Common Property and the Right to the City: Thinking the City as a Political Space

Introduction

When, in 1848, Karl Marx denounced the "idiocy of rural life" in favor of the urban, he was outlining a core and absolutely necessary condition of possibility for progressive, revolutionary politics. In the absence of the mass urbanization of the working class, on Marx's view, the proletariat could never come to know itself as a class, nor articulate itself as the agent of radical social transformation. It is important to recall, however, that despite the polemical assertion of the *actuality* of the European proletariat in the "Communist Manifesto", this did not yet correspond to any empirical reality. That is to say, the urbanized workforce at the time was but a tiny fraction compared to the traditional rural peasantry and artisanal workers. While the city was, indeed, the locus for an emerging progressive agitation and alive with political and philosophical energy, the rural still held the balance of power, as it were.[1]

Jump ahead 163 years and we find ourselves in a much different situation. Not only do more people live in cities than rural areas, but economic and ecological imperatives are contributing to an increasing *densification* of urban populations (after the suburban experiment of sparsity), even if these populations are no longer centralized at the point of production (i.e., factory workers), at least in the advanced capitalist nations. In 2008, for the first time in history just over half of the globe's inhabitants lived in cities, and it is estimated that by the year 2010 60% of the global population will be urban dwellers.[2] In the advanced capitalist countries, over 75% of the population is urban, and this is projected to increase to 82% by 2030. In Canada, 80% of the population currently resides in urban environments, and the number is slightly higher (81%) in the US.[3] If Marx's theory about the necessity of urbanization for the realization of revolutionary politics has any salience, it would seem an opportune time to return to it. This insight prompts the question: Where does the category of the city or the urban stand today in relation to left political theory and the discipline of Political Science in general?

The answer, unfortunately, is that it stands obscured; eclipsed by the bombastic obelisk of the state in Political Science, and the ephemeral fetish of the ethical-global in critical political theory. The city, so foundational to the normative inquiries of Western political philosophy, and the unquestioned, if undertheorized, site of all revolutionary potential in orthodox-, neo-, and post- Marxist thought, is now reduced to less than a sub-discipline in Political Science – an primarily quantitative "urban politics" which tells us little about power or the good life.[4] But the mandate of the modern pseudo-sub-discipline of urban politics has never been to theorize the relationship between progressive politics and the city, and can therefore be forgiven the oversight. Traditionally, the study of the city and its importance for democracy and human flourishing has been peculiar to the realm of political theory, and I would like to keep my focus within its purview.

There are some very good scholars doing critical work on the city in Political Science (Warren Magnusson, Michael Shapiro, Judith Garber, Engin Isin, and the late Iris Marion Young), albeit many of whom would not identify explicitly with the subfield of political theory. Nonetheless, they provide a constellation of ideas to draw from positively while simultaneously assuming positions that prove productive in their rejection. In addition, there are many critical urban scholars outside the discipline who have been extremely influential, if not seminal, within political science (Harvey, Blomley, Rose, Sassen).

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[1] In his book, *The Search for Political Space*, Warren Magnusson discusses how radical municipalism was very strong in Europe during Marx's, and later Lenin's time. Perhaps ironically, they both were very opposed to focusing the socialist movement on a local level as it appeared to divert attention away from the main target, the state (Magnusson, pg. 171).

[2] http://www.prb.org/Articles/2007/UrbanPopToBecomeMajority.aspx

[3] http://www.unfpa.org/swp/2007/english/notes/indicators/e_indicator2.pdf

[4] Sapotichne, Joshua, Bryan D. Jones, and Michelle Wolfe. 2007. "Is Urban Politics a Black Hole? Analyzing the Boundary Between Political Science and Urban Politics." *Urban Affairs Review* 43(1): 76-106.

Therefore, one should not restrict a theoretical exploration of the city to work found in political science or political theory, but by necessity approach questions of the city in an interdisciplinary manner. While I will comment on the work of those I have listed parenthetically above, I would like to begin this paper with a discussion of arguably the premier Canadian political theorist of the city, Warren Magnusson.

Politiciziing the City, Urbanizing Political Science

Magnusson is an important thinker of both the city as an arena of politics, and the state of the discipline of political science, in general. In terms of the former topic, Magnusson seeks to "politicize" the city; to understand it as a site of politics, a concrete space *made* by humans in an agonistic environment of clashing interests, meanings, and desires. To politicize the city is to reject the organicist, naturalized, and "social scientific" thinking that dominates conceptions of the city. By "social scientific" thinking, he means an approach that makes the city appear to be apolitical or simply social; a conceptual framework that posits it as an object naturally belonging in the disciplines of economics, sociology, geography, and cultural studies. It is the state, on the other hand, that is considered the natural category of analysis for political science, on account of its sovereignty, naturalized monopoly on violence, and policy relevance. That is to say, political science studies the state because the state has and exercises *power*. The result of this artificial disciplinary divide is, as Magnusson argues, that the "social sciences leave the political behind (in the domain of the state) or project it into the realm of ethics (where it can be expressed in pious wishes or moral injunctions)".[5] This brings me to Magnusson's second important contribution mentioned above. In his essay "Seeing Like a City: How to Urbanize Political Science", he poses a challenge to political scientists to "urbanize" their discipline by "seeing the world like a city," and to reject the fetishized emphasis on the state. This means approaching the political world as 1) self organizing; 2) possessing multiple sources of authority; 3) self-governing; 4) ordered in a temporary and localized manner; and 5) unpredictable (or, non-linear).[6] These observations of the nature of cities are now fairly commonly embraced by critical urban theorists and illustrate their largely postmodern and/or left-liberal predispositions. For Magnusson, who is probably best described as a democratic socialist or neo-Marxist thinker,[7] seeing the world like a city is another way of articulating the critical desire to deconstruct and denaturalize categories in political science that create an overly hierarchical perception of power and politics, in particular the state and sovereignty.

I strongly agree with one aspect of Magnusson's project, but am profoundly skeptical of the other. First, I see the politicization of the city as absolutely crucial for theorizing and supporting progressive political movements. I believe Marx was correct in his assessment that any progressive social change, or even revolution, will emerge out of the specific dynamics peculiar to urban life. I also strongly support the idea that left-wing theorists must give up their pathological preoccupation with ethics, which tends to situate human relations in a deferred conceptual space somehow outside of power and political commitment, and begin to think seriously about power which will always include a certain amount of exclusion, judgment, and representation (more on this later….).

However, my conception of urbanizing political science is not to impose a non-dogmatic, postmodern or deconstructive theoretical framework on the entire discipline, but to reassert the city as a site of power, fixity, materiality, and patriotism or loyalty. For Magnusson, an urbanized political science should not posit the city as a new privileged actor against the state because this recreates hierarchical thinking which

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[5] Magnusson, "Politicizing the Global City", in ed. Engin Isin, *Democracy, Citizenship, and the Global City*, Routledge (2000), 291.

[6] Magnusson, "Seeing Like a City: How to Urbanize Political Science", in J.S. Davies and David L. Imbroscio, *Critical Urban Studies: New Directions,* SUNY Press (2010) , 45.

[7] Magnusson's ontology of the world-as-a-city is simply a description of new politccal realities with which an anti-capitalist politics must come to grips with in order to be effective. He does not over-valorize postmodernism as a normative politcal philosophy. My concern, however, is that ontological claims like he is making can all too easily morph into a normative position, that is, obverted into support for capitalism.

should be abolished.[8] While sensitive to concerns like these, I think it might prove an extremely productive and valuable (maybe even necessary) experiment to actually *privilege* the city over and above the state due to its materiality and potential for strong, face-to-face solidarity. I am not interested in a wholesale negation or dissolution of the state, however, as it clearly has an important role to play in facilitating the good life of its citizens, but instead thinking of the city as a generative site of struggle against the hegemony of the abstract law and violence of the state and the disempowering forces of globalised capital. In this respect, I'm interested in theorizing the potential of the city to weaken national loyalties, not in favor of a more global cosmopolitanism (as is the norm in nominally left critical theory), but in order to emphasize and strengthen urban identity, citizenship, and indeed, patriotism.[9] To do so, however, especially under the auspices of political theory, one requires first a philosophical model outlining precisely what the city is.

Political Theory and the City

Beginning with the Ancients, political theory has a long and rich tradition of theorizing the city, indeed, the canon up until early modernity holds the existence of the city or polis as necessary for human flourishing and political action. After the work of Hobbes and Locke, in which the nation-state assumes a central position, the importance of small-scale local democracy returns in force (in various forms) in the writings of Rousseau, Kropotkin, and Marx. However, with the onset of the 20th century, the city abruptly ceases to be of interest to normative political theorists (who might be considered canonical), with the exception of Hannah Arendt (who is not explicit about her thoughts on the contemporary city, but very much valorizes the ancient *polis*). In particular, early to mid-20th century theorists on the left seemed only to think in terms of the state, either as an object to be captured (Lenin, Gramsci), analyzed in a structural manner (Poulantzsas, Althusser), or largely ignored altogether (Adorno, Marcuse). Outside of figures like Benjamin, Lefebvre, and Bookchin, the city received scant scrutiny in terms of its potential for progressive politics and anti-capitalist resistance, and it is no wonder, considering the awe-inspiring sovereign might of the two superpowers and the very successful project of social democratic nation-building in the Western democracies that defined the grand politics of the mid-20th century.

However, in the late 20th century, a new critical interest in all things urban emerged, but the work produced during this time had a character so different from that of the Ancients and Moderns, that one would have difficulty connecting it to the tradition of western political thought. Indeed, one would be hard pressed to find anything particularly *political* in these works at all. This is no coincidence because the '80s and '90s were defined by a major shift in left-wing thought, from traditional and neo-Marxist analysis to various forms of postmodern and poststructural critiques of power, and the emergence of "identity politics."[10] Consequently, the new interest in the city that materialized during this period approached the urban as a space of difference, flux, creativity, and locality – a set of categories opposed to the homogeneity, hierarchical power structures, false universality, and fixity of the nation-state. The city was seen as a laboratory for playing with meaning, deconstructing identity, and experimenting with diversity – a privileging of the urban particular over the national universal, as it were. However, these analyses, despite emphasizing the materiality of urban life, never seriously engage with the physicality of conflicts therein, instead focusing on, as Judith Garber demonstrates, the abstract-metaphorical struggle

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[8] Warren Magnusson, (2000), 294.

[9] Magnusson: "Since nation building requires intense loyalties, the state is accorded a monopoly on the symbols of patriotism, which it invokes against internal and external challenges. This monopoly of patriotic symbolism is the ideological counterpart of the monopolies of political authority and legitimate violence that are implicit in the principles of state sovereignty" (*The Search for Political Space*, 57).

[10] For critical discussions of this shift in left-wing poltical theory, see: John Sanbonmatsu, *The Postmodern Prince*: *Critical Theory, Left Strategy, and the Making of a New Political Subject*, Monthly Review Press (2003); Slavoj Žižek, In Defense of Lost Causes, Verso (2007); *Jodi Dean, Democracy and Other Neoliberal Fantasies*, Duke University Press (2010); Stanley Aronowitz *Left Turn: Forging a New Political Future*, Paradigm Press (2006).

over the meaning of space.[11] Garber claims that the dominant, what she calls "postmodern", view of urban space is defined by three fundamental observations: 1) no space is static or asocial; 2) physical and non-physical space reproduces or performs race, sexuality, class, and gender; and 3) metaphorical space is no less "real" than physical space.[12] These postmodern insights, while important and certainly valid to an extent, lead to some problems for normative political theory which should now be familiar to all political scientists. The deconstruction of modernist political categories tends to lead to a fragmented politics of protest and negation, vs. a positive, solidaristic politics that engages with existing material power structures (e.g., government) via usurpation, participation, or compromise. A postmodern politics like Garber criticizes fears getting its hands dirty and prefers the pure, uncontaminated sphere of theory or ethics; a place somehow removed from power.

The Ethical Turn in Political Theory

This distinction is key because it raises a fundamental problem of contemporary critical political theory: the valorization of ethics and the disavowal of politics. We can now speak of an "ethical" turn in political theory that can be traced back to the late 1960s, inaugurated by thinkers like Theodor Adorno, followed closely by the twin moments which saw postmodernism imported into the Social Sciences from the Humanities, and the rise to prominence of Habermas and his followers. In a recent post on her blog *I Cite*, political theorist Jodi Dean outlines the character of this shift toward ethics as a series of "crimes" that traditional (modern) political theory is guilty of, which can then be interpreted as prohibitions against particular types of political thought and action. I will cite her post at length here (taking some liberties with the format of the original post):

> Once the New Left delegitimized the old one, it made political will into an offense, a crime with all sorts of different elements:
> 1. taking the place or speaking for another (the crime of representation);
> 2. obscuring other crimes and harms (the crime of exclusion);
> 3. judging, condemning, and failing to acknowledge the large terrain of complicating factors necessarily disrupting simple notions of agency (the crime of dogmatism);
> 4. employing dangerous totalizing fantasies that posit an end of history and lead to genocidal adventurism (the crime of utopianism or, as Mark Fisher so persuasively demonstrates, of adopting a fundamentally irrational and unrealistic stance, of failing to concede to the reality of capitalism).
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> But a politics without representation, exclusion, dogmatism, and utopianism is no politics at all. It is instead an ethics. Is it any surprise, then, that under neoliberalism ostensible leftists spend countless hours and pages and keystrokes elaborating ethics? The ethics of this or the ethics of that, fundamentally personal and individual approaches that obscure and deny the systems and structures in which they are embedded? (http://jdeanicite.typepad.com/i_cite/2010/11/inept-or-unwilling.html)

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[11] Garber cites the following scholars and works as representative of this postmodern understanding of space and the city: S. Watson and K. Gibson, "Post-modern Politics and Planning: A Postscript", in Watson and Gibson (eds.), *Post-modern Cities and Space*, Oxford: Blackwell (1995), 254-64; Gillian Rose, "As if the Mirror Had Bled: Masculine Dwelling, Masculinist Theory and Feminist Masquerade", in N. Duncan (ed.), *BodySpace: Destabilizing Geographies of Gender and Sexuality*, London: Routledge (1996); S. Ruddick, "Constructing Difference in Public Spaces: Race, Class, and Gender as Interlocking Systems", *Urban Geography*, 17 (2): 132-51; M.M. Breitbart and E-J Pader, "Establishing Ground: Representing Gender and Race in a Mixed Housing Development", *Gender, Place, and Culture*, 2 (1): 5-20. I would also add to this list: Michael Shapiro, *The Time of the City: Politics, Philosophy, and Genre*, Routledge (2010); Iris Marion Young, Ch. 8, "City Life and Difference", in *Justice and the Politics of Difference*, Princeton, NJ: Princeton University Press (1990); and R. Fincher and J.M. Jacobs (eds.), *Cities of Difference*, New York: Guilford (1998).

[12] Judith A. Garber, "The City as a Heroic Public Sphere", in Isin (ed.), 265

If progressive political theory and activism is concerned primarily with challenging the power of neoliberal, globalized capitalism, and secondly, the power and violence of the state, the ethics that passes as political theory seems, at best, inadequate to the task, and at worst, an enabler of the power structures in question. For example, If this turn towards ethics, has upset the "discourse" of the state, it has not been terribly effective in upsetting the state's ability to invoke its claim to a monopoly on violence against those in and outside its borders (which results in very real, physical suffering), nor has it weakened its ability to enforce law at the local level, even if this law is experienced increasingly as somehow alien and abstract to its citizens. The state easily accommodates the ethical demand for greater public dialogue and input because in the progressive ethical framework, the focus is on process and not outcome. The national conversation can be widened and widened in perpetuity, after all the discussion never ends (that would be an illegitimate exercise of power) and everyone has a right to their opinion. The state can also easily accommodate multiculturalism and the tolerance of otherness, as long as the ultimate touchstone of this discourse is individualism (the individual "other" should never be subsumed by his or her collective otherness).

As for the relationship between ethics (postmodern and Habermasian), and anti-globalization movements, the work of Slavoj Žižek is enlightening. For Žižek, postmodernism or "liberal Communism" as he calls the ethical position I am referring to, is really just an expression of left-liberal or cosmopolitan commitments. While the adherents to such a position invariably list capitalism as a source of oppression in the world (along with racism sexism, and so on), their prescriptive response tends to be a call for more tolerance, respect for difference, and the protection of human rights. While these are certainly noble goals in the abstract, there is no necessary connection between them and an anti-capitalist position. In fact, for Žižek, not only does the ethico-political form of postmodernism lack any significant anti-capitalist foundation, by advocating normative principles that stress tolerance, experimentation, or the value of "transgressive" enjoyment, postmodernism actually *feeds* and complements the contemporary form of capitalism. The cultural logic of capitalism is not what it used to be; it is no longer based in Fordist relations of homogenous mass production and consumption, but in the production of subjects seeking constantly new and unmitigated forms of enjoyment; "communicative capitalism," in Jodi Dean's words.[13] In this way, the postmodern deconstruction of traditional cultural values, and celebration of transgressive experiences, actually *helps* produce the ideal capitalist subject, that then contributes to the smooth functioning and reproduction of capitalist social relations. John Sanbonmatsu is even more direct in his criticism, directly targeting Foucault: "The expressivist aesthetic enabled a qualitative deepening of commodity logics in the lifeworld. Foucault's call for an ethic of 'care of the self' would become the rallying cry of global capitalism which was happy to oblige by engineering new desires and products for individuals in multiple niche markets."[14]

When this postmodern ethic is translated into theories of the city, the same criticism applies. The city as a space of multicultural or cosmopolitan difference and tolerance is perfectly consistent with the ideology of neoliberal globalization which *seeks* to disrupt strong loyalties and non-transient populations; seeks to produce the flux and change that postmodern theorists of the city exalt. Which specifically urban process does this sort of ethical position best correspond to? The answer is, of course, *gentrification*. Neighborhoods that are in the process of being gentrified epitomize the values of becoming (middle class), difference (mixed incomes, as the affluent replace the poor, as white populations replace racialized ones, as students and artists replace long-term residents) and, by definition, flux. Is it any wonder that ostensibly critically-minded academics and professionals flock to these areas? These neighborhoods are defined by a transient population that assumes, in some cases, an ironic and playful relationship to community, while in other cases, a nominally stronger investment in community building, all the while

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[13] Jodi Dean (2005) 'Communicative Capitalism: Circulation and the Foreclosure of Politics', *Cultural Politics: An International Journal*, 1(1): 51-74.

[14] Sanbonmatsu, 49-50.

enabling capital's creative destruction.[15] In short, the neighborhood in the process of gentrification is a site of the dissolution of strong solidarities, and therefore the potential for communal resistance.[16]
On the other hand, the not yet gentrified inner city is constructed as a space of danger, criminality, poverty, homogeneity, and one lacking culture and community. From the outside, the inner city is perceived as a sort of prison full of inmates seeking desperately to break out, living a life of intolerable poverty and insecurity. What is most interesting due to its contradictory character is that the not-yet-gentrified neighborhood is constructed as a space of transience – a nomadic and shifting population – despite the discourse that it is difficult to escape. This is as discursive requirement for reinforcing the idea that the inner city lacks community and solidarity, and therefore justifies gentrification via economic development or forced relocation. After all, residents of these neighborhoods desire only to get out. Neoliberal discourse creates the conditions that makes gentrication acceptable, and postmodernism legitimizes the real material outcomes of gentrification.
If the city is to reach its potential as a site of serious political resistance, it must be rethought explicitly against the dominant postmodern conception. Garber poses one option for reconceptualizing the urban which focuses on the materiality of space and how people interact with it *politically* in the manner of public spheres. She claims there are at least four urban public spheres that demonstrate these relation to space: 1) people act *from* space (particular spaces will contribute to how people understand themselves, and what sorts of demands they make); 2) people act *on* space (by working to own it, or shape it); 3) people act *in* space (physical spaces in which people act publicly: parks, streets, etc.); 4) people *make* space (open up physical and metaphorical space in order to expand the public sphere).[17] There are valuable insights to be gleaned from Garber's analysis, but it still remains slightly too abstract. These public spheres are said to be intimately associated to "space," but how should this space be defined and understood so as to lend it a distinctly political character? The answer I would like to propose is, in broad terms, "the commons" and more specifically, "common *property*."

Common Property

There is a resurgent interest in the category of the "commons" in left political theory today, represented most prominently by Hardt and Negri in their Empire trilogy, but also associated with the work of Alain Badiou, Giorgio Agamben, and Jodi Dean. The Commons, traditionally connected to preindustrial agricultural production, oceans, lakes, forests and, more recently the atmosphere and the Earth as a whole, as well as intellectual property, is meant to be a space to which no particular individual can claim exclusive use-rights. It is a space that communities understand as open to all for the benefit of all, and its "enclosure", privatization, or monopolization is considered an act of violence against the entire community. Karl Marx positioned the idea of the commons as central to his idea of communism,

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[15] It is pointless to blame anyone for living where they find desirable (not to mention feasible). While the intricacies of gentrification are complex, it is mostly a function of the structural conditions of capitalism that allow investors and speculators to destroy communities in order to renew and profit from them. I simply want to note that the type of neighborhoods that tend to attract socially conscious individuals and are celebrated by critical scholars, are often in the process of forced social dissolution and dispossession.

[16] We need to remember that, as Sharon Zukin (among others) demonstrates, neoliberalism looks to dislodge any sort of strong loyalties to place. Throughout the 20th century there were actual debates in political and corporate circles around what was best for capitalism: whether workers should be fixed to a place, and live close to their worksite, or largely nomadic. It was decided in the 1980s that nomadic labour would be the weakest and most flexible, in large part due to the lack of strong connections to particular places (Zukin, 7-8), and as Lisa Peattie argues, the particular city must give way to the universal of the future city (Peattie, 148). There may be a parallel here with countries that refuse to open themselves up to the deterritorializing processes of globalization in that they are often the first to be bombed for not sufficiently embracing the values of an interconnected cosmopolitan world.

[17] Garber, 267-9.

although he had in mind something much different than open access to farmland or fishing spots. He envisioned a much more profoundly *modern* commons, one associated with industrial production, entailing the common ownership and usage of machines, factories, and the wealth they produce. This is one of Marx's most alluring and seductive ideas, but simultaneously the most misunderstood, and any hope for its revival requires an asserted attempt at conceptual clarification.

The misunderstanding arises from two factors, one historical and one social-discursive in nature. Historically, the association of Marxism with really existing state-socialism conflated and reified common ownership with state or public ownership, which are analytically distinct categories. Secondly, in contemporary western democracies, the commons has been subject to erasure, or been made conceptually unintelligible by a legal system which understands property in a rigidly binary manner: either property is private or it is public (state-owned); there is no in between.[18] It is the task of political theory to upset or unsettle this assumed common-sense approach to property relations, if it seeks to identify a basis for theorizing progressive resistance to the state and the global. In this respect, I propose a reconceptualization of the city as a site of common property, a material space owned by communities or parts of communities, against those that would alienate it from them.

Nicholas Blomley, a geographer at Simon Frasier University, places common property at the core of his analysis of urban social movements, and it is his work that informs much of my normative critique of contemporary approaches to the city. For Blomley, "as an ideal-type, a common property regime is operative when a resource is held by an identifiable community of interdependent users, who exclude outsiders while regulating internal use by community members."[19] Blomley is deeply critical of the "ownership" model of property which posits all property as clearly, and unambiguously belonging to an owner: either a private individual or the state. In capitalist liberal democracies, the ownership model clearly privileges private property, with the onus on the state to justify public property, usually based on a perceived essential public need, or national security. Within this framework, private property is understood simply as a relation between things and owners, and does not take into account those affected by this relationship if they are not explicitly and legally acknowledged in the ownership nexus. This is an ideological construct characteristic of positive law which serves to make legal disputes over property conveniently easy to conceptualize and arbitrate. The same model applies to public property, although it is slightly more complex especially in liberal democracies because the general citizenry has some legitimate claim to the ownership of state property. Of course, in practice, the state has the arbitrary power to decide on the use of public property, including its enclosure from the public.

Both legal scholars and community activists are now challenging the ownership model of property in an attempt to demonstrate alternative regimes of property that can, and presently do, operate in a more socially just way. This alternative model of common property rejects the principle that property is a relationship between owners and things, and instead points to the idea that property should be understood in terms of: 1) space; and 2) usage. In the abstract, this means that where property is situated matters for who can make claims on it, and more specifically, the interests of those who have traditionally used the space, even if they are removed entirely from the matrix of formal ownership, ought to be considered if the "owners" of the property intend to radically alter the way it will be used. Abstractions aside, it is much easier to conceptualize the nature and significance of common property when it is illustrated through concrete examples, of which Blomley supplies many.

When one reads Blomley's book *Unsettling the City* it becomes clear how regularly appeals to common property are invoked in urban struggles for control over communities. With a special focus on Vancouver, Blomley explores several high profile cases in which communities explicitly rejected the ownership model of property in order to protect usage claims to buildings, parks, and neighborhoods. I

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[18] "Enclosure, Common Right and the Property of the Poor" *Social Legal Studies* 2008; 17; 311-32.
[19] Ibid. Pg. 318.

will briefly summarize one particular case that Blomley has done extensive work on: the struggle over the Woodward's store in Vancouver's downtown Eastside.

The Struggle Over Woodwards

The Woodward's department store was opened in 1903 at the corner of Abbot and Hastings street, and served as a central space for day to day community life, especially shopping and socializing. It was a community touchstone and a site of memories, events, and activities that lent it a special meaning in the neighborhood. The business closed in 1993 and the space was sold to a condominium developer who planned to erect 350 market-priced residential units. This began a long struggle over how the space should be used, and who had claims over it.

The community, defined for the moment as everyone who lived or conductged business in the DES, itself was split over the issue. On the one hand, many local business owners welcomed the condominium project as they considered it an opportunity for an influx of money into the impoverished neighborhood. Not surprisingly, however, the majority of long-term residents (often living in residential hotels) and community activists were horrified by the prospect, and instead advocated for the development of government assisted housing in this space. What is important to note is the type of discourse these activists used in defense of their claim to the space. Woodward's, they argued, was given its meaning by the community through the way the locals had used the space. It was a place open to the public, providing both a social space and, in a more banal sense, Woodward's was simply a place to shop (which were in short supply in the downtown eastside). Therefore, from the perspective of the community, any private owner that intended to build something there that would enclose the space from the community, contribute to gentrification (thereby preventing long-term residents even the *ability* to live in their neighborhood), or simply not take into account the particular interests of the community (low-income housing), simply lacked the moral and legal authority to appropriate that space. In other words, the community claimed a right to that space as common property, based on a shared tradition of use and meaning.

The space itself became a contentious issue within formal political bodies over the next 15 years, as progressive provincial governments and municipal councils instituted policies favorable to the community, as quickly as business-friendly governments reversed them. This is notable because the battle over Woodward's was only effective to the extent that the community had allies in government, and it did not reject conspiring with officials out of some form of ideological purity. The community was also willing to unapologetically employ the much maligned power structure of "representation" toward its ends in the form of an *ad hoc* "Committee of the DES." As with all forms of representation, this required determining those who would be included and excluded in the construction of "the community": in this instance, not everyone living in the neighborhood was considered equal, with the right to an equal voice. Business owners supportive of the condominium development were excluded, for example, while anyone in favor of low-income housing was accepted into the fold. This was not a Habermasian public sphere nor a Rawlsian Original Position. It was based *explicitly* on a willingness to *exclude*.

If this story at first glance appears to be another reiteration of a postmodern discursive struggle over the meaning of space, I think a closer examination of the discourse and actions of the activists reveals that it was clearly *political* (vs. ethical), and I would go even further by suggesting it was a very simple and uncomplicated form of politics, at that. The basic thrust of the activists' rejection of the condominium proposal was: this is our community, we claim a right to live here and use the space, and we will not be moved. This is not a multilayered, obtuse, deconstruction of social norms that only a professor of cultural studies can appreciate. It is a simple demand to ensure that one has the ability to continue living in one's community and not be gentrified. As a result, the activists and residents fought not informed by abstract cosmopolitan principles of inclusion, multiculturalism, or experimental living, but on genuinely political principles of exclusion (by naming an enemy – Kassam Aghtai [the condo developer], community business elites who favored the development, municipal politicians who enabled it, and the prospective wealthy condo-owners); fixity and particularity (the neighborhood was the site of struggle, not the city of Vancouver. Not all Vancouverites have claims to that neighborhood); representation (Committee of the

DES), loyalty/patriotism (a deep attachment to the neighborhood; an unwillingness to disavow the community because it is poor or dangerous). Again, the position was very simple: this neighborhood contains a community that refuses to be dissolved or dispossessed, and the community therein has no interest, at least in the case of how the Woodward's space would be developeed, in being open to others, experimenting with ways of being, or buying into the disingenuous paternalism of market-driven community development.

In this respect, common property can be understood as a hybrid of usage and ownership models of property. It is usage-based due to the processes and traditions that inform the legitimacy of claims to particular spaces, but ownership-based in that these claims are exclusionary and fixed in the moment they are made. The community invokes a right to exclude outsiders and even specific insiders who are interested in enclosing the space, and its conception of the neighborhood is not so much a space of becoming which should be left open to potentially radical change, but a closed community with the right to preserve its traditions (without completely foreclosing the possibility of self-interested and self-directed change, of course).

Right to the City

This leads my paper into a discussion of the final category I am interested in, the "right to the city." Rights enjoy an ambivalent position in contemporary left-wing political theory. On the one hand they are the quintessentially modern vehicles of emancipation and liberty, while on the other, they are suspect mechanisms that cover over unjust power relations, and protect the affluent and privileged against the exploited and disempowered (a la Marx's On the Jewish Question). Regardless, rights are things that we "cannot not want", as Gayatri Spivak argues, and a necessary part of political action in contemporary struggles. For progressive political movements, rights must not be overvalued, but they must also not be ignored. Rights can be powerful political tools when used strategically. It is, then, encouraging to see left political theorists and other critical scholars appropriating the discourse of rights in relation to urban affairs. The Right to the City is a trope initially employed by the Marxist social theorist Henri Lefebvre in 1968, but has been revived in contemporary times by David Harvey and others. For Harvey, the right to the city means that communities should have some control over how surplus capital is invested in their neighborhoods or cities.   He shows that cities have always acted as sponges for surplus capital, and this type of investment/destruction will only intensify as global urbanization ramps up. To invoke a "right" to determine how it is used in this context, is the most obvious way that communities can both protect themselves and challenge the unchecked power of globalized capital.[20]

It is important, however, that the right to the city not remain embedded in a metaphorical conception of space, but that it is actually translated into legal and political terms. Here the radical political potential of common property can enter the realm of positive law and formal governance structures. If the ownership model of property can be generally upset by the challenge of common property, communities (subordinate to the sovereignty of the state) must possess a strong vocabulary and legal argument to forward their claims. In this respect, the right to common property and the city can be used for either reformist and legalist challenges, or for more militant, revolutionary ends. Whether a struggle for urban space manifests itself in one or the other modes of political action is largely dependent on how the authorities respond to the initial challenge. All that aside, the way forward for activists is the development of a strong and sophisticated understanding of the legal framework in which common property and a right to the city might be articulated and formalized, while at the same time organizing and educating communities around these unsettling practices, which many people may understand intuitively but lack the appropriate language to express it.

I use the terminology of intuition and expression intentionally to convey a Marxian image of an unorganized mass of people (the *lumpenproletariat*, or the idiocy of the rural), full of critical potential for resistance, but unable to articulate its interests in a fully coherent manner, due to the lack of both an

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[20] David Harvey, "The Right to the City", *New Left Review*, 53, Sept.-Oct., (2008) 23-40.

appropriate grammar and the necessary resources for its execution. Nonetheless, as the global economy continues to restructure cities in the interests of capital, whether it is an internal class restructuring, as Saskia Sassen argues, or as sites of investment, as per the work of Harvey and Davis, the structural conditions of cities are becoming ripe for a politics of the urban commons and rights/citizenship. It must be stressed again, in conclusion, how important it is for this analysis to be articulated within a distinctly political framework, one in which the actors do not fear making claims that involve limited but necessary exclusions, demarcations of who's in and who's out; one that doesn't implode under the imperative to remain ethically uncontaminated by power (both in terms of representation and the use of modern political categories). And finally the politics of urban common property must move beyond a reactionary form by developing a sophisticated understanding of the position of common property in existing legal frameworks, and how this category can be translated into rights-based claims that are more than abstract and moralistic in nature.[21] In this respect, I would both accentuate and challenge Engin Isin when he says that a new understanding of rights in the context of the city should focus "less on legal rules and more on norms, practices, meanings and identities".[22] Yes norms, practices, meanings, and identities are crucial, but as a means of *establishing legal rules*. The struggle for common property is not a metaphorical struggle, but an attempt to articulate through existing law a set of rights that been heretofore subject to erasure.

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[21] Blomley: "[T]he tendency now, in these neo-liberal times, is to think of the interests of the poor through a Dickensian frame of welfare and charity. Preventing displacement and homelessness is a 'good' thing to do. Evictions from a hotel are lamentable, but little more. Viewed through the frame of the commons, however, we are forced to use a language of rights, entitlement and justice. Capital is not simply investing in *terra nullius* or 'developing' an empty shell. Title to the site has not been quieted, with property rights fully vested in a single, identifiable owner" (Blomley, "Enclosure, Common Right, and the Poor", 325).

[22] Engin Isin, "Introduction: Democracy, Citizenship, and the City" in ed. Engin Isin, *Democracy, Citizenship, and the Global City*, Routledge (2000), 5.