versus disorder but rather one of what sort of order is to be developed and advanced—a progressive one or a repressive and oppressive one.

The relationship between geography—the critique of human geography—and justice has been of keen theoretical, philosophical, and political interest at least since the early 1970s, with the publication of Bunge's (1971) report on the Fitzgerald neighborhood of Detroit and David Harvey's (1973) important analysis of liberal and Marxist urban theory, *Social Justice and the City*. In his book *Geography and Social Justice*, geographer David Smith (1994b) has since provided a very useful review of prominent philosophies of social justice that explicitly links them to contemporary geographical social theory. Reviewing both traditional (egalitarian, utilitarian, libertarian, contractarian) and more radical (Marxian, communitarian, feminist) theories of justice, Smith develops a sophisticated interpretation of egalitarian and distributive approaches to justice that takes space, place, and territory seriously. His goal is to illuminate the "structures responsible for inequality" (153) and to show that because such structures fundamentally concern questions of distribution (among other things) they are inherently geographic. To put that another way, Smith argues that exposing the geography of injustice is essential to developing social structures that are more just. Attention to geography forces a broadening of theories of injustice: it illustrates the ways that systems and structures of inequality become entrenched and reproduced in the actually existing world, and thus necessarily turns attention to questions broader than just distribution. Or rather, attention to just distribution within its geographical contexts demands struggle toward the transformation of those geographical contexts. Smith thus provides a sophisticated account of what is often called the distributive paradigm of social justice.

For Iris Marion Young (1990), reliance on a philosophy of distributive justice places such authors as Smith squarely in the mainstream of political philosophy.29 "Contemporary philosophical theories of justice," according to Young (1990, 15), "tend to restrict the meaning of justice to the morally proper distribution of benefits and burdens among society's members." Moreover, such theories (not necessarily excepting Smith's) also tend to "stand independent of a given social context" while still claiming to "measure its justice" (Young 1990, 5). To do so, Young (1990, 7 passim) argues, contemporary theories of justice assume, within any given space, a homogeneous, undifferentiated, universal public, a public that shares like desires and needs. As soon as the universality and homogeneity of the public is revealed to be a myth, theories of distributive justice are exposed as inadequate to the task of rectifying real, socially situated injustice.

To make this argument, Young (1990) does not dismiss (as does Lyotard 1985) the contention that some universal normative claims can and should be made. For example, she suggests that "all reasonable persons share" the assumption that "basic equality in life situation for all persons is a moral value; that there are deep injustices in our society that can be rectified only by basic institutional changes; that [various social] groups ... are oppressed; and that structures of domination wrongfully pervade our society" and can be dismantled (Young 1990, 14). Young's argument, in short, is that distributive justice (given the above universal assumptions) is vitally necessary; but that it is not sufficient. Rather, the content of social justice must include, in addition to a just distribution of things, a framework that allows full, effective participation in decision-making by oppressed groups (35) and a frontal attack on various forms of oppression (48-63). "Justice," Young (1990, 37) argues, "is not identical with the good life as such. Rather social justice concerns the degree to which a society contains and supports the institutional conditions necessary for the realization" of two "values" essential to the construction of "the good life": "1) developing and exercising one's capacities and expressing one's experience, and 2) participating in determining one's action and the conditions of one's action" (Young 1990, 37, references deleted). As Young (1990, 37) recognizes, these are in fact universal values and they require their promotion for
"everyone"; but they are also values that demand a careful attention to
difference, for against them stand "two social conditions that define in-
justice: oppression, the institutional constraint on self-development,
and domination, the institutional constraint on self-determination." Both
oppression and domination are exercised through difference: it is
difference that is oppressed and it is differently situated actors who
dominate. Autonomy—the freedom to be who one is—requires not just
the recognition of difference but also its social promotion.

In summary, for Young (1990) autonomy requires not simply a just
distribution of goods and opportunities but social—or better, social-
ized-control over the means of distribution. And this socialized con-
tral has to be connected with elaborate, normative, universalizing, and
institutional frameworks that promote autonomy and difference, both
of individuals and of groups. Frameworks of rights, in other words, are
crucial to the development of a social justice that moves beyond distri-
bution and begins to recognize the struggle against oppression and in
favor of autonomy (25). However, the ways in which we conceptualize
"rights" needs to be transformed (96-97). Young argues, rightly, that
within the discourse of law the "ethic of rights" corresponds poorly to
the social relations typical of family and personal life because such an
ethic is based on a model of civic social relations that takes social de-
tachment rather than social engagement as its basis. Critiquing the
Habermasian ideal of a detached "public sphere" and drawing on a
range of feminist arguments, Young (1990, 97) notes that the "ideal of
impartial moral reason" (which stands behind much rights talk) "corre-
sponds to the Enlightenment ideal of the public realm of politics as at-
taining the universality of a general will that leaves difference, particu-
larity, and the body behind in the private realms of family and civil
society."

Such a conception of rights—and with it, such a conception of dis-
passionate social justice—relies on what Young (1990, 98) calls a "logic
of identity" that "denies or represses difference." This is because "the
logic of identity tends to conceptualize entities in terms of substance
rather than process or relation." But a more dialectical notion of entities
(see Ollman 1990; Harvey 1996) can be adopted, struggled for, and de-
defended. Doing so would mean that the "logic of identity" has to be re-
placed with a "logic of representation." A "logic of representation" cen-
ters on the right of groups and individuals to make their desires and
needs known, to represent themselves to others and to the state—even
without the struggle—as legitimate claimants to public considerations.
Such a logic requires the acceptance of a (near) universal and positive
right of representation. Yet, as with any other right, such a right cannot
be guaranteed ("accepted") in the abstract—rather, it is something al-
tways to struggle toward. In this struggle, the development—or often the
radical claiming—of a space for representation, a place in which groups
and individuals can make themselves visible, is crucial. While it is no
doubt true that the work of citizenship requires a multitude of spaces,
from the most private to the most public, at the same time public spaces
are decisive, for it is here that the desires and needs of individuals and
groups can be seen, and therefore recognized, resisted, or (not at all par-
adoxically for thoroughly materialist rather than idealist normative so-
cial practices) wiped out. The logic of representation demands the con-
struction—or, better, the social production—of certain (though not
necessarily predetermined) kinds of public space.

**Representation and Public Space**

Representation, whether of oneself or of a group, demands space. While
it is true that "human beings have no choice but to occupy a space: they
just do," as David Smith (1994b, 151) puts it, it does not follow that
such a space allows for the full, adequate, and self-directed representa-
tion of human beings either to themselves or to others. Jail and school,
take two obvious examples, are controlled environments where the
needs, desires, rights, and hence ability to self-represent are not only
limited but often denied altogether. But one does not have to focus on
such "total institutions" (as Foucault has called them) to see that the
ability for (or right of) representation is continually frustrated everyday
in innumerable individuals and groups. While occupying some place
or space is vitally necessary to life, it is not necessarily guaranteed as a
right. Rather, private property rights hedge in space, bound it off, and
restrict its usage. As Smith (1994b, 42) argues, "the right to own land
differs from other commonly enunciated rights, in that it concerns the
appropriation of the scarce material world, and can impinge on the
rights of others to meet such vital needs as food and shelter." Moreover,
private property rights also potentially trump what Smith (1994b, 43)
calls membership rights but which in the American context might be
more commonly understood as the right to assembly—that is, those rights that make possible the formation of political communities, that make possible political representation.

In a world defined by private property, then, public space (as the space for representation) takes on exceptional importance. At the level of basic needs, as Waldron (1991) argues, in a society where all property is private, those who own none (or whose interests aren't otherwise protected by a right to access to private property) simply cannot be, because they would have no place to be. At a less immediate but still vital level, in a world defined by private property, the formation of a public sphere that is at all robust and inclusive of a variety of different publics is exceedingly difficult.

Much ink has been spilled arguing the merits of Habermas's (1989) notion of the public sphere, and especially the limited historical geography out of which he saw it arising (cf. Calhoun 1989). As numerous critics have pointed out, Habermas's singular and normative theory of the universal public sphere is handicapped from the beginning because it attempts to universalize a model of discourse that developed in highly constrained, exclusive (male, bourgeois, white) spaces, such as the 18th-century coffee house. Nancy Fraser (1990) argues that the notion of the singular universal public sphere needs to be replaced with a theory of multiple, contending, often mutually exclusive public spheres. Just as important is the need to provide a more realistic geographical basis to the very notion of the "public sphere."

Implicit in much theorizing about the public sphere is the assumption that the provision of an adequate space (or in some renderings, an adequate technology) will perforce create a vibrant public sphere. The proliferation of and perhaps democratic control over places to meet, gather, and interact (whether these places be town squares, electronic communities, televisions chat shows, or "the media") are often seen as sufficient to the creation of a public sphere. The erosion of such places (and their replacement by privately controlled spaces and means of communication) is likewise often argued to be crucial to the closing down of the public sphere. The images—or ideals—of the public sphere and its relationship to space are important and in their normative force often drive much political organizing and action. And yet these arguments are limited to the degree that they assume that the construction of either singular or multiple public spheres is an issue of planning, and that such planning is—or could be—sufficient to the promotion of political discourse. The planning and provision of public spaces will lead, the argument often goes, to the ability of various groups to represent themselves.

And yet, as careful analyses of the community network movement in the United States (such as that by Michael Longan 2000) show, even the most well designed spaces for interaction (in this case the electronic space of the internet) often lead to a remarkably limited and ineffectual public discourse. Indeed, Longan (2000) found that the most effective arenas of public discourse arose around specific issues and specific needs. That is to say, political debate developed not because it could, but because it had to—and in the process often the least likely sites for political representations became the most important.

That is to say, for all the importance and power of recent "end of public space" arguments (which is great, as I will discuss in Chapter 4), what makes a space public—a space in which the cry and demand for the right to the city can be seen and heard—is often not its preordained "publicness." Rather, it is when, to fulfill a pressing need, some group or another takes space and through its actions makes it public. The very act of representing one's group (or to some extent one's self to a larger public creates a space for representation. Representation both demands space and creates space.

But it rarely does so under conditions of its own choosing. And so here the desires of other groups, other individuals, other classes, together with the violent power of the state, laws about property, and the current jurisprudence on rights all have a role to play in stymieing, channeling, or promoting the "taking" and "making" of public space and the claim to representation. The move again and again to Hyde Park—or to create new Hyde Parks—meets deep opposition, not only from innumerable "little Arnolds" but also from riot police wielding tear gas, corporate lawyers wielding writs and subpoenas, and "rent-a-cops" wielding revolvers (and licensed to use them). So too is "Hyde Park" reclaimed by the almost inevitable attrition endemic to any militant or long-term occupation—whether that occupation is one of homeless people creating a communal shantytown on city property or the occupation of generations of activists seeking to retain the right to protest in (or just to use) spaces subject to the imperious designs of corporate capital and its allies in planning and land-use departments.

The production of public space—the means through which the cry
and demand of the right to the city is made possible—is thus always a dialectic between the "end of public space" and its beginning. This dialectic is both fundamental to and a product of the struggle for rights in and to the city. It is both fundamental to and a product of social justice (which thus cannot be universal except to the degree it relates to the particular and the spatial-particular struggles for rights and particular struggles over and for public space). The purpose of the chapters that follow is to explore—in historical-geographical detail as well as at the level of normative theory—just this dialectic, and to show how it structures the "right to the city" as it actually exists and as various activists and social groups have struggled to make it be.

NOTES

1. The full sentence reads: "The rough has not quite found his groove and settled down into his work, and so he is just asserting his personal liberty a little, going where he likes, assembling where he likes, bawling as he likes, hustling as he likes" (Arnold 1993, 88). The invocation of settling down into one's appointed work is telling. But more important, perhaps, is that Arnold makes his argument as a defense of the State (the capitalization is his), which he sees as both the guarantor of order and the (perhaps imperfect) expression of perfection. This sets Arnold apart from many of the contemporary "little Arnolds" writing in America whom we shall shortly meet.

2. My argument throughout the course of this book will not be that "order" in and of itself is bad; rather, the issue is what kind of order, and protecting whose interests, is to be developed and advanced. Indeed, I will argue, especially in the Conclusion, that "order" is as vitally necessary to the progressive city as it is to the oppressive or repressive one.

3. In late 1999, responding to a highly publicized assault that was wrongly linked to a homeless street person, Mayor Rudy Giuliani of New York reiterated his (and many others') staunch belief that there simply is "no right to live on the streets." Giuliani put it starkly: "Streets do not exist in civilized societies for the purpose of sleeping there. Bedrooms are for sleeping in" (Bumiller 1999, A1)—which, of course, is fine if you have one. For those who do not, Giuliani announced a new program to arrest those sleeping on the streets if they did not "move on" when ordered to do so by the police. Simultaneously, Giuliani announced that shelter beds would be conditional on employment. Most of the homeless, under this policy, were caught in a quite sharp "Catch-n." As the New York Times put it in an analysis, "many New Yorkers seemed puzzled by a policy that would throw homeless people out of shelters and into the streets, and yet arrest them for being there if they would not go to a shelter" (Bernstein 1999, 1). Indeed.

4. Here Will is quoting the editor of the conservative American Enterprise magazine, Karl Zinsmeister, who argues that those who promote homeless people's rights to public space "have no regular experience of neighborhood life as it must be endured by low-income dwellers" (quoting in Will 1995). Neither Zinsmeister nor Will provide any evidence for this allegation.

The Manhattan Institute has produced a compendium of polemic from the urban right (Magnet 2000), which fairly clearly outlines the current "little Arnold" position.

The AARR is a branch of something called the "Communitarian Network," both of which are dedicated to litigation that they hope will "restore the spirit of community in the United States" by striking "a balance between extreme rights claims and those who would sacrifice civil liberties as a means to an end" (Golden 1998, 552). Tier is now the President of the Center for Livable Cities, "a national non-profit organization that assists local governments, downtown associations, and citizen anti-crime groups on urban crime and disorder issues" (Tier 1998, 255n).

7. See note 3, above.

8. The "Million Youth March," held in Harlem on September 5, 1998, was organized by Khalil Muhammad, a leader of the New Black Panther Party and a former leader of the Nation of Islam (who had been expelled by Louis Farrakhan for being too bigoted). The rally was required, by order of Mayor Giuliani, to end at 4 PM. When it went overtime by a few minutes, riot police stormed the stage, sparking a riot. A month and a half later, some 4,000 New Yorkers gathered to march through Manhattan in memory of the brutally murdered gay University of Wyoming student Matthew Shepard. Police reacted by chasing marchers through the streets with nightsticks.

9. Giuliani's anti-community gardens campaign has received a huge amount of attention, and yet there is not yet a single good source for understanding its history. What is clear, however, is the degree to which, prior to September 11, 2001, his alienation of much of his political base through this campaign had undermined his support and popularity. The problem that faced Giuliani when he turned against the gardeners (largely, it seems, out of an ideological commitment to private property and a visceral dislike of populist movements that had been successful at implementing what he desired to implement through more authoritarian means) was that he was leading an assault against one of the things that New Yorkers most liked rather than disliked about their city.


11. For a discussion of the relationship between these two books, and for an
argument that Lefebvre's deeply abstract arguments were in part a function of his style of work, which relied heavily on dictation, see Shields (1998). The best examination of the development of a specifically urban Marxism in Lefebvre's work is now to be found in the chapter on Lefebvre in Andy Merrifield's (2002) wonderful new book *MetroMarxism*.

12. There are, of course, more basic arguments as to why the city must be at the heart (but not at all the exclusive focus) of any struggle for a progressive, socially just world. Among these are the simple fact that most of the world's population is now urban, that cities have become the command and control centers of the global economy and of the practices and policies that are transforming the global environment, and that, in fact, increased rather than decreased urbanization will have to be at the heart of any move toward sustainability under continued population growth: cities are every bit as much a solution as they are a problem.

13. The Detroit Geographical Expedition and its offshoots in Toronto and elsewhere marked an important moment in the rise and fall of an activist community-centered geography that saw its task as one of helping to develop the theories and skills necessary for radical, bottom-up social transformation. The impressive growth of social theory in the past two decades has come at the cost of abandoning this project, no matter how much radical geographers have retained the language of activism. Merrifield's (1995) examination of Bunge's geographical expeditions does a superb job of both recovering the history of the expedition (including its flaws) and charting this shift in activist geography.

14. Lyotard's (1985) broadside argues that "even the emancipation of humanity" (60) is disqualified as a grounds for universal discourse, and yet it concludes with an explicit discussion of justice "as a value [that] is neither outmoded nor suspect" (66).

15. The best discussions of the geography of rights are authored by Nicholas Blomley (1994a, 1994b).

16. All this is to say (to put it bluntly), "rights" must be at the heart of any Marxist and socialist project of urban transformation, even while the limits of the的权利, and the need to continually struggle over them, must constantly be acknowledged.

17. This and the next section are revised versions of arguments I first made in Mitchell (1997a).

18. Negative rights are expressed as a prohibition on some aspect of state power; for example, a prohibition on the state's interfering in people's speech acts is negative rather than positive because it defines the limits of state action rather than the extent of people's ability to act.

19. His primary example, reflecting a set of court cases of the time, was the assault on the rights of gays and lesbians, and in this context he argues that such an assault will not be stopped by justices discovering "a hitherto invisible right to sodomy" but because the heterosexual majority will be persuaded that "tormenting homosexuals for no better reason than to give itself the sadistic pleasure of humiliating a group designated as inferior" is bad. Of course, such a remedy says nothing about how to redress grievances by those gays who continue to be "tormented" (or even just discriminated against) even after the majority has come around.

20. Those of us not well-versed in philosophy might be led to wonder why "moral discourse" is more practical and concrete than the language (and institutionalization) of rights, but, unfortunately, Rorty does not provide an answer. Nor does he provide an answer as to why progressives cannot fight for economic as well as cultural rights.

21. Authoritarian populism probably better describes the ruling ideology of Thatcher/Reagan than Clinton/Blair. The zeitgeist of the 1990s might be better characterized as "therapeutic authoritarianism." Whatever populist energies Thatcher and Reagan may have galvanized were dissipated by Clinton and Blair, who both so readily "felt our pain" and then increased it by ending "welfare as we know it" and instituting rather draconian disciplinary compulsive-employment laws in its place. The authoritarianism remains, but now it is made palatable by adding to it a warmed-over mixture of 1970s-style psychobabble and '80s-style "tough love." As I write, in the wake of September 11, 2001, in the midst of the U.S. and British war against Afghanistan, and as the anthrax scare continues to remain unsolved, both President George Bush and Prime Minister Tony Blair seem intent-with their stepped-up police powers for unwarranted searches, proposals to read private e-mails and listen in on attorney-client conversations, and mass detentions of the uncharged and unarrested-to create a new fascism, a sort of (nominally) democratic, authoritarian totalitarianism. It is no accident that this is being put into place through a wholesale attack on rights-the right to privacy, to be free from unreasonable search and seizure, to a speedy trial and to confront your accusers, and so forth.

22. Blomley (1994b) makes a compelling argument for the importance of "rights-talk"-an argument that has been a deep inspiration for my own thinking on the subject. Following Patricia Williams (1991), Blomley rightly notes that the leftist critique of rights, which has been conducted largely by whites, is quite condescending when the everyday experience and ongoing struggles of African Americans is considered. For African Americans, as for other people of color, many women, the homeless, and sexual minorities, and now Arab and Islamic peoples, everyday experience features the routine denial of formally recognized rights. The struggle for the effective protection of such rights, therefore, is central to progressive organizing in these communities. Harvey (2000) develops this argument in specific reference to the important promissory power of the United Nations Declaration of Human Rights.

23. As Daniel Singer (1999) has made clear, ideologies for capitalism have used this sense of the impossibility of change to great advantage in the past several decades. Summarized by Prime Minister Margaret Thatcher's famous phrase "There Is No Alternative," this position argues that global capitalism and continued oppression are not just the best possible alternative, but rather the only possible alternative.
24. The liberal and the capitalist state are, of course, one and the same. The state is contradictory (Clark and Dear 1984; Habermas 1974).

25. I say “one means” because there are clearly others: both progressive and reactionary economic policies can be enshrined in law, for example, as can many moral principles (also both progressive and reactionary), but at root these must entail an assessment of rights: both what is right and that to which people are entitled only by dint of their residence in a political community. All of these terms—rights, laws, political community, residence—are indeterminate and therefore open to ongoing struggle. This is why discussions of power are vital to any discussion of rights, morality, and so forth. The difference between morality and uninstitutionalized social struggle on the one hand, and rights on the other, is that the latter necessarily demands a theory of power—and its exercise—at its heart. Discourses of morality assume human perfectability; uninstitutionalized social struggle assumes that there never are winners who can organize power and violence to their overwhelming advantage; the struggle for rights and their institutionalization at least frankly admits that some people are sh*ts and will do all they can to screw others unless restrained from doing so by the full institutional and police weight of society.

26. The 1990s discovery of “compassion fatigue” among the urban and suburban middle and upper classes has at least in part licensed the remarkably mean-spirited legal attack on homeless people during that decade. Beyond its inherent paternalism, as a force for progressive change “compassion” has very clear limits.

27. Good discussions of the literature may be found in Blum and Nast (1996); Brenner (1997); Gregory (1994); McCann (1999); Merrifield (1993, 2002); N. Smith (1990); Soja (1989).

28. This argument is fully developed in Ch. 3 of N. Smith (1990).

29. D Smith (1994b, 103-107) spends several pages developing and critiquing Young's (1990) arguments about the relationship between justice and the politics of difference. Smith concludes (1994b; 107) that Young's theory of justice is ultimately "Utopian," but as we will see, when it is placed in its geographical context such a charge cannot be sustained. Young's work has received a great deal of attention in geography. See Harvey (1996, Ch. 12) and Minnesota Geography Reading Group (1992).

30. "The immediate provision of basic material goods for people now suffering severe deprivation must be a first priority for any program that seeks to make the world more just" (Young 1990, 19).

31. Michael Brown (1997) and Lynn Staeheli (1994) have begun to explore the complex geography of the "work of citizenship." In Brown's case, primary inspiration is taken from Laclau and Mouffe's (1985; Mouffe 1992) post-structuralist development of "radical democracy" that suggests that the moment of democracy may not be easily "public" in any traditional sense. Staeheli develops feminist arguments (e.g., Pateman 1989) to make the same argument as she shows the widely varying locations of women's political work.