

THE ANNIHILATION OF SPACE BY LAW: THE ROOTS AND IMPLICATIONS OF ANTI-HOMELESS LAWS IN THE UNITED STATES

Don Mitchell*

“Globalization” is a powerful ideology. The popular media are enthralled with the idea. Space, it seems from reading the papers and watching the news, has simply ceased to exist. Indeed, the collapse of space, as it is trumpeted by everyone from the press officers in the White House to popular culture commentators on weekend news shows, is simply represented by the class this ideology best serves: the managerial elite who play and govern instantaneous markets in currency, futures, stocks and even inventory; the western and westernized middle and upper classes that can afford both the equipment and the time to instantly connect to the far corners of the world through the World Wide Web; the wealthy students who jet across continents for long weekends with relatives and friends. In this imagery, space simply does not matter. Or better, it simply is not matter: it is rather some ethereal medium made increasingly irrelevant by the networks of wires, fiber-optic cables, superhighways (informational or asphalt), jetliners, and money. Reporters for business shows such as *Marketplace* or for journals such as *Business Week* celebrate the fact that it is not only some few people in the world who have been unfettered (and perhaps disoriented) by what Harvey (1989, 1990) calls “time-space compression.” More importantly, it is capital itself that has been freed from the constraints of space. There seems to have been, to use one of Harvey’s favorite insights from Marx, a further, and quite incredible, “annihilation of space by time.” Even those who adopt a more critical stance towards globalization (such as Harvey himself), but nonetheless see the annihilation of space by time as the overriding economic force of our era, still write about how capital is able to behave, in Smith’s (1990) imagery, like a plague of locusts circling the globe, touching down hither and yon, devouring whole places as it seeks ever better comparative advantage.¹

*Department of Geography, University of Colorado, Boulder, CO.

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Yet as a number of geographers have shown, such a globalization is in fact *not* predicated on the “annihilation of space by time,” no matter how evocative that metaphor may be, but rather on the constant production and reproduction of certain *kinds* of spaces (Harvey, 1982; Storper and Walker, 1989; Smith, 1990, 1996; Walker, 1996). For capital to be free, it must also be fixed in place. And as these commentators note, the drive toward intensified globalization is less a result of some technological imperative, and more the outcome of the continuing tendency toward a general declining rate of profit. “Going global” is but one means to stave off such a decline. Not just at the global scale, but in all the locations that capital does business, perpetual attempts to stave of crisis by speeding up the circulation of capital lead to a constant reconfiguration of productive relations (and productive spaces). Together these trends — toward rapid turnover, and toward the concomitant appearance of globalization — create a great deal of instability for those whose investments lie in fixed capital, especially the fixed capital of the built environment. While capital could never exist without some degree of fixity — in machines and buildings, in roads and parks — the very unevenness of capital mobility lends to places an increasing degree of uncertainty. Investment in property can be rapidly devalued, and local investors, property owners, and tax-collectors can be left holding the bag. Or not. Together or individually, they can seek to stabilize their relationship with peripatetic capital by protecting long-term investment in fixed capital through tax, labor, environmental, and regulatory inducements. But this process in itself can lead to a frenetic place-auction, as municipalities and states compete with each other both to attract new investment and to keep local capital “home.”

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

For many cities in the United States,² the answer to this question, quite perversely, has led to a *further* “annihilation of space” — this time not at the scale of the globe and driven by technological change, but quite locally and driven by changes in law. In city after city concerned with “livability,” with, in other words, making urban centers attractive to both footloose capital and to the footloose middle classes, politicians and managers of the new economy in the late 1980s and early 1990s have turned to what could be called “the annihilation of space by law.” That is, they have turned to a legal remedy that seeks to cleanse the streets of those left behind by globalization and other secular changes in the economy by simply erasing the spaces in which they must live — by creating a legal fiction in which the rights of the wealthy, of the successful in the global economy, are sufficient for all the rest. Neil Smith (1996:45) calls this the “revanchist city” because of what he sees as a horrible “vengefulness” — by the bourgeoisie against the poor — that has become the “script for the urban future.” Whatever the accuracy of this dystopian image (and it seems quite an acute reading to me), cities seem to have taken Anatole France at his word, ignoring the clear irony in his declaration that the law, in all of its magisterial impartiality, understands that the rich have no more right to sleep under bridges than do the poor. Such irony can only be so easily ignored if we somehow also agree, in the “impartial” manner of the law, that the poor have no greater need to sleep under bridges — or to defecate in alleys, panhandle on streets, or sit for a length of time on park benches. For this is what the new legal regime in American cities is outlawing: just those behaviors that poor people, and the homeless in particular, must do in the public spaces of the city. And this regime does it by legally (if in some ways figuratively) annihilating the only spaces the homeless have left. The anti-homeless laws being passed in city after city in the United States work in a pernicious way: by redefining what is acceptable behavior in public space, by in effect annihilating the spaces in which the homeless *must* live, these laws seek simply to annihilate homeless people themselves, all in the name of recreating the city as a playground for a seemingly global capital which is ever ready to do an even better job of the annihilation of space.³

The purpose of this paper is to explore the nature and implications of anti-homeless laws — and their relationship to the ideology of globalization and “livability” — in four main areas. First I will examine the changing legal structure of public space in American cities, focusing specifically on the rash of laws passed in the 1980s and 1990s that seek to limit the actions of homeless people. This section will begin the examination of the implications of these laws by questioning not only the discourses surrounding the laws, but also the effect the laws have on the freedoms accruing to homeless people. I will show how these laws attempt not just the annihilation of space, but also the annihilation of the people who live in it. Second I will show how these changes in the legal structure of public space serve an increasingly nervous bourgeoisie as it seeks to grapple with insecurities endemic to the economy. This section explores some of

the economic roots of anti-homeless legislation. The ways in which economic logics come together with a language of morality to recreate the public sphere after an image of exclusivity is the topic of the third section. My argument here is that anti-homeless laws both reflect and reinforce a highly exclusionary sense of modern citizenship, one that explicitly understands that excluding some people from their rights not only as citizens, but also as thinking, acting persons, is both good and just. Here, then, not only do I explore the implications of these laws in terms of the effects on citizenship and the public sphere; I also complicate the economic analysis of the previous section by showing how the laws also have roots in long-standing ideological or cultural concerns about the relationship between the deviant poor and the up-standing bourgeoisie. In the final section I show that lurking within the discourses surrounding anti-homeless laws is a concern with urban — or more broadly landscape — aesthetics. The recent wave of anti-homelessness, and the laws that reinforce it, raise important and related questions of, first, the relationship between aesthetics and economy, and second, the relationship between public space and landscape. At the risk of oversimplifying, I will suggest that public space and landscape should be seen as oppositional ideals, oppositional ideals that say much about how we regard the construction and purpose of the public sphere.

Anti-Homelessness Laws and the Annihilation of the Homeless

No one is free to perform an action unless there is somewhere he is free to perform it. . . . One of the function of property rules, particularly as far as land is concerned, is to provide a basis for determining who is allowed to be where (Waldron, 1991:296).

Consider this incomplete but by now quite familiar litany, a litany that shows so clearly how the annihilation of space by law is proceeding:

- in San Francisco laws against camping in public, loitering, urinating and defecating are being enforced with a new-found rigor (MacDonald, 1995) even as the city repeatedly refuses to install public toilets;
- in Santa Cruz, Phoenix, St. Petersburg and countless other cities it is illegal to sleep in public;
- in Atlanta and Jacksonville it is a crime to cut across or loiter in a parking lot (in Atlanta in May, 1993, at least 226 people were arrested for “begging, criminal trespass, being disorderly while under the influence of alcohol, blocking a public way or loitering in a parking lot” [*Atlanta Journal and Constitution* July 12, 1993]);
- in New York it is illegal to sleep in or near subways, or to wash car windows on the streets (Howland, 1994);

- in February 1994, Santa Cruz contemplated following Eugene, Oregon and Memphis, Tennessee's lead by requiring beggars to obtain licenses, a process that would include fingerprinting and photographing potential beggars, and requiring them to carry their photo-license at all times (*San Francisco Chronicle* Feb. 10, 1994).
- in Baltimore police were empowered to "move along" beggars even as it found its aggressive panhandling law overturned by a federal judge (*Baltimore Sun* Sep. 22, 1994);⁴
- in May, 1995, Cincinnati made it illegal to beg from anyone getting in or out of a car, near automatic teller machines, after 8 pm, or within six feet of any storefront; the city also made it illegal to sit or lie on sidewalks between 7 am and 9 pm (*Cincinnati Enquirer* May 3, May 4, May 24, 1995); Seattle and a dozen other cities have similar laws.

The intent is clear: to control behavior and space such that homeless people simply cannot do what they must do in order to survive without breaking laws. Survival itself is criminalized. And as David Smith (1994:495) argues, the "supposed public interests that criminalization is purported to serve" — such as the prevention of crime — "are dubious at best." Instead, there are, as we shall see, numerous other reasons for criminalizing homelessness, reasons that revolve around insecurity in an unstable global market and a rather truncated sense of aesthetics developed to support the pursuit of capital. Sometimes, as in the Seattle example outlined below, authors of anti-homeless legislation are quite honest in their reasoning, even if they still like to wrap that reasoning in a mantle of crime prevention. The hope is simply that if homeless people can be made to disappear, nothing will stand in the way of realizing the dream of prosperity, social harmony, and perpetual economic growth. Anti-homelessness legislation is not about crime prevention; more likely it is about crime invention.⁵

Perhaps the most stringent of the newest anti-homelessness laws are in the stereotypically "liberal" cities of the West Coast:⁶ according to a recent report by the National Law Center on Homelessness and Poverty, four of the five cities with the "meanest streets" are in the west.⁷ The winners of this dubious distinction are: Atlanta, Seattle, San Francisco, Santa Monica and Santa Ana (*The Nation* Jan. 29, 1996:7). Though not an award winner, Berkeley presents an interesting case. The city has long been a center for homeless youth and adults, and likewise has a long, if contested history of accommodating homeless people in parks and on streets (Mitchell, 1992, 1995). But in 1994, the Berkeley City Council debated a set of laws that would give Berkeley anti-homeless laws that were "among the strictest in the country" (*San Francisco Chronicle* Feb. 15, 1994). The council considered passing laws in two areas, the first concerned with begging, sleeping or sitting in public, and other behaviors associated with homeless people, and the second more generally with loitering. Begging was to be prohibited in a manner similar to the Cincinnati law noted above; but to Cincinnati's list, Berkeley added prohibitions against soliciting money from anyone sitting

on a bench, using a pay phone, standing in line for a movie, waiting for a bus, or purchasing a newspaper from a rack. Sitting on streets and sleeping in public were simply to be outlawed. (*San Francisco Chronicle* Feb. 15, 1994). When the council also gave preliminary approval in May 1994 to a more general “anti-loitering” law that would make it illegal to loiter “within one block of parks, schools, recreation centers, liquor stores, boarded-up buildings and laundromats that are open at least 16 hours a day” (*San Francisco Chronicle* May 12, 1994), its ostensible goal was to discourage drug sales.⁸ But the law also effectively criminalizes standing around in areas frequented by homeless people. As an attorney for the ACLU complained, “It is law enforcement by hunch . . . and for that reason it is a law that will inevitably be selectively and unfairly enforced and indeed will have very little impact on the real drug problem” (*San Francisco Chronicle* May 12, 1994).

The anti-loitering law was passed with the provision that it be reviewed after a year for effectiveness and abuses. The anti-panhandling, sleeping and sitting law was forced by vocal opposition to a city-wide vote. In November, 1994, voters approved it by a substantial margin, and a month later the council ratified the voters’ measure, but with the provision of \$525,000 in social services for the homeless (*San Francisco Chronicle* Dec. 9, 1994). In February, 1995 the ACLU filed a suit to block the anti-panhandling ordinance on free-speech grounds, and the city agreed not to enforce the law until a judge had ruled (*San Francisco Chronicle* Feb. 28, 1994). In May, a federal judge struck down the anti-panhandling law — all provisions, that is, except for those which banned sitting or sleeping on sidewalks (*San Francisco Chronicle* May 9, 1995; *The Recorder* May 9, 1995). In essence, the judge ruled that while it was unconstitutional to prohibit begging, since it qualified as speech, it was not unconstitutional to prohibit other activities — like sitting and sleeping — that most of us take for granted.

Sleepless in Seattle

If Berkeley is instructive, the cutting edge for these sorts of restrictions probably rests with Seattle. Stacy Warren (1994) ended a recent article on the Disney Corporation’s failed attempts at urban planning in Seattle by reflecting on the fact that homeless people were actively involved in the planning process created at the end of the 1980s in the wake of Disney’s failure. She quotes a homeless man’s remarks on a questionnaire he filled out in 1989: “thank you for having me and other individuals to be part of the [Seattle] Center — warmth, etc. as a homeless person.” And Warren (1994:104) concludes, “That a homeless person, as perhaps the strongest symbol of disenfranchisement in the city, should form a constituent part of the planning process for the new Seattle Center speaks to the power of true citizenship embedded in hegemonic processes.”

Such optimism about Seattle’s relative benevolence toward homeless people is hard to sustain.⁹ As early as 1986, Seattle had passed an “aggres-

sive panhandling law" (*Los Angeles Times* Mar. 24, 1987; *New York Times* Nov. 19, 1987; Blau, 1992). The law was later declared unconstitutional. In any event, City Attorney Mark Sidrin was not content with its effectiveness, and therefore pushed for a suite of new laws in 1993 that outlawed everything from urinating in public to sitting on sidewalks. The new laws further gave the police the right to close to the public any alley it felt constituted a menace to public safety. Sidrin argued that such further restrictions on the behavior of homeless people (that is laws closing spaces used by the homeless to activities the homeless must do there) was necessary to assure that Seattle did not join the cities of California as "formerly great places to live." The danger was palpable, if still subtle:

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

The logic is fascinating. It is not so much that "minor misbehaviors" are in themselves a problem. Rather, the context within which these behaviors occur ("more serious crime") makes them a problem.¹⁰ The answer then seems to focus not so much on addressing the context; instead, "[t]o address the misbehavior on our streets, we need to strengthen our laws. We need to make it a crime to repeatedly drink or urinate in public, because some people ignore the current law with impunity. . . ." (Sidrin, 1993). Sidrin recognizes that "law enforcement alone is not the answer" and thus supports expanded services for the homeless. "At the same time, however, more services alone are also not the answer. Some people make bad choices" — such as the "choice" to urinate in public to sit on sidewalks. "We also need to address those lying down day after day in front of some of our shops. This behavior threatens public safety. The elderly, infirm and vision impaired should not have to navigate around people lying prone on frequently congested sidewalks."

There is another, perhaps more important, danger posed by those sitting and lying on streets: "many people see those sitting or lying on the sidewalk and — either because they expect to be solicited or otherwise feel apprehensive — avoid the area. This deters them from shopping at adjacent businesses, contributing to the failure of some and damaging others, costing Seattle jobs and essential tax revenue" (Sidrin,

1993). Sidrin argues in the end that homeless people in the streets and parks “threaten public safety in a less-direct but perhaps more serious way. A critical factor in maintaining safe streets is keeping them vibrant and active in order to attract people and create a sense of security and confidence.” And security is precisely the issue:

If you were to write Seattle’s story today, you might borrow Dicken’s memorable opening of “A Tale of Two Cities,” “It was the best of times, it was the worst of times.” From Fortune Magazine’s No. 1 place to do business to the capital of “grunge,” from high-tech productivity perched on the Pacific Rim to espresso barristas on the corners, it is the best of times in Seattle. We’re even a good place to be sleepless.¹¹

Especially if you are homeless. Under Sidrin’s proposals, exceptions to the “no sitting” provisions would be made for “people using sidewalks for medical emergencies, rallies, parades, waiting for buses or sitting at cafes or espresso carts” (*Seattle Times* Aug. 28, 1993). The target of these laws is obvious.¹² And their effect was both predictable — when enforcement was emphasized downtown, many homeless people moved to outlying business districts, prompting numerous complaints from merchants in those areas (Balter, 1994) — and important to understand. To the degree that laws can annihilate spaces for the homeless, they can annihilate the homeless themselves. When such anti-homeless laws cover all public space, then presumably the homeless will simply vanish.

The Annihilation of People by Law

Arguing from first principles in a brilliant essay, Waldron shows that the condition of being homeless in capitalist societies is most simply the condition of having no place to call one’s own. “One way of describing the plight of a homeless individual might be to say that there is no place governed by a private property rule where he is allowed to be” (Waldron, 1991: 299). Homeless people can only be on private property — in someone’s house, in a restaurant bathroom — by the express permission of the owner of that property. While that is also true for the rest of us, the rest of us nonetheless have at least one place in which we are (largely) sovereign. We do not need to ask permission to use the toilet or shower or to sleep in a bed. Conversely, the only place homeless people may have even the possibility of sovereignty in their own actions is on common or public property. As Waldron explains, in a “libertarian paradise” where *all* property is privately held, a homeless person simply could not *be*. “Our society saves the homeless from this catastrophe only by virtue of the fact that some of its territory is held as collective property and made available for common use. The homeless are allowed to *be* — provided they are on the streets, in the parks, or under bridges” (Waldron, 1991:300).¹³

Yet as city after city passes laws specifically outlawing common behaviors (urinating, defecating, standing around, sitting, sleeping) in public property:

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

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

As troublesome as it may be to contemplate the necessity of creating “safe havens” for homeless people in the public space of cities,¹⁴ it is even more troublesome to contemplate a world without them. The sorts of actions we are outlawing — sitting on sidewalks, sleeping in parks, loitering on benches, asking for donations, peeing — are not themselves subject to total societal sanction. Indeed they are all actions we regularly and even necessarily engage in. What is at question is where these actions are done. For most of us, a prohibition against asking for a donation on a street is of no concern; we can sit in our studies and compose begging letters for charities. So too do rules against defecating in public seem reasonable. When one of us — the housed — find ourselves unexpectedly in the grips of diarrhea, for example, the question is only one of timing, not at all of having no place to take care of our needs. Not so for the homeless, of course: a homeless person with diarrhea is entirely at the mercy of property owners, or must find a place on public property on which to relieve him or herself.¹⁵ Similarly, the pleasure (for me) of dozing in the sun on the grass of a public park is something I can, quite literally, live without, but only because I have

a place where I can sleep whenever I choose. We are not speaking of murder or assault here, in which there are (near) total societal bans. Rather we are speaking, in the most fundamental sense, of geography, of a geography in which a local prohibition (against sleeping in public, say) becomes a total prohibition for some people. That is why Jeremy Waldron (1991) understands the promulgation of anti-homeless laws as fundamentally an issue of freedom: they destroy whatever freedom homeless people have, as people, not just to live under conditions at least partially of their own choosing, but to live at all. And that is why what we understand public space to be, and how we regulate it, is so essential to the kind of society we make. The annihilation of space by law is, unavoidably (if still only potentially) the annihilation of *people*.

The degree to which anti-homeless legislation diminishes the freedom or rights of homeless people is not, of course, an important concern for those who promote anti-homeless laws. Rather, they see themselves not as instigators of a pogrom, but rather as saviors: saviors of cities, saviors of all the "ordinary people" who would like to use urban spaces but simply can't when they are choked full of homeless people lying on sidewalks, sleeping in parks and panhandling them every time they turn a corner. And theirs is not simply a good or just cause; it is a necessary one. "The conditions on our streets are increasingly intolerable and directly threaten the safety of all our citizens and the economic viability of our downtown and neighborhood districts" according to Sidrin (*Seattle Times* Oct. 1, 1993). Or as columnist Joni Balter put it "Seattle's tough laws on panhandling, urinating and drinking in public, and sitting and lying on the sidewalk are cutting-edge stuff. Anybody who doesn't believe in taking tough steps to make downtown more hospitable to shoppers and workers wins two free one-way tickets to Detroit or any other dead urban center of their choice" (Balter, 1994).¹⁶ Here is the crux of the issue. Urban decline is seen to be the result of homelessness. Detroit is "dead" because people "make bad choices" and panhandle on the streets, urinate in public, or sit on sidewalks, thereby presumably scaring off not only shoppers, workers and residents, but capital too. Seattle, though perhaps in the midst of the "best of times," faces just this same fate if it does not crack down on homeless people and their bad behaviors. Capital will avoid the city, downtown will decline, Seattle will become a bombed out shell resembling Detroit or Newark. Hence, the homeless must be eliminated.

The Annihilating Economy and the Problem of Regulation

While perhaps the mode of regulating homeless people is new, the desire to regulate them — the invention of their criminality — is not. It would be far more accurate, in fact, to talk about recriminalizing homelessness. Whether we trace the history of anti-homelessness back to the vagrancy laws of Elizabethan England, to the armies of paupers — and their regula-

tion — that Marx described as a necessary feature of industrial capitalism, or to the adoption of English poor law in the United States and its revitalization during the depressions of the 1870s, 1890s, and early 1900s, the criminalization of poverty has been an essential ingredient in the uneven development of capitalism. In a striking passage, Marx (1987:603) discusses the growth of the very poor as being both a necessary input to, and a result of, the accumulation of capital. But he also points to the contradiction that this dual growth leads to:

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

Chief among these circumstances is the simple fact that “paupers” often simply will not stand for the status they are assigned, and thus become a problem of social regulation, which may itself take on a particular historical logic. The very existence of such an army of poverty, which is so necessary to the expansion of capital, means there is an army of humanity that must be strictly controlled, else it will undermine the drive towards accumulation. If this has been a constant fact of capitalist development, then what sets the present era, and the present wave of anti-homeless laws, apart is the degree to which such regulation has also become an important ingredient in not just expanding capital, but in either attracting it in the first place, or in protecting it once it is fixed in particular places. This is what new anti-homeless initiatives are meant to do.

A decade ago Andrew Mair (1986) made a similar claim — about the necessity of removing homeless people from contemporary urban centers so as to assure their continued viability as sites for capital accumulation — for the case of Columbus, Ohio. He suggested that “while the removal of the poor may appear merely incidental with respect to urban redevelopment . . . it can be argued that the poor must *necessarily* be removed for post-industrial development to occur” (Mair, 1986:351). But necessary as it may be, it is abundantly clear that as long as removal depended on the relocation of services (as described by Mair, 1986; see also Dear and Wolch, 1987; Wolch and Dear,

1993), it has not really worked. Closing down and relocating soup kitchens and shelters in city after city — or the creation of service dependent ghettos (Dear and Wolch, 1987) in marginal parts of the city — proved at best a temporary “solution” as more and more homeless people came to colonize the streets of downtown business and commercial districts. Excluded from housing by the destruction of single-room occupancy hotels and other inexpensive housing (Hopper and Hamberg, 1984; Kasinitz, 1986; Hartman, 1987; Blau, 1992:75; Baum and Burnes, 1993:139), marooned by the retrenchment from federally-subsidized housing for the poor beginning with the Carter Administration and reaching full-steam during the Reagan administration (Leonard, Dolbeare and Lazere, 1989), made redundant by a quickly shifting economy that saw real wages stagnate and blue collar work disappear, and thrown onto the streets through deinstitutionalization unaccompanied by a concomitant commitment to community-based care (Wolch, 1980; Dear and Wolch, 1987), homeless people turned to begging, hanging out, and sleeping on the very streets they were meant to be excluded from. Similarly, these years saw fledgling movements by homeless people to protest their attempted exclusion from urban public space. When, in 1993, the Santa Monica City Council considered enforcing a law closing public parks from midnight until 5 am, for example, organized homeless people demanded that the sponsoring councilmember tell them where they could sleep if not in the parks of the city. The councilmember responded “Why not City Hall.” About 100 homeless people — single men and women, families and the elderly — moved onto the City Hall lawn for two and a half months until the city agreed not to enforce the sleeping ban, essentially admitting that the legal control of public space rendered life impossible for homeless people (Howland, 1994:34–35).¹⁷

Yet despite, and quite likely because of, the protests of homeless people and their advocates, the legal exclusion of homeless people from public space (or at least the legal exclusion of behaviors that make it possible for homeless people to survive) has increased in strength during the late 1980s and early 1990s, creating and reinforcing what Mike Davis (1991) has called for Los Angeles “a logic like Hell’s.” This Hellish logic is of course a response to another quite Hellish one: the logic of a globalized economy that is successful to the degree people buy into the ideology that makes their places to be little more than mere factors of production, factors played off other factors in pursuit of a continual spatial fix (Harvey, 1982) to ever-present crises of accumulation. It is a response, then, that seeks to re-regulate the spaces of cities so as to eliminate people quite literally made redundant by the capital the cities are now so desperate to attract.

It might seem absurd to argue that the proliferation of anti-homeless legislation is part of continual experimentation in devising a new “mode of regulation” for the realities of post-fordist accumulation (cf. Lipietz, 1986). After all, the disorder of urban streets seems to bespeak precisely the inability to regulate the contemporary political economy. But as Lipietz (1986:19) argues, a “regime of accumulation” materializes in “the form of

norms, habits, laws, regulating networks, and so on that ensure the unity of the process, i.e. the appropriate consistency of individual behaviours with the schema of reproduction;" and as Harvey (1989:122) further comments, such talk of regulation "focuses our attention on the complex interrelations, habits, political practices, and cultural forms that allow a highly dynamic, and consequently unstable, capitalist system to acquire a sufficient semblance of order to function coherently at least for a certain period of time." Hence cities are grappling with two, perhaps contradictory, processes. On the one hand they must seek to attract capital seemingly unfettered by the sorts of locational determinants important during the era when fordism was under construction. That is, they must make themselves attractive to capital — large and small — that can often choose to locate there or not. On the other hand, they (together with other scales of the state) must create a set of "norms, habits, laws, regulating networks" that legitimize the new rules of capital accumulation, rules in which not only is location up for grabs, but so too do companies seek returns of greater relative surplus value by laying off tens of thousands of workers in a single shot, outsourcing much labor, resorting to temporary labor supply firms, and so forth.

These processes are continually negotiated within the urban landscape itself.¹⁸ Within capitalist systems, the built environment acts as a sink for investments at times of over-accumulation in the "primary" circuit of capital, the productive system (Harvey, 1982, ch. 8). This statement, however, should not be read to imply either that the landscapes thus produced are somehow "useless" to capital or that local elites, growth coalitions, or a more nebulous "local culture" has no direct influence on the form and location of such investment (see Wilson, 1991). Rather, investment in the built environment is cyclical, and occurs within an already developed built environment. "At any one moment the built environment appears a palimpsest of landscapes fashioned according to the dictates of different modes of production at different stages of their historical development" (Harvey, 1982:233). The key point, however, is that under capitalism, this built environment must "assume a commodity form" (Harvey, 1982:233). That is, while the use values incorporated in any landscape may (for different parts of the population) remain quite important, the determining factor of a landscape's usefulness is its exchange value. Buildings, blocks, neighborhoods, districts can all be subject, as market conditions change, as capital continues its search for a "spatial fix," as other areas become more attractive for development, to rapid devaluation. Quoting Marx, Harvey (1982:237) argues that "[c]apital in general is 'indifferent to every specific form of use value' and seeks to 'adopt or shed any of them as equivalent incarnations.'" People feel this in their bones; they understand the incredibly unstable, tenuous nature of investment fixed in immovable buildings, roads, parks, stores and factories. If, therefore, the built environment appears as "the domination of past 'dead' labour (embodied capital) over living labour in the work process" (Harvey, 1982:237), then the goal of those whose invest-

ments are securely tied to the dead is to assure that the landscape always remains a living memory, a memory that still living capital finds attractive and worth keeping alive itself. Investments — dead labor — must therefore be protected at all costs. If a built environment possesses use value to homeless people (for sleeping, for bathing, for panhandling), but that use threatens what exchange value may still exist, or may be created, then these use values must be shed. The goal for cities in the 1990s has been to experiment with new modes of regulation over the bodies and actions of the homeless in the rather desperate hope that this will maintain or enhance the exchangeability of the urban landscape in a global economy of largely equivalent places. The annihilation of space by law, therefore, is actually an attempt to prevent those very spaces from being “creatively destroyed” by the continual and ever-revolutionary circuits of capital.¹⁹

Hence, what cities are attempting is not a tried and true set of regulatory practices, but a set of experiments designed to negotiate the insecure spaces of accumulation and legitimation at the end of the twentieth century. The goal is to create, through a series of laws and ideological constructions (concerning, for example, who the homeless “really” are), a legitimate stay against the insecurity of flexible capital accumulation. That is, through these laws and other means, cities seek to use a seemingly stable, ordered urban landscape as a positive inducement to continued investment and to maintain the viability of current investment in core areas (by showing merchants, for example, that they are doing something to keep shoppers coming downtown). In this sense, anti-homeless legislation is reactionary in the most basic sense. As a reaction to the changed conditions of capital accumulation, conditions themselves that actively (if not exclusively) produce homelessness (see Marcuse, 1988), such legislation seeks to bolster the built environment against the ever-possible specter of decline and obsolescence. It actually does not matter that much if this is how capital “really” works; it is enough that those in positions of power believe that this is how capital works. As Seattle City Attorney Mark Sidrin told the city council, the purpose of stringent controls on the behavior of homeless people is designed “to preserve the economic viability of Seattle’s commercial districts” (*Seattle Times* Aug. 3, 1993); or as he wrote more colorfully in an op-ed piece, “we Seattleites have this anxiety, this nagging suspicion that despite the mountains and the Sound and smugness about all our advantages, maybe, just maybe we are pretty much like those other big American cities, ‘back East’ as we used to say when I was a kid and before California joined the list of ‘formerly great places to live’” (Sidrin, 1993). The purpose, then, is certainly not to gain hold of the conditions that produce so much anxiety, but rather to condition people to it, to show its inevitability, and thereby, if not to positively benefit from it, then at least not to lose either. Regulation is designed not to regulate the economy, but to regulate those who are the victims of it.

Regulation is thus about ideology. And indeed, regulating the poor (Piven and Cloward, 1971) has long been a primary ideological function of

the state at both local and national scales. Such regulation is necessary, as Piven and Cloward (1971) showed, because it is the means by which wages and other “drains” on capital accumulation may be driven down; it is how the state seeks to safeguard accumulation. That we are in the midst of an ugly class war, centered on the “structural adjustment” of the welfare state and the criminalization of poverty, is no news to any of us. But beginning at least with the recession of the early 1980s, what does seem novel is the ferocity with which this goal is pursued: the rise of revanchism which Smith (1996) has noted. Such revanchism as regards the homeless has worked in two steps. First there has been a reinvestment in a language of deviance and individual disorder at the expense of structural explanations for homelessness. This accomplished, the second step has been to find the means to regulate — through law — this deviance and disorder, completing the turn away from any sense that homelessness might have extra-individual causes. The history of this shift in thinking about homelessness is worth briefly rehearsing.

During the relatively stable long boom from the end of World War II until the early 1970s, homelessness in American cities was scripted quite clearly by discourses centered around deviance, disaffiliation and alcoholism. The stereotypical homeless person was the single male skid row bum subsisting on mission charity and fortified wine.²⁰ Considered misfits, wasted humans incapable because of their personal problems of realizing any part in the affluence the post-war period guaranteed to all those who wanted it, they were perhaps to be pitied, certainly to be shooed away from downtown, and carefully confined within traditional skidrows or other districts that had served the casual labor markets of the first half of the century.

The explosion of homelessness, and especially the “discovery” that women, children, and whole families were part of the homeless population, in the 1970s and 1980s, brought with it the beginnings of a change in the discourses of homelessness. While languages of disaffiliation and deviance remained, and while discussions of alcoholism and drug addiction have retained their prominence, homeless advocates worked hard to emphasize the structural determinants of homelessness (economic decline, the dismantling of the welfare state, of which deinstitutionalization can be seen as a part,²¹ gentrification and redevelopment in areas of inexpensive housing, missions, etc.) (see Hombs and Snyder, 1982; Hopper and Hamberg, 1984; Kasinitz, 1986; Mair, 1986; Dear and Wolch, 1987; Hartman, 1987; Marcuse, 1988; Deutsche, 1990; Blau, 1992; Vaness, 1992; Wolch and Dear, 1993). This change in the tenor of debate, however, was quickly met with a re-assertion of claims about homelessness as an individual problem, claims which explicitly sought to turn debate away from economic causes. Perhaps the clearest sustained example of this reassertion of a language of personal disorder as the primary cause of homelessness is Baum and Burne’s (1993) *A Nation in Denial* which argues that not until we admit that the problem of homelessness is located within addicted and mentally ill individuals can we understand that structural explanations have done more harm than

good. Greeted by a great sigh of relief by much of the media (cf. Raspberry, 1992; Hamill, 1993; Leo, 1993), Baum and Brune's argument can be seen as a primary plank in legitimizing the (re)criminalization of homeless people's behavior (even if that was not the intent of the authors). Hamill (1993), for example, uses their book as a springboard for advocating "quarantining" homeless people on closed military bases.

Should anti-homeless legislation succeed, Hamill's "solution" will be redundant. The proliferation of anti-homeless legislation clearly indicates that the battle has been won by those who seek to re-personalize homelessness. Such legislation is possible only in the absence of an understanding that homelessness has extra-personal structural determinants. Or more accurately, troublesome homelessness is seen to reside in those who refuse to use the numerous social services proffered to them to help them negotiate the structural and personal conditions that make them homeless. Whether homelessness is structurally produced or not, that people remain homeless is seen as a choice.

So, for example, in an article praising San Francisco's Matrix program (a set of initiatives designed to enforce "public order" and force homeless people into the tattered social service system), MacDonald (1995:80) writes that "the city's efforts to place people in shelter have proved disappointing." Over two months, Matrix enforcement teams²² tried to distribute 3820 vouchers for a night's stay in a church shelter for men. But "less than half the vouchers were taken, and only 678 actually used." MacDonald finds even more alarming the fact that of 3,000 general assistance (GA) recipients who claim homelessness (and who receive \$345 a month), only 700 have taken advantage of a voluntary program "whereby GA recipients can turn over their check to a non-profit housing advocacy group which arranges for a discounted room in a clean and city inspected single room occupancy hotel." In exchange, the homeless person is given a \$65 allowance for the month for all other expenses (MacDonald, 1995:80). When numerous contacts with homeless GA recipients failed to increase participation in this program, San Francisco voters made receiving GA contingent upon proof of housing. If a rent receipt cannot be produced, a GA recipient will be offered an SRO room under the "volunteer" program. If the recipient refuses, she or he will be stricken from the relief rolls. MacDonald's conclusion?

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

Note the movement of logic here. No matter what the cause of homelessness, homeless people refuse to take advantage of all that society offers them. In that sense, they *are* voluntarily homeless, and thus disciplining them is not only desirable, but also necessary. Successfully reducing homelessness to a “lifestyle choice,” MacDonald legitimizes all manner of punitive measures against those who “choose” it. “San Francisco is both a symbol of the past and the wave of the future. Pursuing freedom it got chaos. It is now re-discovering that liberty consists not in overturning social rules, but in mutual adherence to them” (MacDonald, 1995:80).

Regulating the homeless takes on a certain urgency. “Refusing” to conform to the dictates of new urban realities, homeless people daily remind us of the vagaries of the contemporary political economy. By lying in our way on the sidewalks, they require us to confront the possibility that what the collapse of time and space so celebrated in laudatory accounts of the new economy leaves in its wake is certainly not a collapse of material space: the spaces of the city still exist in all their complexity. Kirsch’s (1995:529) question is worth asking again: “What happens to space *after* its collapse?” Seemingly, it gets filled by homeless people. For law-makers the immediate thing that happens after the collapse of space is that control over space within cities is seemingly lost; the long-term solution is thus to re-regulate those spaces, annihilate the homeless, and allow the city to once again become a place of order, pleasure, consumption and accumulation. The implications of such policies — such means of regulation — seem clear enough for homeless people. As Waldron (1991:324) so clearly shows, “what we are dealing with here is not just ‘the problem of homelessness,’ but a million or more *persons* whose activity and dignity and freedom are at stake.” But so too are we creating, through these laws and the discourses that surround them, a public sphere for all of us that is just as brutal as the economy with which it articulates.

Citizenship in the Spaces of the City: A Brutal Public Sphere

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

The importance of anti-homeless laws to the freedom of homeless people seems clear — and important enough. But beyond that, these laws also have

the effect of helping to create and reproduce a brutal public sphere in which not only is it excusable to destroy the lives of homeless people, but also in which there seems scant possibility for a political discourse concerning the nature of the types of cities we want to build. That is, these laws reflect a changing conception of citizenship which, contrary to the hard won inclusions in the public sphere that marked the civil rights, women's and other movements in past decades, now seeks to re-establish exclusionary citizenship as just and good.

Craig Calhoun (1992:40) has argued that the most valuable aspect of Habermas' *The Structural Transformation of the Public Sphere* (1989) is that it shows "how a determinate set of sociohistorical conditions gave rise to ideals they could not fulfil" and how this space between ideal and reality might hopefully "provide motivation for the progressive transformation of those conditions." In later work, Habermas turned away from such historically specific critique to focus on "universal characteristics of communication" (Calhoun, 1992:40). Others, however, have retained the ideal of a critical public sphere in which continual struggle seeks to force the material conditions of public life ever closer to the normative ideal of inclusiveness. Calhoun (1992:37) suggests that social movements, not just dispassionate individuals, have been central in "reorienting the agenda of public discourse, bringing new issues to the fore" (see also Fraser, 1990; Mitchell, 1995). As Calhoun (1992:37) notes, "The routine rational-critical discourse of the public sphere cannot be about everything all at once. Some structuring of attention, imposed by dominant ideology, hegemonic powers, or social movements, must always exist." Theories of the public sphere — and practices within it — therefore, must necessarily be linked to theories of public space. Social movements necessarily require a "space for representation" (Mitchell, 1995:124). The regulation of public space thus necessarily regulates the nature of public debate: the sorts of actions and practices that can be considered legitimate, the role of various groups as members of a legitimate public, etc. (Mitchell, 1996). Regulating public space (and the people who live in it) "structures attention" toward some issues and away from others.

Similarly, the perhaps inchoate interventions into public debate made by homeless people through their mere presence in public forces attention on the nature of homelessness as a public problem and not just one residing in the private bodies and lives of homeless people themselves. This is the "crucial *where*" question to which Cresswell (1996) has recently drawn our attention. Cresswell argues that regulating people is often a project of regulating the purity of space, of creating for any space a set of determinant meanings as to what is proper. Yet these proprietary places are continually transgressed; and these transgressions are just as continually redressed through dominant discourses which seek to reinforce the "network or web of meanings" of place such that the pure and proper is shored up against transgression. The object of such discourse, Cresswell (1996:59) writes, "is an alleged transgression, an activity that is deemed 'out of place'" — for

example, just those sorts of “private” activities in which the homeless engage in public space, and which are now the subject of such intense legal regulation. By being out of place, homeless people threaten the “proper” meaning of place.

But there is more to it than that. By being out of place, by doing private things in public space, homeless people threaten not just the space itself, but also the very ideals upon which we have constructed our rather fragile notions of legitimate citizenship. Homeless people scare us: they threaten the ideological construction which declares that publicity — and action in public space — must be voluntary. Citizenship is based on notions of volunteerism in contemporary democracies. Private citizens meet (if only ideally) in public to form a (or the) public (Habermas, 1989; Fraser, 1990; Marston, 1990; Mitchell, 1995). But they always have the option of retreating back into private, into their homes, into those places over which they presumably have sovereign control.²³ The public sphere is thus a voluntary one, and the involuntary publicity of the homeless is thus profoundly unsettling (Mitchell, 1995). Efforts like Heather MacDonald’s (1995) to show the voluntary nature of homelessness are therefore crucial for another reason than that outlined above. Such efforts provide an ideological grounding for reasserting the privileges of citizenship, for reassuring ourselves that our democracy still works, despite the unsettling shifting of scales associated with the annihilating economy. As homelessness grows concomitantly with the globalization of the economy (eroding boundaries, unsettling place, throwing into disarray settled notions about home, community, nation and citizenship), homeless people marooned in public frighten us even more. Not there but for the grace of God, but rather there but for the grace of downsizing, out-sourcing corporations, go I. So it becomes vital that we re-order our cities such that homelessness is “neutralized” (Marcuse, 1988) and the legitimacy of the state, and indeed our own sense of agency, is maintained. The rights of homeless people do not matter (when in competition with “our” rights to order, comfort, places for relaxation, recreation and unfettered shopping) simply because we work hard to convince ourselves that homeless people are not really citizens in the sense of free agents with sovereignty over their own actions.²⁴ Anti-homeless legislation helps institutionalize this conviction by assuring the homeless in public no place to be sovereign.

Anti-homeless legislation, by seeking to annihilate the spaces in which homeless people must live — by seeking, that is, to so regulate the public space of the city such that there literally is no room for homeless people, recreates the public sphere as intentionally exclusive, as a sphere in which the legitimate public only includes those who (as Waldron would put it) have a place governed by private property rules to call their own. Landed property thus again becomes a prerequisite of effective citizenship. Denied sovereignty, homeless people are reduced to the status of children: “the homeless person is utterly and at all times at the mercy of others” (Waldron, 1991:299).²⁵ Re-asserting the child-like nature of some members

of society so as to render them impotent is, of course, an old move, practiced against women, African Americans, Asian and some European immigrants, and unpropertied, radical workers throughout the course of American history.

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

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

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

Landscape or Public Space?

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

The relationship between the annihilating economy and the annihilation of space by law made visible through anti-homeless legislation is clearest in discourses around what broadly could be understood to be “aesthetics.” Senator Patty Murray (Democrat, Washington State), was shocked by what

she saw when she moved to Washington, DC to begin serving her term in 1993. "I look around and I see a city in shambles. . . . I see people in the streets with cups next to me, as I come up to stop signs, begging for money" (*Washington Post* May 9, 1993).²⁶ After quoting Senator Murray, the *Washington Post* reporter continued: "The beggars, many but not all of whom are homeless, are also among those sights in the nation's capital that tourists don't enjoy." And the executive vice president of the DC Convention and Visitors Association, Dan Mobley added: "Panhandlers are not a pretty picture." He also noted, however, that "we have never had anyone say they won't come here because of the panhandlers" (*Washington Post* May 9, 1993). Even so, in numerous cities around the country, concern with removing homeless people so as to restore the "pretty picture" remains paramount.²⁷

The executive officer of Downtown Cincinnati, for example, argued that "Panhandling today prevents many visitors — from Cincinnati's suburbs and from out of town — from experiencing and enjoying our beautiful downtown" (*Cincinnati Enquirer* Apr. 25, 1995). In Akron, a law criminalizing any panhandling (not just "aggressive") was supported by the mayor because "the city was trying to clean up its downtown image with the opening of the new . . . Convention Center and the expected opening next year of Inventure Place, the home of the Inventors Hall of Fame" (*Cleveland Plain Dealer* July 7, 1994). And the interim president of the Atlanta Convention of the Visitors Bureau (ACVB) supported a comprehensive "crackdown on vagrants, thugs and general trespassing:" "I urge the ACVB and the community to clean up our streets first; otherwise, all the marketing in the world will not help Atlanta" (*Atlanta Journal and Constitution* July 15, 1991). "We would like as many tools as possible to keep the city clean," concurred San Diego Police Captain George Saldamando (*San Diego Union-Tribune* Mar.17, 1992).

In each of these instances, though not always explicitly stated, the concern is with the built environment of the city, with creating a landscape that does not "leav[e] a bad impression on visitors by feeding the impression that our downtown is unsafe" (*Cincinnati Enquirer* Apr. 25, 1995). The preferred method for doing this — the promulgation of anti-homeless laws — in essence seeks to recreate downtown streets *as a landscape*. The point I am making here revolves on a particular definition of "landscape." As Denis Cosgrove (1984, 1985, 1993), Stephen Daniels (1993), and others have shown so well, "landscape" implies a particular way of seeing the world, one in which order and control over surroundings takes precedence over the messy realities of everyday life. A landscape is a "scene" in which the propertied classes express "possession" of the land, and their control over the social relations within it. A landscape in this sense is a place of comfort, of relaxation perhaps, of leisurely consumption, unsullied by images of work, poverty, or social strife.²⁸ Landscape, Cosgrove (1985:49) shows, developed from, and reinforces, a "bourgeois, rationalist conception of the world." More recently, Daniels and Cosgrove (1993; see also Cosgrove, 1990,

1993) have explored the ways in which landscapes operate not just as a text, or as a visual representation, but as a “theater” or stage upon which the “dramas” of life are enacted. Yet the sort of stage being constructed through the redevelopment of downtowns and their protection through anti-homeless laws is, like the festival marketplace or mega-mall which serve as its models, a “theater in which a pacified public basks in the grandeur of a carefully orchestrated corporate spectacle,” as Crilley (1993:153) has put it.²⁹ And, as anti-homeless laws make so plain, this is a spectacle in which the poor have little or no part to play. Indeed, their constant intrusion on the stages of the city seems to threaten the carefully constructed suspension of disbelief on the part of the “audience” that all theatrical performances demand, thereby seemingly turning that audience away and toward other entertainments: the suburban mall or the safe space of the theme park (cf. Sorkin, 1992).

Anti-homeless laws are thus an intervention in urban aesthetics, in debates over the look and form of the city. “Aesthetic judgments,” Harvey (1990:429) has written, “have frequently entered in as powerful criteria of political and social action.” When these aesthetic judgments have the effect of valuing the spaces of the city as landscape rather than public space, they serve up a double “suspension of disbelief:”

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

Creating a city as landscape therefore is important because it restores to the viewer (the tourist, the suburban visitor, or even the housed resident) an essential sense of control within a built environment which is rather “controlled” through the creative, seemingly anarchic destruction of an economy (operating at all scales) that can just as easily destroy both the careers and lives of the viewer as it has the people already “downsized.” “Even in boom times, downtown Dallas was no field of dreams. In the early 1980s developers built it — stacking glass, steel and masonry ever skyward — but the people did not come. . . . Too soon, boom times departed as well. The

corporate merger and acquisition phase that followed was marked by downsizing and consolidations that caused office vacancies to skyrocket. Downtown Big D became the Big Empty. Decay followed" (*Houston Chronicle* Mar. 19, 1995). With the promulgation of anti-homeless laws, "as absolute political space extends its sway" in the name of safeguarding urban accumulation, "the impression of transparency" inherent in the landscape "becomes stronger and stronger" (Lefebvre, 1991:189).

If the illusion of control is one aspect of making over a city as landscape (through the "privatization" of public space that accompanies laws such as those directed against the homeless), then a second aspect is the reinforcing of an ideology of comfort, or what Sennett (1994:18) has called a "freedom from resistance." To extend Sennett's argument, the urban landscape is increasingly designed not just to facilitate the movement of capital, but also so that "citizens" can "move without obstruction, effort, or engagement" (Sennett, 1994:18). "This desire to free the body from resistance," Sennett (1994:18) argues, "is coupled with the fear of touching, a fear made evident in modern urban design." It is made even more evident in the debates surrounding "aggressive panhandling" laws. The Washington, DC begging ordinance passed in 1993 prohibits "approaching, speaking to or following . . . in a way that would cause a reasonable person to fear bodily harm" (*Washington Post* June 3, 1993; *Roll Call*, June 17, 1993). Assault, of course, is already against the law, as is threatening harm. This law, like similar ones all around the country, criminalizes not assault or threat-making, but making someone feel uncomfortable. And panhandling, sleeping in public parks, or urinating in alleys makes us, myself included, necessarily uncomfortable. As it should. Discomfort, however, is a far cry from either "wrong" or "dangerous," even if we are frequently reluctant to make such distinctions.³⁰ "He said, 'I want you to do me a favor.' I said, 'I don't have any money.' I figured that's what he wanted. It really scares me," an elderly woman in Memphis reported. "I don't have a gun, but this is one time [I wish I did]" (*The Commercial Appeal* (Memphis) July 24, 1994). The fear of bodily contact is often less palpable than that expressed by this woman,³¹ but it shows up in concerns over the ability to move down a street or into a place of business without encountering a homeless person. "The city street gauntlet may include six panhandlers in one block. A few sit silently on a bench or crouch against buildings, thrusting plastic-foam cups at the strangers who rush past them. Most, either through signs or pleas, make a more direct request for money" (*Washington Post* May 9, 1993). Even the most passive of beggars are threatening: the street becomes a "gauntlet" and the silent continually "thrust" toward you.

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

The mechanics of movement has invaded a wide swath of modern experience — experience which treats social, environ-

mental, or personal resistance, with its concomitant frustrations, as somehow unfair and unjust. Ease, comfort, “user-friendliness” in human relations come to appear as guarantees of individual freedom of action (Sennett, 1994:310).³²

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

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

In short, “quality of life” initiatives like anti-homeless laws raise a politics of aesthetics above the politics of survival. They substitute an image of the urban landscape for a grounded politics designed to improve the lives of people in the city. Crilley (1993:157) sets “megastructures” like Canary Wharf in London or the World Financial Center in New York — structures fully controlled such that they reproduce the life of the city as nostalgia — against the “traditional city.” “Traditional cities,” he writes, “with their connotations of vitality, social interaction and heterogeneity, cannot be ‘programmed’ or ‘animated’; history and memory in the city do not have ‘essences’ reducible to visual images; and a genuine public presence cannot be engineered through the application of correct forms, dazzling spectacle, or the lure of free bread and circuses.” Yet, this is precisely what cities are attempting with the crack-down on homeless people. They seek to replace the public spaces

of the city with landscapes, to substitute the visual for the (often uncomfortable and troublesome) heterogeneous interactions of urban life.

If malls and festival marketplaces represent one pole of what Michael Walzer (1986) has called "closed-minded" spaces (those spaces designed for a single function, those that seek to facilitate movement at the expense of interaction, spending at the expense of hanging out), then anti-homeless laws represent the other pole. "In 1994, the message in many U.S. cities to people on the street," noted columnist Colman McCarthy (1994), "was either get lost or get arrested." Designed to close off the open (and potentially "open-minded" spaces of the city) to those who cannot afford to be anywhere else, reinforcing urban space as landscape, anti-homeless laws serve to create the antithesis of what public space could be. But, of course, that is precisely the point.

Conclusion

Public space is always a negotiation (Goheen, 1993). It is both a site for continual negotiations of the nature of "the public" and democracy (Mitchell, 1995) and itself a product of these negotiations (Zukin, 1995). The proliferation of anti-homeless laws ups the ante in these negotiations by seeking explicitly — and within the realm of law — to remove some people from the negotiators' table. These laws have as a goal — perhaps not explicit, but clear nonetheless — the redefinition of public rights so that only the housed may have access to them. They further have the goal of redefining the public space of the city as a *landscape*, as a privatized view suitable only for the passive gaze of the privileged as they go about the work of convincing themselves that what they are seeing is simply natural.

The genealogy of these laws in the insecurity the contemporary bourgeoisie feels within the putatively globalizing economy seems clear enough. In an era in which the "symbolic economy" has risen to replace a seemingly more stable industrial-based economy, the "culture of cities" is all they have (Zukin, 1995). This "culture" — this landscape — is itself a tenuous thing, not at all a sure or permanent attraction to footloose capital. The rise, then, of what Zukin calls the "aestheticization of fear" seems a quite understandable, if still appalling thing. By creating superficially pleasing landscapes we hope to stave off the inevitable, to steal from history a few more months or years of prosperity. If this genealogy is clear, however, so too are the costs. Anti-homeless laws are perhaps the clearest indication of the Faustian bargain we are daily making to protect our own relative affluence. The cost to the homeless people we so willingly sacrifice is of course the greatest cost. But so too is the rather unthinking construction of a brutal public sphere a high price to pay for an attractive downtown. "Fear proves itself," Mike Davis (1990:224) quotes William Whyte as saying, while adding himself that the "social perception of threat becomes a function of the security mobilization itself, not crime rates."

Indeed, anti-homeless laws indicate the degree to which the public sphere, modelled as it is on the palpable fears of the bourgeoisie, has become less a place of critique, debate, and struggle, and more an arena for legitimizing a political economy — and landscape — so brutal as to convince us that calling for a pogrom against homeless people is just.

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Notes

1. A particularly harrowing example of the degree to which this ideology is grounded in at least some basis in fact is Bowden’s (1996) recent essay in *Harper’s* exploring the ugly destruction of Juárez, Mexico as “free trade” came to town. Bowden highlights the work of a group of Juárez “street photographers” whose grisly photos of the violence of free trade are a remarkable documentary record of the depredations of capital as it violently rips lives apart.
2. Though not only there. Keith Halfacree reminds me that similar processes to what I describe here are at work in Britain, and that Prime Minister John Major, for one, has been quite vocal in his attacks on “beggars” and “squatters.” For reasons of coherence, however, I limit my analysis in this paper only to the U.S. case.
3. In this regard, the annihilation of space by law is merely another skirmish in the on-going war against the poor, which, while perhaps “hotter” in the last two decades, is nothing new. I will return to this point below.
4. The issue of begging is related to but slightly different than some of the other actions by homeless people. Since begging has a more clear speech-content than does, say, peeing in public, anti-panhandling laws around the country have been challenged on constitutional grounds (Rose, 1989, Hershkoff and Cohen, 1991).
5. Thanks to Mike Longan for this point.
6. Given the actions of Californian and other western cities during the whole of their history, we should not be surprised they are once again leading the way. Henry George wrote of the fate of “vagrants” in California as early as the 1870s, and the seeming effectiveness of the Industrial Workers of the World and various homeless men’s movements like Coxey’s Army all up and down the Coast in the first two decades of this century, led to wide-ranging experimentation with legal remedies (for a contemporary discussion, see Parker, 1920). During the Depression West Coast states and cities sought once again to control homelessness by criminalizing it, by brutally deporting undesirables, by frequent raids on squatter settlements, and by establishing “border patrols” designed to keep destitute Americans out.
7. And it was the west that pioneered the current round of annihilation of space by law. As early as July 1981 Phoenix had made it illegal to lie down or to

sleep on public property — this, of course, as part of a project to “renew” downtown (Cayo Sexton, 1986:79)

8. “We are not talking about homeless people. We are talking about people who are loitering with the intent to sell drugs. If you are just standing around it does not affect you,” according to Councilmember Mary Wainwright (*San Francisco Chronicle* May 12, 1994).
9. A book published as late as 1992 (Blau 1992: 127) could discuss Seattle’s “reputation for pleasantness” and its reliance “on the appearance of civic benevolence to preserve that reputation,” and suggest that despite worrying signs, such as the 1986 anti-panhandling law (declared unconstitutional in 1991), this concern for civic benevolence “gives an important clue to its policies for the homeless.” Blau suggests that Seattle’s response to homelessness to that point (a public-private initiative to increase low-income housing and provide services) suggests a “far-sightedness” in comparison to most cities.
10. This, of course, is a variation on the “broken window” thesis that James Q. Wilson (1994) propounded several years ago. Wilson argues that the way to eliminate serious crime in a neighborhood, and thus to make streets “safe again” is to eliminate the minor crimes, like graffiti and vandalism, that seem to send the signal to criminals that the neighborhood is uncontrolled. Wilson’s ideas have been given wide publicity and are the backbone of Mayor Rudolf Giuliani’s “quality of life” campaign in New York (for a partisan evaluation of this campaign that implicitly touts Wilson’s thesis, see Leo, 1996).
11. The reference is to the 1993 Meg Ryan and Tom Hanks movie, *Sleepless in Seattle*, about a relationship formed in a cyberspace of sorts: a late-night coast-to-coast chat radio show.
12. This article, which included the phrase, “ordinances that would ban panhandlers from sitting on sidewalks,” drew a protest from an assistant City Attorney which was published with later editions: “Correction: The City’s sidewalk ordinance prohibits sitting or lying on sidewalks in business areas and does not target panhandlers according to Assistant City Attorney Laurie Mayfield. This article indicated otherwise.” The law certainly didn’t target espresso sippers.
13. Waldron’s essay is specifically concerned with issues of freedom, not with causes of or solutions to homelessness. His analysis of homeless people’s relative freedom in public places should not be read as excusing a society from responsibility for producing homelessness so efficiently.
14. In 1988, the city of Miami was ordered by a judge to create areas within the city where homeless people would be free from harassment by police as they went about satisfying their everyday needs of eating, sleeping, urinating, defecating, resting, etc. Since that time there has been considerable debate over whether the creation of “safe-havens” is a reasonable response to homelessness, with some advocates of the homeless arguing that it does nothing to relieve homelessness, and advocates of public order arguing it does nothing but destroy the quality of urban life.
15. This is especially the case in American cities that refuse to build or maintain public toilets (which is most of them).
16. Balter makes this comment in the midst of a column calling for “more uniform” enforcement of the anti-homeless laws. In an earlier column, Balter (1993) lauds a Portland, Oregon plan, sponsored by the business group Association for Portland Progress, that created a small army of young, uniformed, troops whose job it is to locate panhandlers, ask them to move on and stand vigilantly near them until they do. She seems bent on proving precisely Waldron’s point.

17. Homeless people in Santa Cruz, California, have engaged in a similar protest at their city hall (Johnson and Norse, 1996).
18. For the purposes of this paragraph I am using "landscape" synonymously with "built environment" or morphology. Below I will add in the sense of landscape as picturesque view, as way of structuring our relations with place, so as to explore how anti-homeless laws seek to implant a landscape way of seeing right at the heart of the city. These two ways of understanding are clearly connected through the processes of "capital switching" and accumulation discussed in this section.
19. My point is not at all the globalization of capital is some sort of *deus ex machina* over which we have no control. Rather it is that a contradiction exists between, on the one hand, the need for ever-faster turnover times of capital in general and the need to fix some capital in place. Capital needs places, of that there is no doubt. But the question of precisely which places, endowed with what sorts of attributes is one that is only answered in practice. That being so, people with investments rooted in particular places find their investments always highly insecure. Property, a necessary condition of capital accumulation, can also be rapidly devalued, in essence mortgaging the success of some kinds of investment against the loss of other kinds. Capital is not united, and it is its complex divisions and the contradictions that these divisions engender that lead to the overweening sense of insecurity that governs most American cities.
20. For reviews and examples of the discourses on homelessness, see Sollenberger, 1911; Anderson, 1923; Dees, 1948; Bahr, 1970, 1973; Spradely, 1970; Blumberg, Shipley and Barsky, 1978; Hopper and Hamberg, 1984; Schneider, 1986; Hoch and Slayton, 1989; Rossi, 1989; Baum and Burnes, 1993).
21. I do not mean to imply that this was the only reason for deinstitutionalization. The history is much more complex than that and of course incorporates much that is good, such as the desire to dismantle "total institutions" for the physically and mentally ill.
22. The program has two components. First police engage in something like "a military campaign, retaking the city block by block. Every ten days or so, the Matrix teams would announce a sweep of an additional area chosen on the basis of citizen complaints." Secondly, "Matrix also included social service outreach. A team of two social workers, two mental health workers, a substance abuse specialist, and two police officers roams the city trying to coax the homeless into shelters, housing programs, or treatment for addiction and mental illness" (MacDonald, 1995:79).
23. My language here is clearly one of normative ideals. It is not meant to be a description of universal practice. The critique of such public/private dichotomies is extensive, but to my mind does not adequately address the degree to which such ideals remain quite prevalent in thinking about citizenship — especially by ordinary citizens who seem to prize the voluntariness of association in public as highly as they do the ideal of a safe, private retreat.
My argument is, however, certainly one about property. The very ideology of voluntariness is rooted in the ideologies of private property that undergird American democracy. The remarkable development of suburbia in the United States reflects quite accurately this sense that proper citizens are private citizens: the good life is not a public one but a private one (cf. Fishman, 1987). For the case of the relationship between the public and private landscapes in the San Francisco Bay Area, see Walker (1995).
24. Let me be clear here. The various ideologies through which we view homeless people are indeed contradictory. On the one hand, we need to show that homelessness is a voluntary rather than structural condition. Yet, on the other

- hand, we also need to show that homeless people are not citizenly “free agents,” thereby seemingly undermining the ideology of volunteerism. Yet the contradiction is resolved quite simply: since homeless people have chosen to be (or remain) homeless, they are therefore ineligible for legitimacy.
25. Given that voting requires registration, and registration in most instances required a fixed address, the homeless are doubly encoded as children. Denied sovereignty and autonomy, so to are they denied an electoral voice until they are ready to move into a home of their own.
 26. For an analysis of such “discourses of decline” as they are related to “society’s contradictions” and how they “connect our more general fears and anxieties to conditions within cities” over the long course of American urban writing, see Bauregard (1993).
 27. The paradigmatic account is Davis’s (1990) depiction of “Fortress LA.” Similar issues concerning the relationship between landscape, public space, and geographies of control are raised in Sorkin (1992).
 28. It should be noted that here I am drawing on archetypal ideologies of landscape derived from landscape painting, design, and gardening as it developed in Europe and the United States. Daniels (1992, 1993) has provided a more nuanced reading of the relations between production and consumption in his close examination of Turner’s paintings of industrial landscape.
 29. For an analysis of the degree to which festival marketplaces offer a possibility for ordinary people to re-write the “script” of public spectacle, see Goss (1996).
 30. In this regard, the legal discourse around panhandling (or other behaviors of the homeless people) is strikingly reminiscent of judicial attempts to regulate or ban picketing in the first half of the century. Supreme Court Chief Justice William Howard Taft, for example, ruled in 1921 that picketing is by definition violent and intimidating, that it necessarily implied “hounding” and “dogging” people on city streets — and his language was reproduced in employer-sponsored anti-picketing ordinances around the country during the Depression (cf. Mitchell, 1996). Like most of the other anti-begging ordinances adopted in the 1980s and 1990s, Sacramento’s makes it illegal “to coerce, threaten, hound or intimidate another person for the purpose of soliciting alms” (*Sacramento Bee* Dec. 2, 1993), replicating the language Taft pioneered 70 years earlier in hopes of controlling another unruly, inconvenient body of people.
 31. I do not mean to say the fear felt by this woman was not somehow real. Rather, the question is whether our fear or discomfort should be allowed to dictate the destruction of the means of survival for other people
 32. The degree to which Sennett is describing a largely white, male, and bourgeois ideology should be obvious. Clearly the dream of a resistance-free public environment for some has been historically predicated on a heavily policed dystopian nightmare for most.

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