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The Right to the City Begins on the Street

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2 February 2015

Introduction

David Harvey defines the “right to the city” as a “right to change ourselves by changing the city”.¹ Streets can be, and should be, vibrant public open spaces for engaging all kinds of ever-changing human interactions — whether a quiet conversation between a few, for street art, pickets, performances, or protests. As a public space for democratic engagement, streets are again spontaneously (and rightly) changing the city without planning, design, or permission.

Roads have historically been designed by transportation engineers and planners to perform the function of efficiently moving people and things in vehicles through a landscape. The primary goal of such efficiency is to aid and abet commerce and capitalism. Looking at London in the Victorian period², the street though, was not a road, but a place where people, commerce, recreation, and social interaction occurred, resulting in a vibrant community that sometimes moved along the pavement, and oftentimes did not. Today, open space is always planned — programming where, when, and how people should use their leisure time when in the public realm. Boundaries between public and private space blur in the trade-off between the want for new land and building development and the needs for public amenities. Politicians surrender; social space disappears.

Streets are an open and common space being reclaimed by people of all ages, in all kinds of weather, at all times of day and night for purposes never envisioned by planners and designers nor permitted by politicians. Streets are being used in creative ways to individually and collectively express opinion about issues relevant to life on this planet. Whether eluding control as an anarchistic act, or asserting control by occupying the street, the street is again a common symbolic space³ that facilitates confrontation as Mouffe argues, but more importantly, creativity. Declared or not, temporary autonomous zones⁴ and temporary autonomous spaces are visibly holding space on the street, demonstrating many long-forgotten purposes for the street. This paper is a visual exploration of recent front-line experiences on the street and in street events that occurred primarily in Montreal, Vancouver, Paris, Berlin, and London, UK between 2011 and 2014.

¹ David Harvey (2008) *The Right to the City*, *New Left Review* 53: 23-40. p. 23

² I use this time and place as an example because colonial expansion during the Victorian period brought customs, practices, and contemporary engineering to the new cities developing in all corners of the British Empire. For example, during the colonial period in BC the Royal Engineers were responsible for laying out the street grid systems in Victoria and Colonial New Westminster.

³ Chantal Mouffe (2005) *On the Political* (New York, Routledge, p. 52)

⁴ As described by Hakim Bey in *T.A.Z.: The Temporary Autonomous Zone, Ontological Anarchy, Poetic Terrorism* (Autotopia, 1991). I further refine TAZ to the Temporary Autonomous Space (TAS) which acknowledges the space occupied by an individual for a creative use.

The Street is Not a Road

The word street (Figure 1) originated in the Late Latin⁵ as *strāta via* ‘a way paved or laid down in stones’, which morphed into the Old English or Anglo-Saxon *strāet* between 400 and 1100 CE to describe the ways paved by the Roman, and eventually became the ‘street’ we are familiar with today. The word road originates in the Anglo-Saxon⁶ and by the Middle English period it usually referred to a rural way as contrasted with an urban street, which originated in the Latin *strāta via*. Historically then, a road's main function is for transportation, while the street facilitates public interaction.

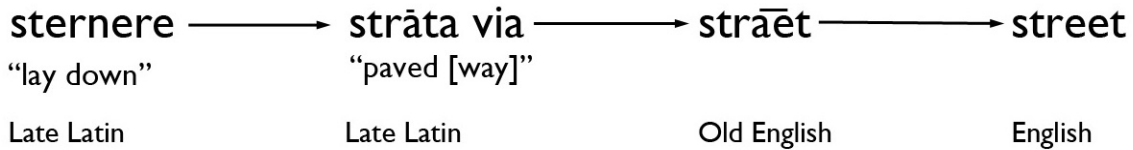


Figure 1. Evolution of the word ‘street’

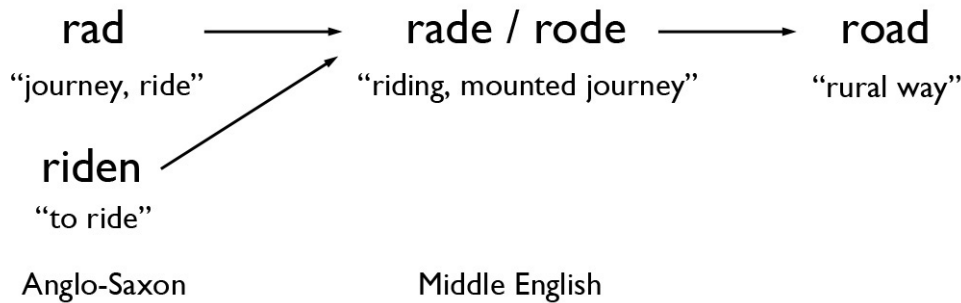


Figure 2. Evolution of the word ‘road’

Historically, a street is defined and characterized by the degree and quality of street life it encourages. A road however has always been designed to serve primarily as a through passage for vehicles or (less frequently) pedestrians. Time, with the assistance of engineers, has blurred the distinction to the point where the common right to the street has frequently arrived in a dead end of bureaucracy and policy that favours the vehicle over the pedestrian. Jane Jacobs⁷ observed street life in New York City and observed that “*Streets in cities serve many purposes besides carrying vehicles, and city sidewalks – the pedestrian parts of the streets – serve many purposes besides carrying pedestrians.*”

As Figure 3 illustrates, the contemporary street is the paved or gravelled space between two rows of buildings in a city and includes the sidewalks. It contains trees and light poles, parking meters, mail boxes, cars, bikes, buses and bus stops, sleeping places, sitting places, mail boxes, telephones (or not), eating places, walking places, and socializing places. And most of all the street “contains” people who share space and places in the space. Buskers, artists, beggars, patrons of pavement cafés, people watchers,

⁵ Collins English Dictionary (2014) 12th edition. Glasgow, HarperCollins Publishers Ltd. sometime between 200 and 600 BCE when the spoken language was being formalized into the written form

⁶ Albert Rose (1953) *Public Roads of the Past*, Washington, DC: American Association of Highway Officials.

⁷ Jane Jacobs (1961) *The Life and Death of Great American Cities* New York: RandomHouse. p. 29

flâneurs and flâneuses⁸, and a diversity of other characters are habitual users of a street; the same people would not typically be found on a road. Streets that are shared by all are therefore a form of urban commons, but as the generic example in Figure 3 illustrates, who controls or manages the street is a complicated business in whatever city you live in.

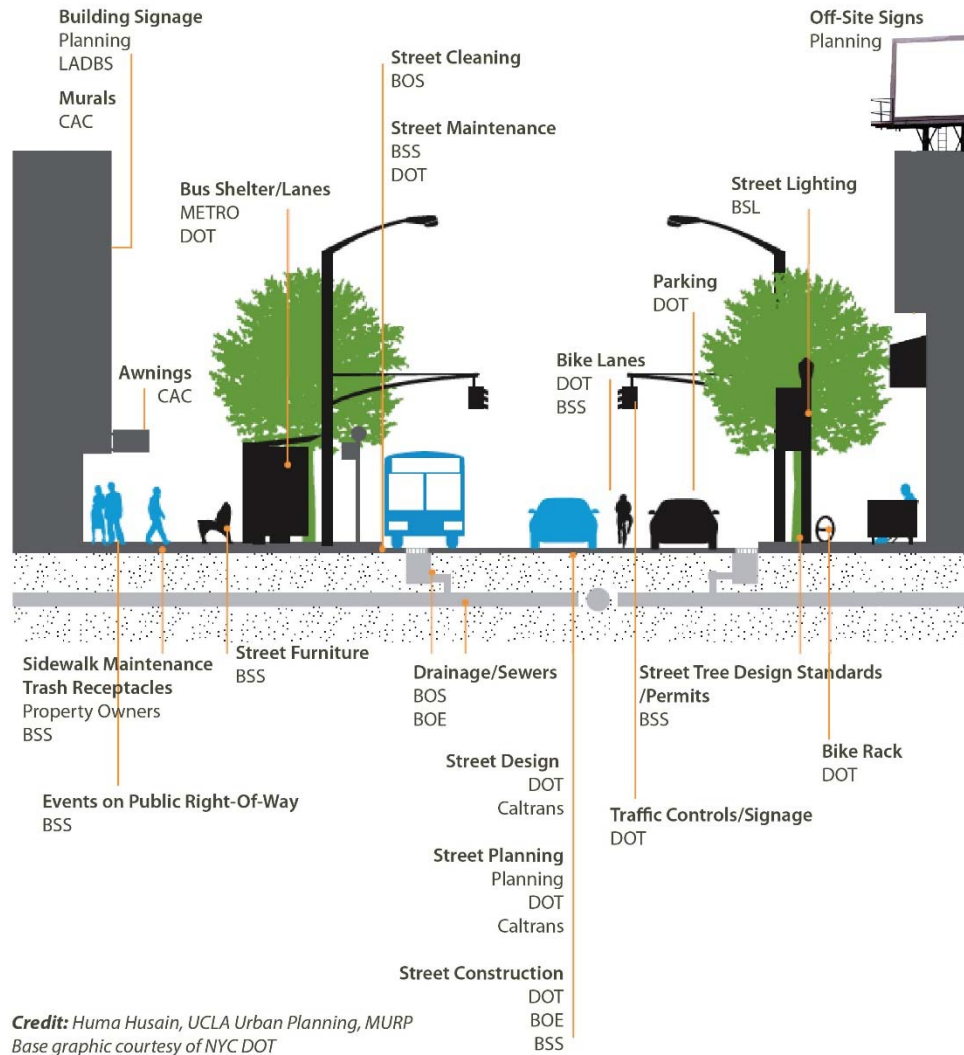


Figure 3. A typical and generic city street cross-section, showing how jurisdiction in different places can account for every element, including humans.

Streets and their sidewalks are the main public places of a city; they are its most vital organs. Think of the city and what comes to the mind? Its streets.

— Jane Jacobs (1961 p.29)

⁸ Much is written about the flâneur (see Figure 4) and his ramblings about town. The published works of the 19th century flâneuse are more obscure; two examples being George Sand and Frances Trollope, and Sand had to disguise herself as a man in order to wander freely throughout the streets of Paris and publish her observations.

The Historical Street in a Few Images

Prior to the invention and mass use of vehicles to convey people and goods, the street was very much a people place, alive with every sort of urban activity that required human interaction, or not, and as Figure 4 illustrates, at any time of the day in Victorian London.⁹ Not all was pleasant as urban populations increased. In 1654 the chaos and conflict of horses and carriages became somewhat regulated,¹⁰ however the street was very much alive with other animals, contributing to the sounds, smells, and sights of the city for its half million inhabitants. Prior to the invention of the automobile, the necessity of horse and cart to move goods, and the reliance on horse and carriage (hackneys) to move wealthier people resulted in the accumulation of manure piles on the street and general chaos on the street, as stationary and pedestrian activities encountered those in motion.



Figure 4. “Tom & Bob, taking a stroll down Drury Lane at five o’clock in the Morning”¹¹

⁹ I use London during this time period for comparative purposes because mass migration to the British colonies began during the Industrial Revolution (c1760-1840) and continued into the Victorian period (1837-1901) had a significant influence on how Canadian cities and towns were shaped, both physically and socially.

¹⁰ The number of hackneys on the London street had become so unmanageable by the mid-17th Century that Oliver Cromwell instructed the City to enact an ordinance to restrict the number of hackney-men to 200, hackney-coaches to 300, and horses to 600, allowing the small group to form a fellowship, which eventually became the Worshipful Company of Hackney Carriage Drivers in 2004. After the Stage Carriages Act of 1832 the hackney cab became the hansom-cab for hire, which was gradually replaced by the omnibus as a means of moving about the city. See <http://www.british-history.ac.uk/no-series/acts-ordinances-interregnum/pp922-924>

¹¹ Two flâneurs in Victorian London. Pierce Egan (1821) *Real Life in London*, Volume 2. Illustrators: Heath, Aiken, Dighton, and Rowlandson. London: Jones & Co., p.250. Accessed January 3, 2015 <http://www.gutenberg.org/files/20484/20484-h/20484-h.htm>

By 1800 the population of London had increased to around one million, which then grew quickly to 4.5 million in 1880, mainly in response to the need for factory workers.¹² Much of life in these times has been recorded as historical fact by researchers such as Henry Mayhew¹³, and in fiction by Charles Dickens. Mayhew (1851) was a shrewd observer of Victorian London street life and was perhaps the first to note the difficulty in undertaking any census-taking on a mobile street population:

*“The number of costermongers, -- that is to say, of those street-sellers attending the London "green" and "fish markets," -- appears to be, from the best data at my command, now 30,000 men, women, and children. The census of 1841 gives only 2,045 "hawkers, hucksters, and pedlars," in the metropolis, and no costermongers or street-sellers, or street-performers at all. This number is absurdly small, and its absurdity is accounted for by the fact that not one in twenty of the costermongers, or of the people with whom they lodged, troubled themselves to fill up the census returns -- the majority of them being unable to read and write, and others distrustful of the purpose for which the returns were wanted.”*¹⁴

The Victorian street was never quiet,¹⁵ occupied by a large population¹⁶ of organized and specialized groups of costermongers or street sellers (Table 1), known to Mayhew as “street-folk”, selling everything from fish, game, poultry, butter, cheese, and eggs, to fruit, vegetables, flowers, trees, shrubs, seeds, roots, and "green stuff" (described as water cress, chickweed, groundsel, and turf). Street-folk sold eatables and drinkables, which today we call “street food”, but in Victorian times eatables included a richness of food that could be eaten on the street or taken away. Street-drinkables included a variety of hot and cold beverages including drinking water, hot-wine but not ale or gin, for which there were “public ale-houses” and “gin-palaces”.¹⁷

The word was on the street too: street sellers (Table 1A) provisioned the city with the printed word of long-songs, ballads, and wall-songs (known then as “pinner-up,” and today as wheat-paste posters). There were sellers of play-bills, second editions of newspapers, back issues of serialized periodicals and old books, almanacs, pocket books, memorandum books, note paper, sealing-wax, pens, pencils, stenographic cards, valentines, engravings, manuscript music, images, and poetry cards. And then there were the sellers of every imaginable type of manufactured article on the street — from pins and buttons to

¹² Demographic data accessed January 3, 2015

http://www.visionofbritain.org.uk/data_cube_page.jsp?data_theme=T_POP&data_cube=N_TOT_POP&id=10097836&c_id=10001043&add=N

¹³ Henry Mayhew (1851) London labour and the London poor; a cyclopaedia of the condition and earnings of those that will work, those that cannot work, and those that will not work. Vol. 1. The London Street-Folk. London, UK: George Woodfall and Son. Accessed 5 December 2013

<https://archive.org/details/cu31924092592751>

¹⁴ Ibid. p. 4

¹⁵ Which became the Cockney “Cries of London” in and around the East End of London, performance art at its loudest, with a purpose of attracting a purchaser for goods being sold on the street.

¹⁶ Which during Mayhew’s research period the number of costermongers or street-folk had increased from 30,000 to 45,000 men, women, and children by 1861.

¹⁷ Beer was safer than water. Water was rarely sold for drinking because the street accumulated manure and was used as a slop bucket for human waste, kitchen waste, animal slaughtering, and a dump for household cesspits, all of which eventually was washed into the gutters to end up as bacteria in the fresh water supply. This resulted in major cholera epidemics (blamed on “bad air”), that killed thousands until 1854 when the source was traced to a contaminated water pump on Broad Street (near Carnaby Street) in Soho. By 1858 a proper street sewer system was under construction. See for example,

<http://www.umapper.com/maps/view/id/43438/>

linens and crockery, new and second-hand. The selling of live animals included dealers in dogs, squirrels, birds, fish, and tortoises. Street-artisans (Table 1D) consisted of three groups, those making things right on the street, those mending things right on the street, and those making things at home and selling them on the street.

Mayhew also noted street-buyers (Table 1B), an occupation involved in the purchasing of everything recyclable — from old clothes and umbrellas to bottles, glass and broken metal to fat and tallow that could be turned into candles and soap. And there were the street-finders (Table 1C) — those deriving income from picking up and selling the discards of others on the street — from bones and cigar ends to nuggets of coal, and treasures hunted by mud-larkers from the sewers and tidal waters of the Thames, which served (and still does) as an aquatic street.¹⁸ Street labourers (Table 1E) were employed to clean the streets and scavenge what they could from the leavings of the street-finders. Labourers included the sweeps – chimney, street crossing cleaners, and rubbish removers.

Many of these occupations have survived to contemporary times, some becoming formalized on the payrolls of local government, as is the case of street cleaners and garbage removers. Waterers and lamplighters became utility workers in public works departments. As cities became cleaner, other street occupations shifted into private businesses, as is the case with pest control.

A) Street-sellers	B) Street-buyers	C) Street-finders or Pickers	D) Street-artisans, or Working Pedlars	E) Street Labourers	F) Street-performers, Artists, and Show-men
<p>Sellers of:</p> <p>Fish, poultry, game & cheese</p> <p>Vegetables, fruit – fresh & dry</p>	<p>Purchasing all manner of recyclables</p>	<p>Those picking up bones, dog-dung, cigar ends, rags, and other discards for recycling and up-cycling</p>	<p>Makers of things on the street: Metal workers (toasting-forks, pins, engravers; textile-workers and knitters; Miscellaneous makers (wooden spoons, leather brace and garters, printers, and glass-blowers.</p>	<p>Cleaners: such as scavengers, night-men, flushermen, chimney-sweeps, dustmen, crossing-sweepers, "street-orderlies," destroyers of vermin, labourers to assist sweeping-machines and watering-carts.</p>	<p>Performers: puppeteers, clowns, acrobats, jugglers, conjurors, sword, knife, and snake swallows, fire-eaters, using trained animals — as dancing dogs, performing with monkeys, birds, mice, cats, hares, pigs, dancing bears, and tame camels.</p>
<p>Eatables: fried fish, hot eels, pickled whelks, sheep's trotters, ham sandwiches, peas'-soup, hot green peas, penny pies, plum "duff," meat-puddings,</p>		<p>Sewer-picking: anything that fell into latrines or privies and ended up in the open sewers (often conduits in the course of a former stream or creek)</p>	<p>Menders of things on the street: broken china and glass, clocks, umbrellas, kettles, chairs, grease removers, hat</p>	<p>Lighters and Waterers: lamplighters and turn-cocks to turn on/off gas in street lights, and waterers to control public wells and pumps.</p>	<p>Showmen: of extraordinary persons such as human giants or strong men; of extraordinary animals such as alligators; of scientific</p>

¹⁸ A mud-lark is someone that scavenges in the tidal mud of the Thames for any items of value.

baked potatoes, spice-cakes, muffins and crumpets, Chelsea buns, sweetmeats, brandy-balls, cough drops, and cat / dog food.			cleaners, razor and knife grinders, glaziers, travelling bell hangers, knife cleaners.		instruments such as the microscope; of measuring machines; and of miscellaneous shows such as peepshows, mechanical figures, wax-works, boxing, and fortune-telling.
Drinkables: tea and coffee, ginger-beer, lemonade, sherbet, nectar, hot wine, fresh cow and ass milk, curds and whey, water.		Mud-larking: Salvaging anything that fell off boats in the Thames or washed into the river mud from sewers, streams or creeks.	Makers of things at home and sold on the street	Street-Advertisers: handbill-stickers and deliverers, billboard posters, wall and pavement stencillers.	Artists: silhouette cutters, blind paper-cutters, coloured chalk pavement artists, photographers.
Stationery, literature, and works of art				Street-servants: horse holders, coach-hirers, street-porters, shoe-polishers, fly-catchers.	Dancers: on foot, tight rope, stilts.
Manufactured articles of all and every sort					Musicians: street bands, guitar, harp, bagpipes, hurdy-gurdy, dulcimer, musical bells, cornet, drums, whistlers.
Live animals (mostly pets, but not livestock)					Singers: glees, balladeers, religious music, reciters, serenaders, and improvisers.
					Proprietors of Street Games: swings, darts, roundabouts, rifle shooting, and various types of games.

Table 1. Occupations of Street-folk in the mid-18th Century (compiled and synthesized from Mayhew 1851)¹⁹

¹⁹ Henry Mayhew (1851) London labour and the London poor; a cyclopaedia of the condition and earnings of those that will work, those that cannot work, and those that will not work. Vol. 1. The London Street-Folk. London, UK: George Woodfall and Son, p 3-4. Accessed 5 December 2013 <https://archive.org/details/cu31924092592751>

“Street vending is a global phenomenon. In cities, towns, and villages throughout the world, millions of people earn their living wholly or partly by selling a wide range of goods on the streets, sidewalks, and other public spaces” — International Labour Organization²⁰

Street-sellers exist formally and informally, both as permitted weekly markets, dedicated (fixed markets such as Granville Island in Vancouver), sidewalk sales, permanent markets, or pop-up sidewalk or road-side sales without a permit (Figure 4). Street buyers and pickers have manifested as bottle collectors, dumpster divers, scavengers, up-cyclers, and recyclers of many materials.



Figure 5. Pop-up water seller on the steps of Sacré-Cœur Basilica, Paris

Outside the public and private markets, informal street food sales (eatables and drinkables) remains a part of any vibrant modern street scene on the planet and the set-up for a hot chestnut seller of 1900 is not that different from 2015 (Figure 6). In the Northern Hemisphere though, street food has become highly regulated and licensed, typically resulting in higher costs to the producer and purchaser. Besides the portable hot dog stand (Figure 7), the “food truck” concept of taking an indoor restaurant outside to serve eatables and drinkables that meet health regulations is costly, which ensures that the street food of today in Vancouver, for example, is highly contrived. Fortunately spontaneous street food sales (e.g. lemonade or bake sales) are mostly ignored (Figure 8).

Today, Food Not Bombs operates as a collective of loosely affiliated groups in many cities, bringing free vegan and vegetarian food to the street during community protests (Figure 9), events, and times of need

²⁰ International Labor Organization (2002) *Women and men in the informal economy: A statistical picture*. Geneva: ILO, p. 49 Accessed at: <http://wiego.org/sites/wiego.org/files/publications/files/ILO-Women-Men-Informal-2002.pdf>

such as natural disasters since 1980.²¹ Most recently the Love Activists direct action group in London, UK have asserted their right to the street by setting up a street kitchen in Trafalgar Square to serve hot eatables and drinkables to the homeless.²² This essentially, and for as long as it lasts, is a Temporary Autonomous Zone (TAZ) on the street.



City of Toronto Archives, Fonds 1244, Item 130

a)



b)

Figure 6. Selling hot chestnuts on the street: a) Toronto c1900 (City of Toronto Archives Fonds 1244, Item 130) and b) Wakefield, Yorkshire

²¹ Keith McHenry (2012) *Hungry for Peace: How you can help end poverty and war with Food Not Bombs*. Tucson: See Sharp Press. To connect with an affinity group see for example, the social media page for Food Not Bombs Vancouver <https://www.facebook.com/vancouverfnb?fref=ts>

²² Love Activists initially occupied an empty bank building on 23 December 2014, for the purposes of preparing a hot Christmas lunch for anyone. They were evicted on 24 December, and served a cold Christmas lunch on the street while reorganizing a more substantial setup to serve hot food in Trafalgar Square. See The Guardian online, accessed 26 December 2014

<http://www.theguardian.com/commentisfree/2014/dec/26/love-activists-empty-buildings-direct-action-homelessness> The Trafalgar Square action continues as Homeless Kitchen London while Love Activists have expanded to other cities and helped set up more street kitchens. See their main social networking page for more information <https://www.facebook.com/pages/Love-Activists/1500718110212573?fref=ts>



Figure 7. The ubiquitous hot dog stand, could be anywhere; this is downtown Vancouver



Figure 8. Competing lemonade stands on the same street, West End of Vancouver



Figure 9. Food Not Bombs, Occupy Vancouver (October 25, 2011)

Today in most cities, selling stuff on the street requires permits. Selling activities either become pop-up and mobile enough to run if the by-law officer is approaching (Figure 10), or are moved to a side lane to set up a TAS. Organize a few friends with stuff to sell and you create a TAZ flea market for a few hours (Figure 11).



Figure 10. Stuff for sale on the street, Vancouver



Figure 11. Montreal back lane TAZ pop-up flea market

Givers of Stuff

Street corners and intersections are collectively used to advertise yard sales elsewhere (Figure 12). Using the street to give away things is much easier because it can be done as an anonymous action (Figure 13) or as a collective TAZ action as is the case with the Commercial Drive free street store in Vancouver (Figure 14).



Figure 12. Street intersection used collectively to place yard sale signs



Figure 13. Free stuff on the street, Vancouver



Figure 14. Stuff at the Commercial Drive free street market, Vancouver

Literature on the Street

The use of the street to distribute literature (the printed word in all its forms) continues today, whether as flyers on lamp posts, or as newspapers (Figure 15) and magazines sold from kiosks (Figure 16), or given to commuters for free at the entrances to public transit during rush hours. Sometimes the newspaper box finds a new form of expression (Figure 17).



City of Toronto Archives, Fonds 1266, Item 6981

Figure 15. Toronto Newspaper Seller, 1880 (City of Toronto Archives, Fonds 1266, Item 6981)



Figure 16. News stand and info kiosk in London

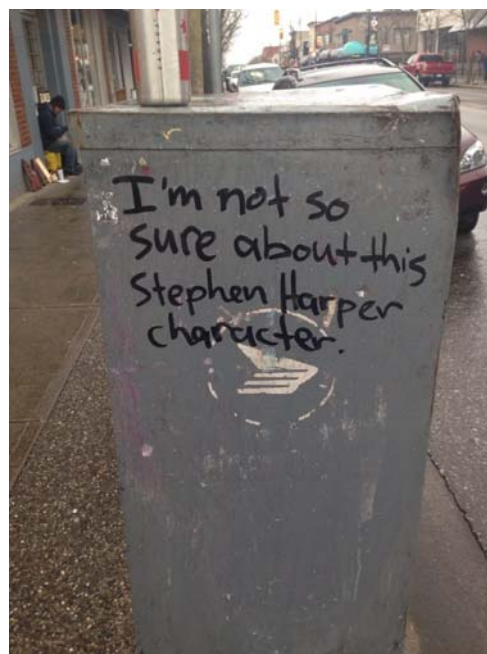


Figure 17. Altered newspaper box in Vancouver

Postering and wheat-pasting on doors, wall, trees, benches, and poles — all forms of street furniture — gets messages onto the street quickly, and quietly (Figure 18a). Street furniture is also used to disseminate the printed word, capturing the zeitgeist of social opinion through individual (Figure 18b), or the collective expression of frustration about an injustice committed on the unceded ancestral village lands and burial grounds of a First Nation (Figure 18c).



a)



b)



Figure 18. a) Postering on a wall, Berlin b) Mail distribution box used as a blackboard, Vancouver and c) Postering under the Arthur Laing bridge in Vancouver, a message from the xʷməθkʷəy̓əm (Musqueam First Nation) during the occupation of a property development site in Marpole after discovery of ancestral graves at čəsnaʔəm, 2012.

Street libraries are created through neighbourhood grassroots action with the common goal to freely share reading material by lending, borrowing, exchanging, or simply giving away literature no longer needed, or sharing a well-loved book with someone else. Street libraries can also connect neighbourhoods along a bike route by providing a street-side meeting space, or a meet-up space. Most include a bulletin board (Figure 19) and some in Vancouver are expanding to include community gardens in the boulevards (Figure 20).



Figure 19. Street libraries in Vancouver



Figure 20. New community garden constructed next to street library on West 10th, Vancouver

Street Music and Performance

Besides street-folk occupied in buying, selling, making, picking, and labouring, the Victorian street was also a vibrant place for performance as a way to make a living. Self-employed street-folk used their talents, or employed others with talents to entertain both street-folk and others visiting the street (Table 1F, Figure 21). Mayhew interviews many and presents their stories in great detail in order to ascertain what exactly their occupation required in skills, what it actually did, and what kind of wages were earned.²³ Many of the activities listed in Table 1F became formalized or regulated as circus acts, or circus sideshows, however, vestiges of Victorian street art remain today, ensuring the rights to the street are upheld by any citizen.

²³ Henry Mayhew (1861) *The London Street-Folk comprising: Street sellers, street buyers, street finders, street performers, street artizans, street labourers*. Vol. 3. London, UK: Griffin, Bohn, and Company, p 43- Accessed 5 December 2013 <https://archive.org/details/cu31924092592785>



STREET-PERFORMERS ON STILTS.

[From a Sketch.]

Figure 21. Street performers on stilts, hurdy-gurdy man in the background (Mayhew 1861:150)

Busking for money occurs across many cultures and countries; sometimes legal, sometimes prohibited, sometimes regulated. The street performance that Mayhew writes about in the London of 1861 was all about busking for a living; today it is completely prohibited in the City of London, the square mile in central London that was originally surrounded by a Roman wall, and where the British financial industry is currently based.²⁴ Busking is slowly being pushed out or discouraged in other Greater London boroughs despite the time-honoured use of busking as a stepping stone to artistic success and fame.²⁵ In cities where busking and street performance are allowed with no rules (Figures 22 and 23), the street is alive with harmless individual and collective creativity on an ever-changing street stage. The acceptance of TAS reflects the collective creativity within a city and would eliminate perceived problems expressed in other places:

*“Maybe it is because busking is so free and unregulated that it has also been a source of anxiety for the authorities. Fear of political opinion and activism, anti-social behaviour and crime, have always been associated with the tradition”.*²⁶

While busking above ground on the street is under political scrutiny and limited to set spots and specific rules (Figure 23), below ground on the London Underground for example, busking permits are provided for performance of all musical genres in most stations, where the acoustics can be superb. And of course

²⁴ The City of London is a corporation with different powers than other local governments in metropolitan London <http://www.cityoflondon.gov.uk/Pages/default.aspx>

²⁵ See for example this article in The Guardian online, Accessed 15 May 2014

<http://www.theguardian.com/local-government-network/2014/apr/23/support-londons-buskers>

²⁶ Ibid.

buskers that hop from train car to train car are declaring TAS and keep on moving to avoid getting caught, and to find new listeners that might flip a coin. Mimes (Figure 24) assert their use of a TAS to ply their silent trade.



Figure 22. Music from a hammered dulcimer on the street, Haarlem, Netherlands



Figure 23. Jazz musicians busking in Amsterdam, Netherlands



Figure 24. Street Busking rules on Granville Street, Vancouver



Figure 25. Mimes in Cologne, Germany

Visual Art and Artists

Street art is visual art created on the street for public consumption. Media can include posters, graffiti, stickers, stencilling, and installations such as yard bombing. Visual artists use the street for both business (Figure 26), as was the typical activity in Victorian London, and as a source of creative inspiration (Figure 27). Chalk artists (screevers) of all ages use the street as a blackboard, to create ephemeral pieces of art that last until the next rainfall (Figure 28), and to leave messages (Figure 29).



Figure 26. Street artist sketching in Paris



Figure 27. Street tree used as a TAS art installation in Barcelona



Figure 28. Chalk artists (screevers) in Vancouver



Figure 29. Chalk messages made by screevers in Vancouver

Art in Street Protests

Any peaceful gathering of people on the street creates many opportunities for individuals to express their opinions to others. In the case of large and very large protest events artists are given the opportunity to hold TAS and present their work to 100,000 or more participants which happened at the UK National Demonstration for Gaza event organized by the Stop the War Coalition in London on August 9, 2014. At the event, art work was presented in many forms — from studio artists setting up a temporary gallery on the street (Figure 30) to friends of the political artist Carlos Latuff wearing his art on t-shirts (Figure 31).



Figure 30. TAS art gallery on Oxford Street, London Demonstration for Gaza, August 9, 2014



Figure 31. T-shirt showing the work of Carlos Latuff, London Demonstration for Gaza, August 9, 2014.²⁷

²⁷ For more information about the artist see http://en.wikipedia.org/wiki/Carlos_Latuff

Permitted or Not?

Today, street art and performance art is either regulated or unregulated through local government policies and by-laws. In Vancouver for example, street art is defined as “busking or entertaining” and is regulated through the city engineering department, who note “to busk on most Vancouver sidewalks, you need a street entertainment permit” which costs around \$120 a year.²⁸ You must follow a set of conditions or suffer consequences such as: be told to lower your volume or find a new location, get a warning or fine, have your equipment confiscated, have your permit suspended or cancelled, or lose the privilege to perform on City streets for six months. With the exception of two specific locations in the City though, street entertainment is allowed anywhere, which does create opportunities for spontaneous activities provided a permit is in the pocket, provided your spontaneity occurs between 10AM and 10PM, does not last longer than 60 minutes at one location, and is not too noisy (Figure 24).

Cambridge, England has the more enlightened view that busking is a part of the culture of the town (Figure 32), and has crafted a voluntary street performers' code of practice as a solution to avoid noise complaints.

“Busking is a time-honoured tradition that dates back to medieval times, when wandering minstrels and bards travelled from place to place and acted not only as entertainers but also as news reporters and message bearers. Cambridge is a unique place for buskers, with many spots in the city centre for them to stop and play, and visitors, residents and businesses enjoy the variety of entertainment.”²⁹

Annual festivals of buskers and street performers can be found in many cities around the globe, including Cambridge and Vancouver, and are networked through the Busker Central Cooperative on the internet.³⁰



Figure 32. Charlie Cavey, busker in a litter bin, Cambridge, England³¹

²⁸ Details accessed 9 December 2014 <http://vancouver.ca/doing-business/busking-and-entertainment.aspx>

²⁹ See the Cambridge local government web site <https://www.cambridge.gov.uk/buskers> Accessed January 2, 2015

³⁰ A good reference is located at <http://www.buskercentral.com/> Accessed January 2, 2015

³¹ See also, <http://www.dailymail.co.uk/news/article-1209037/Can-play-Garbage-Busker-bin-surprises-Cambridge-shoppers-rubbish-medley.html> Accessed January 2, 2015

The Right to the Street

The right to assemble and associate is clearly articulated as a basic human right in the Universal Declaration of Human Rights, is a fundamental freedom set down in the Canadian Charter of Rights and Freedoms, and is part of the social contract recognized in the International Covenant on Civil and Political Rights.³² The right to assemble and associate freely and peacefully has to occur somewhere, and the street is the logical gathering place – neutral common space.

As the images above indicate, the street is being used formally, informally, legally and illegally for human interaction and expression. If humans need public places and common spaces for social interaction, an outdoor location typically might be a park, plaza, square, or other open space dedicated for recreation. The public realm and social activity is much more than programmed or un-programmed space in parks. Long before the invention of parks, the street was the place where people met and socialized.

The right to the street (all of the street — Figure 3) for social interaction and creative purposes is currently demonstrated through TAZ, TAS, and activity that takes back the street from the regulated or permitted uses of vehicular traffic. It seems sensible that those professionals responsible for planning the street should step away from creating obstacles (physical and legal barriers) that prevent its full use to simply providing for the inevitable use of the street for everything but vehicular traffic, which is the case in central Amsterdam (Figure 33). This of course requires a return to the original definition of street, a complete reversal of contemporary thinking about the role of the street in urban life, particularly for protests, parades, and demonstrations.



Figure 33. The Dam — four views of the central square in Amsterdam, home of the Dutch Royal Family and a popular place for TAS, TAZ, busking, street-selling, music events and festivals.

³² See Article 20, 27, and 29 of the Universal Declaration of Human Rights, Article 2 of the Canadian Charter of Rights & Freedoms, and Article 21 of the International Covenant on Civil & Political Rights (1966).

In Canada, this will require the revision of some key laws and any local by-laws that interfere and prohibit the right to peacefully assemble for the purposes of individually and collectively expressing opinions. Despite the universal right to assemble for any peaceful purpose, a march down the street in Vancouver carrying a sign and banging on a saucepan or blowing a whistle (Figure 34) can be interpreted as mischief under Section 430(1) of the Criminal Code of Canada when a participant wilfully:

- (a) destroys or damages property;
- (b) renders property dangerous, useless, inoperative or ineffective;
- (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
- (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.³³

In the City of Vancouver though, the Vancouver Police Department interprets 430(1) as: “*Obstruction or interference with the use of property includes but is not limited to the following behaviours: shouting, screaming, or swearing at anyone that disrupts public peace or physically blocking any person from freely entering, leaving, or staying at any public place*”.³⁴



Figure 34. Street protestor and whistle-blower at the National Energy Board Joint Review Panel Hearings into the proposed Enbridge Northern Gateway Pipeline in Vancouver, January 15, 2013.

³³ See <http://laws-lois.justice.gc.ca/eng/acts/C-46/page-204.html#h-116> Accessed January 9, 2014

³⁴ See <http://rabble.ca/blogs/bloggers/david-p-ball/2012/06/vancouver-police-arrested-seven-more-quebec-solidarity-protester> and see also <http://www.straight.com/news/373996/pivot-questions-vancouver-police-warning-pidgin-protesters> and <http://www.straight.com/news/372661/vancouver-police-warn-activists-about-crossing-line-between-protest-and-crime> Accessed December 18, 2013

Who defines “public peace” or “peaceful assembly” in a multi-cultural urban environment? Who defines “noise”? Is the noise of a native drum less peaceful than the constant sound of traffic on the street? What if that native drummer is drumming on a street in a city built on the unceded territory of a first nation? Who should define public peace and peaceful assembly? The participants? Or, the onlookers? Current practice says it’s the onlookers, whether police, politician, or a public outsider, that make the call. Are the onlookers actually passive participants simply annoyed they are in a minority and not occupying a TAS or TAZ for a particular moment in time on the street? Respecting the TAS of an onlooker during a protest is equally important as an onlooker respecting the TAS of a protest participant. The respective human and civil instinct of both onlooker and participant should be to step aside and avoid personal conflict that detracts from the protest itself, instead of blocking the free passage of a passer-by (Figure 35).

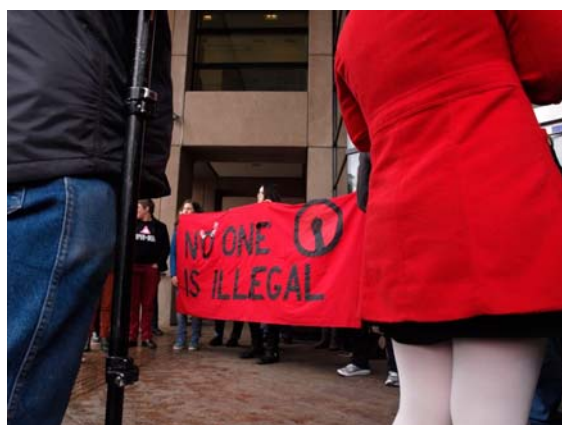


Figure 35. Protest against immigrant deportations from Canada, blocking access to a federal government building and the Vancouver Public Library, March 2013

Quebec 2012 and 2013

In 2012 CLASSE³⁵ student strike actions in Québec (Figure 36) which became known as the “Maple Spring” or “printemps érable”, and subsequent 2013 protests in Montreal against the unconstitutional enactment of Bill-78 and By-law P-6³⁶ culminated in the fundamental human right to assemble in peaceful protest on the street being threatened and denied.

³⁵ Coalition large de l’Association pour une solidarité syndicale étudiante (CLASSÉ) temporarily united 76,000 French and English-speaking post-secondary students from across Québec in an open-ended strike to protest tuition hikes under the Charest Liberal government, which was eventually defeated in a general election. Several websites document events, all accessed January 4, 2014, see <http://www.stopthehike.ca/> <http://cobp.resist.ca/en> <http://www.asse-solidarite.qc.ca/> and <https://cjfe.org/resources/features/maple-spring-impact-free-expression-quebec>

³⁶ In Québec, Bill-78 is a law that restricts protest or picketing on or near university grounds. The law further requires that organizers of a protest, consisting of 50 or more people in a public venue anywhere in Québec, submit their proposed venue and/or route to the relevant police for approval. In the Ville de Montréal, the P-6 bylaw on the prevention of breaches of the peace, public order and safety was amended to state: 1) it is prohibited for anyone to participate in a demonstration (assembly, parade or gathering) with their face covered, such as by a scarf, hood or mask; and 2) it is mandatory to disclose the location and itinerary of a demonstration to the police.

Faced with constant manifs (demonstrations), the province enacted Bill-78 to give the police extraordinary and indiscriminate powers to shoot tear gas, flashbangs, water cannons, rubber bullets, or use any type of force to break up demonstrations, beat up, arrest, and detain unarmed protestors, journalists, and passive observers, and use “l’agent provocateur” to infiltrate student event to cause unwanted trouble. The behaviour of the state and its employees was a crime against human rights and in particular the right to peaceful public assembly to express opinions, whether in favour or against the dogmas of the state. By-law P-6 was a draconian attempt by the City of Montréal to prohibit the wearing of any hats or face coverings at any street event, even in winter of 2012 when many of the manifs were held (Figure 38) By spring 2013, this had escalated to police intimidation at many other social or environmental justice events (Figure 38). The events in Québec triggered solidarity demos across the country (Figure 39).³⁷



Figure 36. Images from two CLASSEÉ manifs in Montréal, 2013

³⁷ See footnote 34.



Figure 37. On the streets of Montréal in 2012 and 2013. Left: government festival poster advertising “Celebrate our creativity” with a fleur-de-lis mask image, note graffiti with arrow pointing to the mask saying “Forbidden by P-6”. Right: Police surveillance at anti-poverty street occupation in the St. Henri neighbourhood, 2013



Figure 38. “Activism is not a Crime”, Montréal May 22, 2012



Figure 39. Vancouver demo in solidarity with Quebec students, 2013.

Reclaiming Streets for Play

As a social animal, the human desire and need to meet and gather for collective actions and activities is strong. The street has always been a playground for individual and group play. In Canada group play often takes the form of street hockey, and there are numerous examples of local government enacting by-laws to deny assembly on the street for play (Figure 40). When the surrounding boroughs and cities amalgamated, the new City of Toronto consolidated all the by-laws into a new Municipal Code and carried forward the original draconian wording of By-law 522-78 from the former city:

“No person shall play or take part in any game or sport upon a roadway and, where there are sidewalks, no person upon roller skates, in-line skates or a skateboard, or riding in or by means of any coaster, scooter, toy vehicle, toboggan, sleigh or similar device, shall go upon a roadway except for the purpose of crossing the road, and, when so crossing, such person shall have the rights and be subject to the obligations of a pedestrian.” Toronto Municipal Code, Article III, p 950-13 ³⁸

Contrast Toronto with the permissive attitude of Kingston, Ontario, who set out the collective code of conduct for playing hockey on a local (neighbourhood) street with the intention of simply reducing risk of accident rather than enabling swift passage of vehicles to the detriment of the pedestrian:

“Street hockey may be played on a Local Street during daylight hours when there is good visibility. Street Hockey may never be played before 9 a.m. or after 8 p.m.” — City of Kingston, 2008 ³⁹

³⁸ Toronto. *Municipal Code Chapter 95, Traffic and Parking*. August 28, 2014. Accessed December 19, 2014 at http://www.toronto.ca/legdocs/municode/1184_950.pdf

³⁹ City of Kingston (2008) *Street Hockey Policy and Code of Conduct*. Accessed December 19, 2014 http://archive.cityofkingston.ca/pdf/council/agenda/2008/A16_Rpt92.pdf



Figure 40. City of Toronto street sign prior to amalgamation and creation of the new metro Toronto.

Play can be formal or informal, individual or collective, organized or spontaneous. Claiming the street for play is embedded in human history, and is not restricted to the activities of children. Of the many events that happen in Vancouver around the Vancouver Art Gallery between Georgia and Robson streets, two of the less structured street play events reveal how essential play and social contact is to human-kind and how easy it is to reclaim the street peacefully. While Free Hugs is now a global movement, anyone can spontaneously make up a cardboard sign and offer hugs to anyone in need of one, anywhere (Figure 40).⁴⁰

Organizing International Pillow Fight Day consists of a group in Amsterdam simply setting the date and time (for example 12 noon April 1) for their local event in The Dam Square (Figure 33). It is up to local affinity groups everywhere else to form and make the call out via social media to everyone to show up rain or shine, wait for the appointed moment in time, and when the signal is given pull pillows out from hidden locations and have all-ages, all-abilities pillow fight for fun (Figure 41).

While reclaiming a street for play of any sort is as simple as dreaming up an activity and enacting it, in some communities there is growing support from local government to help neighbourhoods shut down streets for play.⁴¹ For example, in the London Borough of Hackney residents can apply for a Play Street Order permitting a side street to be closed to traffic for up three hours per week or month.⁴² While this may not seem like much (it is only about one half a percent of the time in a 30 day month), ground has been gained and momentum towards longer closures and more closures is very much on the side of play.

⁴⁰ See <http://www.freehugscampaign.org/>

⁴¹ See <http://playingout.net/>

⁴² See <http://www.hackney.gov.uk/play-streets.htm#.VMxlCi5O2VB>



Figure 40. Free Hugs, Vancouver



Figure 41. Vancouver Pillow Fight Day 2013 with active and passive participants

Reclaiming the Street for Rest

Much has been written about the design of hostile street furniture and the use of urban design as a deterrent to resting and relaxing on the street.⁴³ While most local governments in the United Kingdom use their police powers to enact Anti-Social Behaviour Orders (ASBO) to prohibit the assembly of (typically) youth for what they consider rowdy behaviour (Figure 42), equally insidious efforts are initiated to stop people from sleeping or resting on the street, or on street furniture. A side benefit to local government is

⁴³ For overviews, see Rosenberger R (2014) How Cities Use Design to Drive Homeless People Away Saying "you're not welcome here" —with spikes. *The Atlantic Online* June 19, 2014. Accessed June 29, 2014 <http://www.theatlantic.com/business/archive/2014/06/how-cities-use-design-to-drive-homeless-people-away/373067/> and also Swain F (2013) Secret city design tricks manipulate your behaviour. *BBC Online* December 2, 2013. Accessed June 29, 2014 <http://www.bbc.com/future/story/20131202-dirty-tricks-of-city-design>

that the same hostile architecture denying sleeping also creates creative street uses by urban sub-cultures of skateboarders and parkour practitioners (Figure 43).⁴⁴

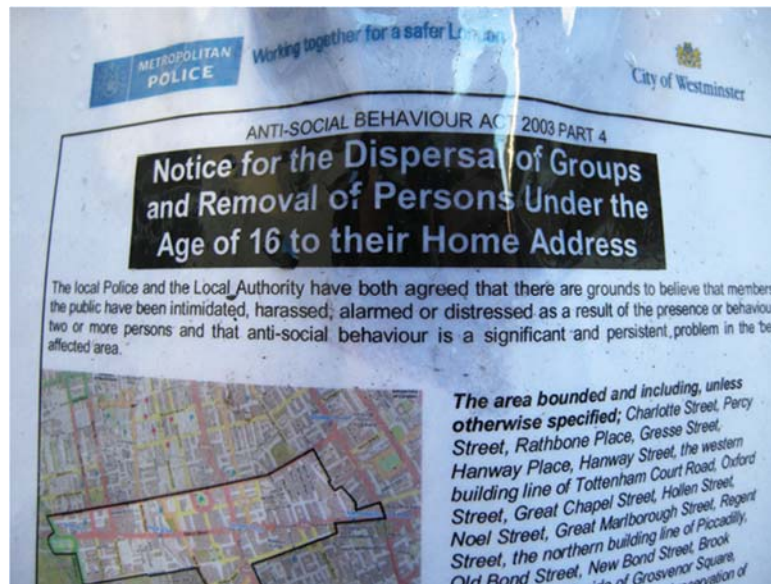


Figure 42. Posted notice of an ASBO in the City of Westminster, London.



Figure 43. Parkour free running in Frankfurt, Germany⁴⁵

⁴⁴ See <http://en.wikipedia.org/wiki/Parkour>

⁴⁵ Image source: http://commons.wikimedia.org/wiki/File:Parkour_Frankfurt.jpg

Throughout human history people have slept on the street, whether because there was no other choice of accommodation and they are homeless (Figure 44), because they needed to rest (Figure 45a), or just because (Figure 45b). In 1824 the *Vagrancy Act* was enacted in Britain, prohibiting sleeping or begging on the street; this act is still in effect today and under this law the individuals sleeping in Figure 44 a) and b) and Figure 45 a) are criminals, whatever their reason is for sleeping in public space.

In 2008, a landmark case at the BC Supreme Court ruled that a by-law prohibiting camping in a city park in the City of Victoria was unconstitutional and a violation of the right to life, liberty, and the security of the person guaranteed by Section 7 of Canada's Charter of Rights and Freedoms.⁴⁶ The court ruled that a municipality cannot ban an activity that is biologically necessary (sleeping with at least some modest form of shelter from the elements) if the number of people who are homeless exceeds the number of spaces in municipal homeless shelters. The City of Victoria appealed this decision and lost in 2009.⁴⁷

In her 2008 decision, Justice Ross stated that *"public properties are held for the benefit of the public, which includes the homeless. The government cannot prohibit certain activities on public property based on its ownership of that property if doing so involves a deprivation of the fundamental human right not to be deprived of the ability to protect one's own bodily integrity."*⁴⁸ Following her reasoning, the ruling should then extend to camping or sleeping on the street, which is also public property.



Figure 44. Sleeping on the Street a) London, Trafalgar Square; b) London, Marble Arch

⁴⁶ Victoria (City) v. Adams, BC Supreme Court. 2008 BCSC 1363. Accessed December 19, 2014 at <http://www.courts.gov.bc.ca/jdb-txt/SC/08/13/2008BCSC1363.htm>

⁴⁷ Victoria (City) v. Adams BC Court of Appeal. 2009 BCCA 563. Accessed December 19, 2014 at <http://www.courts.gov.bc.ca/jdb-txt/CA/09/05/2009BCCA0563.htm>

⁴⁸ 2008 BCSC 1363, paragraph 131



a)



b)

Figure 45. Resting on the Street a) London, Spitalfields; b) Lie-in TAS in Vancouver

Where noise and rest collide, the typical complaint is “disturbing the peace” which then validates police to issue a citation for violation of some sort of bylaw. But again, is the complaint instigated by an observer outside the activity, or by a participant? As Figure 46 clearly illustrates, one child can be sound asleep 5 metres away from another child using a bullhorn to loudly lead a pro-Gaza demonstration. Both are participants occupying TAS and their rights to the street are recognized and respected.



Figure 46. Sleeping in the middle of a pro-Gaza demonstration, London and rallying the crowd 5 metres away.

Contested Street Space: Burnaby Mountain, November 2014

The occupation of Burnaby Mountain from September to December 2014 for the purposes of protesting the drilling of wells associated with the Kinder Morgan (KM) proposed TransMountain pipeline expansion project through un-ceded First Nations traditional territory (Figure 47). If built, the new pipeline will run close to 1000 kilometres - from the Tar Sands in northern Alberta to Westridge Marine Terminal in Burnaby where it will be loaded onto tankers headed for Asia. Contested space was central to many from the very beginning of the timeline of critical events leading to the protests, occupation, and arrests in 2014 constructed by Gray (2014).⁴⁹ Centennial Way, the street, became the central location for contesting space and as pipeline work and protest events unfolded on Burnaby Mountain.



Figure 47. “The Pipeline Shall Not Pass” – painted on the street to mark the symbolic location of contested space.

While many participants arrived at the protests to support their community affinity groups or environmental NGOs, it is important to understand that the space was contested for several independent reasons that ultimately intertwined into a highly effective collective protest (Table 2). Social media played an important role in getting out messages from events on The Mountain, where the physical location was in a wireless dead zone, and for bringing people together to inform, educate, and motivate to attend events on The Mountain. Various environmental NGOs that brought in their expertise and logistical support to help coordinate events on The Mountain included Rising Tide – Vancouver, Coast Salish Territories; Pipe Up for the Pipeline, Pipe Up Network, Beyond Borders, No One is Illegal, Food Not Bombs, Tanker Free BC, ForestEthics, and Sea Shepherd Society.

⁴⁹ Gray C (2014) *Timeline: Burnaby Mountain pipeline protests*, November 26, 2014. Published online at <http://rabble.ca/news/2014/11/timeline-burnaby-mountain-pipeline-protests-0> Accessed December 10, 2014

Contestor	Reason
First Nations	Unceded overlapping traditional territories of the x ^w məθk ^w əyəm (Musqueam Nation), Sk ^w x ^w ú7mesh (Squamish Nation) and Tsleil-Waututh Nation. Other First Nations along the pipeline route also participated.
BROKE (Burnaby Mountain Residents opposed to Kinder Morgan expansion) ⁵⁰	Environmental concern about tar sands (dilbit) and the shipment and storage of tar sands, particularly through Burnaby.
Caretakers of The Mountain	Protecting the environment and its people
City of Burnaby	Municipal property designated as a conservation area (highest level of protected area in the parks systems. The City of Burnaby opposes the pipeline project and has denied KM a permit for the work. In response, KM submitted a request to the National Energy Board (NEB) to confirm their rights to access City of Burnaby public lands. The NEB ruled that federal legislation gives KM the power to enter and conduct surveys and tests on any Crown or private land that lies on their intended pipeline routes. Burnaby appealed, but the appeal was dismissed. Burnaby applied for an injunction against KM, it too was dismissed.
Stop Kinder Morgan on Burnaby Mountain	An affinity group formed through social media (Facebook, Twitter) in order to provide information about the proposed project, and has about 5,000 members that can be mobilized to action.
Stop Enbridge Stop Kinder Morgan	Another affinity group of around 2,000 members that organizes through social media (Facebook, Twitter) around the broader issues of fighting Big Oil and opposing any pipeline projects.

Table 2. Key players contesting space on Burnaby Mountain.

Because of its street access, Centennial Way and the location of BH2 became the site of the largest protests, Caretakers Camp, food kitchen, sacred fire, totem carving area. I describe here the main events following the interlocutory injunction granted to KM to proceed with work supported by the RCMP.

The location of the drilling on Burnaby Mountain is known as the Burnaby Mountain Conservation Area (BMCA) and managed by Burnaby Parks for its ecological values, including headwaters for several salmon streams. On August 19, 2014 the National Energy Board (NEB) ruled that TransMountain (TM)⁵¹ was allowed to access the City of Burnaby (Burnaby) lands without the city's consent, subject to TM contractors being in compliance with local by-laws. TM proceeded to block Burnaby's access to BMCA. The first tree cutting contractors hired by TM were advised that they were in violation of bylaws and if they proceeded to cut on Burnaby Mountain they would likely be banned from working anywhere in the City of Burnaby (private and public lands). This contractor immediately withdrew services to TM.

On August 25th, new contractors for TM cut down thirteen alder trees and cleared many more seedlings, saplings, and shrubs in the forest at proposed borehole number 1 (BH1), and started work at proposed borehole number 2 (BH2) on the street edge of Centennial Way. Burnaby issued TM with Orders to Cease

⁵⁰ See www.burnabypipelinewatch.ca Accessed December 10, 2014

⁵¹ While Kinder Morgan and TransMountain are often used interchangeably, Kinder Morgan is the American corporation that acquired TransMountain Pipeline; TransMountain is the local operator of this pipeline project.

By-law Violations. A caretaker's camp (Figure 48) was immediately established close to the suspected location of another proposed borehole (BH2), while additional tents were set up at BH1 and in other parts of the park. The Caretakers, as they became known, came together to form a frontline for direct action to prevent the drilling from happening:

*"Who are we? That depends. "We" may include you, the person reading this. "We" are anyone and everyone who loves the earth and people more than greed, colonialism, genocide, and big oil. We call each other caretakers, as we protect and care for the land and its people - which could end up destroyed and pillaged."*⁵²



Figure 48. Caretakers Camp at BH2.

TM applied to the NEB for an access order to BMCA on September 3, along with orders to direct and forbid Burnaby from enforcing their own bylaws. On October 9 NEB deliberated on the matter of constitutional jurisdiction (whether NEB could overrule local government by-laws), and declared through Ruling Number 40 on October 23 that Burnaby's bylaws were "inoperative or inapplicable" and that the NEB had the constitutional right (interjurisdictional immunity) to overrule local government by-laws.⁵³

TM immediately gave notice to Burnaby of their intention to resume work on October 29, and on that date TM contractors began geotechnical work at three locations, Barnet Marine Park, BH1 and BH2 in the BMCA Borehole 1 on Burnaby Mountain by preparing the sites for the installation of drilling rigs. Protesters blocked TM work at BH1 and access to BH Borehole 2. The camp at BH2 grew and on November 5, a sacred fire was lit by Sut-Lut, a S̓k̓w̓x̓w̓ú7mesh elder, and more protestors began to arrive to witness TM activity on The Mountain.

TM was granted an injunction by the BC Supreme Court on November 14, giving them the limited and temporary right (until December 1), to enforce the NEB authorization to complete their investigations on The Mountain using geo-coordinates (GPS) to establish the work area and injunction zone. Once the injunction was granted, it was only a matter of time as to when it would be enforced. A call went out to

⁵² Quote from Stop Kinder Morgan — Caretakers of the Mountain Facebook Page, <https://www.facebook.com/pages/Stop-Kinder-Morgan-Caretakers-Of-The-Mountain/1508198892753283?sk=timeline> Accessed November 10, 2014

⁵³ Transcripts of this ruling are accessed at <https://docs.neb-one.gc.ca/ll-eng/llisapi.dll?func=ll&objId=2541380&objAction=browse&viewType=1>

the community at large through various social media to protest the injunction, and in defiance assemble at BH2 on November 17 for a day of drumming, singing, networking, and listening to many First Nations leaders (Figure 49).



Figure 48. November 17 gathering of individuals, First Nations, and grassroots organizations to rally on the street against the pipeline drilling in defiance of the court injunction.

From November 17 to 20, the street was held by many people day and night, and the camp area and sacred fire blocked TM workers from working in the vicinity of BH2. Expectations at the camp were that TM would arrive on one of those days with a surveyor to delineate the GPS coordinates of the injunction area with flagging tape so all parties would know where the line was and protestors could organize events accordingly and the injunction order could be enforced. The RCMP sent in two liaison officers to check the camp each morning.

On November 20, at 8 AM⁵⁴ the two RCMP liaison officers assured those in the camp that the injunction would not be enforced that day and there would be no arrests until the area was marked as called for in the injunction order, and they then left The Mountain (Figure 49).

⁵⁴ At this point I was in the Caretakers Camp collecting recyclables and garbage. From 8AM onwards my role turned to witnessing and recording events with a camera.



Figure 49. 8 AM on November 20, carver holding down the street with a totem.

At 9:18 a convoy of black unmarked vehicles approached the camp and the RCMP immediately moved in and arbitrarily declared the camp site the location of BH2 while an officer read out the injunction order (Figure 50). He was repeatedly asked where the GPS coordinates he was reading aloud were physically located on the ground, so people could move away, or stay inside, as they desired.



Figure 50. 9:18 AM on November 20: the RCMP enforcement convoy arrives at BH2.

A very peaceful morning chatting around the sacred fire quickly turned into an angry crowd as police used force to immediately single out and arrest an aboriginal man. His arrest was followed over the next hour by more arrests of young and old protestors who happened to be standing in the Caretakers Camp when the RCMP arrived. They held the street by locking arms and sitting down on the street (Figure 51). None of these first arrests occurred in a marked off area as defined in the injunction order delineated injunction area, which did not occur until 9:37 AM when the yellow tape was, as it eventually transpired, arbitrarily rolled out to conveniently place the Caretakers Camp directly inside the injunction zone (Figure 52) and push witnesses and supporters away. Up until 9:45 or so, witnesses were free to wander around the street as arrests happened.



Figure 51. First batch of arrestees locked arms in a circle and hold the street.



Figure 52. The RCMP establish the “injunction zone” at 9:37 AM cutting off road access.



Figure 53. Early arrests after the police line is established.

The arbitrary establishment of the yellow police tape on November 20 effectively cut off through traffic on Centennial Way, which was not in the TM plans submitted to the NEB for approval. The lines were moved further north and eventually all road access on Centennial Way was cut off at the bottom, requiring supporters to hike 500 metres uphill carrying food, firewood, and supplies for the Caretakers who had moved camp across the street to a field. After lengthy negotiation with the RCMP, who initially did not believe a sacred fire is part of Coast Salish traditions, the sacred fire was moved north, and Sut-Lut was designated as the elder allowed to stay behind the yellow line and designate others to come behind the line to assist with round-the-clock fire tending. The totem stayed in its original location behind the yellow line, and carvers continued to work on it throughout the week. TM began drilling in heavy rain on November 21, and protests continued throughout that night and over the next few days, with arrests happening every hour.

When vehicular access up Centennial Way was blocked, a new tradition of inviting the public to walk up the mountain together at 10:30 each morning in violation of the injunction order and to express contempt of the court that sided with KM and TM over the wishes of the community to protect The Mountain. By November 22 the word was out and many witnesses, some new to activism, began to walk up the mountain that weekend to hold the line, see the drilling, and the behaviour of the RCMP as close to 20 arrests were made (Figure 54). Some witnessed for the first time blatant police racism as people of colour were treated more harshly than white settlers, and decolonization and white privilege were major topics of conversation on the front line.



Figure 54. Holding the line on November 22.

More First Nations supporters arrived to hold the line and help tend the sacred fire (Figure 55), while other Caretakers coordinated the shuttling of firewood up The Mountain.



Figure 55. First Nations supporters from Alberta hold the north line with drumming directed at the RCMP.

A contingent arrived from Victoria on the Social Coast bus and the protests escalated into tense moments of police intimidation and protestors being grabbed and dragged over the line by the RCMP. Numerous cases of the RCMP physical harming protestors being arrested were witnessed by observers. A rally was hosted by the NGO Beyond Boarding at the south end of the police line while witnesses at the north end followed a water hose illegally laid through the forest from BH2 to BH1 outside the injunction zone, and had it removed. Some speakers at the rally and several children crossed the line in a united message of solidarity. Mirrors were held up to reflect the police line back at them (Figure 56). Night vigils were held to hold the street as the TM drilling continued at BH2 around-the-clock.

By November 24 it became clear the TM was behind schedule and had barely begun work at BH1. TM announced it would be applying to the court on November 27 for permission to expand the injunction order deadline for work completion from December 1 to December 12, but also to move the GPS coordinates described in the original injunction order. The lawyer for the RCMP also announced that police would begin laying criminal charges against people who violated the TM injunction more than once.⁵⁵

⁵⁵ Those who violate the injunction two or more times may be charged with "Disobeying an order of court" under section 127 of the Criminal Code. This is a criminal offence that can be prosecuted on an indictable (more serious) or summary (less serious) basis.



Figure 56. People holding the south line during the Beyond Boarding rally by holding up a mirror reflecting the faces of the RCMP back at them, November 22.

In the BC Supreme on November 27, TM was refused an extension to continue their work on Burnaby Mountain under the court-granted injunction. During proceedings, the TM lawyers admitted that the geo-coordinates described in the initial injunction order were inaccurate and based on desktop analysis that was not verified in the field. The coordinates placed the location of BH2 approximately 30 metres south (down Centennial Way), which effectively meant that the drilling was happening in the wrong place. All arrests to that point had thus occurred outside the court-ordered injunction zone, in a zone arbitrarily delineated by the RCMP to favour TM and harass protestors. Over 125 persons arrested between November 21 and November 27 had their charges dropped, including several that had been arrested twice, jailed, and were in contempt of court until the error was admitted in court.

Once the judgement was made to not grant a work extension, TM wrapped up its drilling at BH2 and retreated to BH1; the RCMP began to pull out and by November 30, the day of a huge celebration on The Mountain, were completely gone. At that point, all efforts between the various affinity groups, NGOs and First Nations to maintain the right to the street, hold the line, and sustain 24 hour tending of the sacred fire were completely vindicated. The additional finding of the court that the drilling had occurred in the wrong place, resulting in arrests for the wrong reason, and the dropping of charges is an important, if temporary victory, in what has been described as an issue that is “going to be a war, and it’s going to be one that carries on for a number of years.”⁵⁶

The experiences on Burnaby Mountain are a good place to end this paper as the fight for The Mountain was a fight for the right to the street, which resulted in transformative changes for many individuals who continue to collectively assemble on other streets with the intent of changing the city and its attitudes towards the environment, First Nations, and activism.

⁵⁶ Quoted in The Province.com by Derek Corrigan, Mayor of Burnaby on November 21, 2014
<http://www.theprovince.com/news/This+going+says+Burnaby+mayor+pipeline+protesters+arrested+with+video/10400012/story.html>