

SIDEWALKS

Conflict and Negotiation over Public Space

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THE MIT PRESS
CAMBRIDGE, MASSACHUSETTS
LONDON, ENGLAND

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This book was set in Bembo on 3B2 by Asco Typesetters, Hong Kong.
Printed on recycled paper and bound in the United States of America.

Library of Congress Cataloging-in-Publication Data

Loukaitou-Sideris, Anastasia, 1958–

Sidewalks : conflict and negotiation over public space / Anastasia Loukaitou-Sideris and Renia Ehrenfeucht.

p. cm.

Includes bibliographical references and index.

ISBN 978-0-262-12307-5 (hardcover : alk. paper)

1. Public spaces. 2. Sidewalks. I. Ehrenfeucht, Irena. II. Title.

HT153.L67 2009

388.4'11—dc22

2008038553

10 9 8 7 6 5 4 3 2 1

INTRODUCTION: THE SOCIAL, ECONOMIC,
AND POLITICAL LIFE OF SIDEWALKS

Most of us take sidewalks for granted. An undervalued element of the urban form, this public ground connects points of origin and destination, and few people go through the day without traversing at least one sidewalk. Sidewalks are unassuming, standardized pieces of gray concrete that are placed between roadways and buildings, and their common appearance belies their significance and history as unique but integral parts of the street and urban life. A commercial terrain for merchants and vendors, a place of leisure for flâneurs, a refuge for homeless residents, a place for day-to-day survival for panhandlers, a space for debate and protest for political activists, an urban forest for environmentalists: U.S. sidewalks have hosted a wealth of social, economic, and political uses and have been integral to a contested democracy.

What do we want from sidewalks? Various observers argue that public spaces are becoming less democratic, and they point to the historic uses for public spaces to underscore their argument. Fewer explain the ways that people use sidewalks in cities now and the role that sidewalks play in contemporary urban life. In 1961, Jane Jacobs (1961) called sidewalks “the main public places of the city” and “its most vital organs.” For Jacobs, sidewalks were active sites of socialization and pleasure, and this social interaction kept neighborhoods safe and controlled. She demanded a better

appreciation of the street in the face of modernist planning that intended to replace its complexity with order. In the 1960s, many white, middle-class residents left the cities and settled in suburbs as massive redevelopment projects restructured central-city neighborhoods, displacing thousands of residents and moving downtown shoppers into mall-like complexes.

In many suburban subdivisions, developers avoided the expense and potential liability that public sidewalks can entail. They provided no sidewalks, and planners failed to require them. Even when sidewalks were built, suburbanites rarely used them because they needed their cars to reach schools, banks, grocery stores, and other everyday destinations. The urban form of the mid-twentieth-century suburb—single-use, low-density houses with individual yards—discouraged walking or socializing on the sidewalks. The private backyard could accommodate family outdoor activities, while the suburban shopping mall replaced the commercial street as a place to shop, socialize, and be entertained.

In recent decades, however, people have been returning to the central city and, in some cases, high-density living. The urban downtown and Main Street “renaissance,” as some scholars have called it (Teaford 1990), has brought new attention to downtown public spaces. Cities have revitalized abandoned parts of their downtowns, hoping to attract back to the center not only tourists and conventioners but also suburban residents. They have allowed historic buildings to be converted into lofts, created outdoor destinations with sidewalk cafés, commercial displays, vendors, and performers, and—with corporate help—have rebuilt historic public markets, town centers, and riverfronts. Similarly, towns have sought to bring back their decayed Main Streets, and suburbs have developed new town centers and destination districts. At the same time, the U.S. Surgeon General has encouraged people to walk more to stay healthy and fight obesity (U.S. Department of Health and Human Services 1996) and generated a renewed interest in walking.

Urbanists, heeding Jane Jacobs’s early call for an appreciation of public environments, have helped illuminate the complexities and functions of public spaces and inspired a generation of urban designers and planners to

envision a public city. “Public,” however, does not mean inclusive of all urban residents or all people who use city sidewalks; it never has. And it certainly does not imply accepting frightening or uncomfortable activities. These planners and urbanists have suggested that vibrant public spaces can control undesirable people and activities (Jacobs 1961; Whyte 1988).

When public spaces are redeveloped, some people are planned for as the target users while others are planned against, and redevelopment projects are meant to exclude as much as attract. Some observers have criticized attempts to fortify the city (Davis 1990; Sorkin 1992; Smith 2001; Mitchell 2003; Smith and Low 2006), but others support efforts to regulate public spaces and exclude disruptions, such as public protests and activities associated with panhandling and homelessness (Ellickson 1996). Comfort and safety are attributes cherished by many who choose to visit only public spaces that can ensure pleasant encounters with others like themselves—sidewalks in homogeneous communities, malls, plazas, and movie theaters.

A favorite public-space myth recalls a time when diversity was accepted on city streets. It speaks to a contemporary desire to accommodate diversity, envisioning what public spaces could be rather than describing what they were. Nineteenth-century streets and sidewalks were crowded and complex, but public-space historians have shown that they were also contested sites where rights and access were not guaranteed. Urban streets and sidewalks also have been locations of intervention for reformers and public-health advocates. Municipal interventions restricted those who worked or played on public sidewalks, widened the streets, and cleaned and greened the sidewalks. Urbanites adapted to these changes, at times disregarded them, and inserted different interpretations and priorities into the ever-changing public realm.

THEMES

This book looks at competing sidewalk uses and claims and evolves around some specific themes—distinctiveness, publicness, diversity and contestation, and regulation.

DISTINCTIVENESS

The relative lack of scholarly work on sidewalks might be explained by their status as an undifferentiated part of the street. Streets and sidewalks compose the public right of way in cities. Like streets, sidewalks are ubiquitous and difficult to avoid. Motorists observe them from their vehicles, and pedestrians walk along them from point of origin to destination or from car to building. But sidewalks differ from the roadbed and have historically accommodated distinct uses. The roadbed is used solely for vehicles, but people have walked and socialized on the sidewalks since sidewalks were first constructed.

Sidewalks also differ from one another based on their location within the city, surrounding demographics, and association with particular uses and buildings. Such differences are more nuanced than the roadbed/sidewalk distinction implies. Sidewalks are closely associated with abutting buildings, and the way that they are perceived and used affects the tenants and users of these buildings. In addition, abutting property owners are responsible for keeping sidewalks free from obstructions and sometimes must keep them in good repair. For this reason, sidewalks are simultaneously public and parochial—open to all and yet a space over which a group feels ownership (Lofland 1998). The book therefore highlights the distinct characteristics of urban sidewalks as small public spaces that wind throughout the city.

PUBLICNESS

The book also examines the flexible and ambiguous boundaries that surround sidewalks' publicness. Many different social groups—municipal bureaucrats, abutting property owners, neighborhood councils, merchants, street vendors, homeless people, labor unions, and political activists—have negotiated public access and activities on the sidewalk. The book's focus on sidewalks continues the work that is being done by public-space scholars who have focused on the spaces of everyday life.

As Neil Smith and Setha Low (2006, 3) have explained, global societies have public spaces that operate at different scales—"the range of social locations offered by the street, the park, the media, and Internet, the shopping mall, the United Nations, national governments, and local neigh-

borhoods. ‘Public space’ envelops the palpable tension between place, experienced at all scales of daily life, and the seeming spacelessness of the Internet, popular opinion, and global institutions and economy.” In exploring sidewalks, we also show how local conflicts are moments where larger institutions and processes “touch down.” Indeed, one difficulty in public-space debates is agreeing on the issue that is being debated. A Senegalese street vendor in Harlem and his Guatemalan counterpart in East Los Angeles reflect forces that influence economic restructuring and transnational migrations, and their presence can invoke these concerns, but street vending also represents a contested activity on a local corner.

Access to public spaces also is a mechanism by which urban dwellers assert their right to participate in society, and these struggles over the right to use public spaces take different forms. One distinction can be made between a demand to access a space for its defined uses (as was the case with desegregation movements over public transportation and public facilities) and the right to define a space’s use (such as a fight against a public sleeping ban). Both are important.

Public spaces are difficult to characterize because they vary significantly: Access to a governance institution is different from access to a sidewalk. In urban public spaces, a space’s publicness can be seen as the extent to which people have access without asking permission, expressed or implied. Although the person or organization that holds the title to a property may influence the activities that occur there, this is not the only or even most important factor that makes a space public.

All spaces have restrictions—physical, legal, and social—and the way that a space functions for a public is evaluated comparatively with other public spaces. A shopping plaza differs from the sidewalk in its design, uses, and hours of operation, but both have public functions. Moreover, because some activities necessarily infringe on others (a sidewalk used for lumber storage may be impassable), a space’s publicness is better assessed over time because not all activities happen or need to happen at one time. Although any given space may not always be open or accessible, the right to its use as others use it is a significant part of full societal participation. In addition, as Don Mitchell (2003, 35) has argued, what “makes a space *public* is often not

its preordained ‘publicness.’ Rather, a space is made public when, so as to fulfill a pressing need, one group *takes* space and through its actions *makes* it public.”

Margaret Kohn (2004, 11–12) places urban spaces on a continuum of public and private usage that is based on the interplay of ownership, accessibility, and intersubjectivity. The public/private dichotomy is still relevant, but it needs to be defined precisely given the extensive scholarship that highlights privacy in public and the range of public spaces that are privately owned. Most sidewalks are public property, but private-property owners exercise significant control over them and often are held responsible for their maintenance. Businesses also often use sidewalks, which benefits both them and other users.

DIVERSITY AND CONTESTATION

The third theme of this book is the role that sidewalks play as shared spaces that accommodate diverse people. This diversity sometimes leads to contestation. How do people use spaces differently and similarly? In what ways do these activities reflect varying notions and different priorities? What underlies the conflicts that arise? What aspects of activities become incompatible with others? Although municipalities enact ordinances and employ other interventions to limit undesirable public-space activities, such ordinances do not reflect the government’s perspective but rather the negotiated interests of constituents who want some degree of order.

Public spaces have multiple functions. They provide sites for people to interact with those who are outside their private circles and allow decision making, the articulation of public concerns, and the resolution of common problems. Usually, however, public spaces are used for daily activities such as transportation, shopping, and recreation. Public spaces host an array of activities that overlap and thereby become sites of conflict.

Various groups have identifiably different interests, but no monolithic middle- or upper-income group controls a homogeneous group of low-income residents. Residents in poor neighborhoods are affected by street prostitution and drug use and may want them eliminated from their side-

walks. Small businesses may compete with street vendors or dislike street trees that block their signage. Pedestrians may object to newspaper boxes or sidewalk displays. One person's sidewalk activity may very well compete for limited space or conflict with another's need for order. The complexity arises because multiple interests of various groups overlap on the same narrow stretches of sidewalk pavement.

Although we emphasize differences and conflict among groups, conflict is not always a negative that should be eliminated. As Rosalyn Deutsche (1996, 278) argues, "urban space is the product of conflict." This differs in two essential ways from Jürgen Habermas's view that civilized discussion between groups that share interests can develop a collective voice. First, it highlights conflict over consensus and difference over commonality. Differences are not more important than commonalities, but commonalities are less likely to require negotiation. Second, these discussions are not only verbal but also play out through practices in public spaces. When people simply take space for a given purpose at a given time, they are demanding public spaces for specific and contingent use. We are no longer faced with a question of how to maintain or establish order in a rapidly changing city but rather how to live with differences and adapt cities to the challenges that differences bring (Sandercock 2003).

Every disruptive or conflictual activity has multiple sides. Dissenters may value the opportunity to block a sidewalk and disrupt a convention because they gain the attention of decision makers or the media. The conventioners may need to use the sidewalk to reach the convention and conduct their business, while other citizens may need the sidewalk for passage. All strands might be legitimate claims, and the ensuing discussions are fundamental to urban democracy.

REGULATION

Public spaces are contested terrains. Through public struggles, urbanites articulate both diverse and common interests and demand mechanisms for regulating shared aspects of urban life that are flexible and transparent. The final theme of this book explores public-space control and the defining of differences among people and boundaries among spaces.

We examine the legal, regulatory, and policy frameworks that have been employed by municipalities and the courts to prescribe sidewalk form and control sidewalk uses. Because the process of developing public space has simultaneously been a process of controlling it, the regulatory framework is a dimension of public space. As many scholars have documented, design and regulatory strategies have constitutional implications for First Amendment speech and assembly rights. They also have subtler effects when they delineate who is protected and who represents a problem. But frameworks of control that differentiate among spaces and people have been central to any discussion about urban life.

Openness has always been limited, and the struggle over public spaces is about constraints and acceptable activities and users. This negotiation over appropriate uses differentiates among activities (in what context does standing become loitering?), spaces (where does standing become loitering?), and the guidelines for the permissible. Efforts to control public spaces depend on these definitions. Defining who can participate and how they can do so is fundamental. Municipalities enact ordinances and regulations to define acceptable uses of sidewalks, and cities and corporate actors employ design and policy strategies to achieve particular effects. How sidewalks can be used (their “primary purposes”) and who can use them (their “publicness”) have been debated in council chambers and in court by urban residents, business owners, municipal governments, civil rights advocates, and political activists.

Formalized actions come late in the struggle over access to sidewalks, and they reflect agreements on activities, users, and their relative priorities. Agreements do not imply that all parties believe that an ordinance is fair or necessary but suggest that the situation has been defined adequately for the municipality to take some action. In fact, a tension must be framed in a way that offers a course of action.

Many observers fear that public spaces are becoming less democratic, but we argue that this is not because ordinances have been enacted or other devices deployed to control public spaces. Individual ordinances and public-space regulations may be wrong and should be contested. We caution against defining the ordinances and laws as the problem, however, when it

is the agreements that they embody that should be examined and evaluated. As Nancy Fraser (1992, 124) reminds us, “The ideal of participation parity is not fully realizable.” In the debate over appropriate public space uses that may precede an ordinance, certain actors are more powerful than others, and their voices are heard louder. In fact, the process of justifying controls can engender fear that leads to withdrawal from those very spaces that we attempt to secure. Focusing on eliminating all disorder fails to adapt and respond to changing urban circumstances and results in an unjust society. Public-space controls are important negotiations, and even our tools to fight injustice are restraints on actors (individuals, corporations, and governments). A just city would have controls that define the parameters of public-space use and access and also processes that enable different voices and interests to help define those controls.

AIMS AND APPROACH

This inquiry into urban sidewalks as contested public spaces has some specific aims. To understand what urbanites might want from public spaces, observers have drawn heavily on historical depictions of street and park life, as well as the sociability of bars, restaurants, bath houses, penny arcades, and destinations like Atlantic City. At times, these invocations are tinged with nostalgia for a seemingly ideal public realm. Historians, however, have painted a complex vision of public sociability that was characterized by diverse contested activities. This book draws from historical and contemporary examples to document the evolution of municipal sidewalks as well as their competing functional, social, political, commercial, and environmental uses. It focuses on how the functions and meanings of street activities in U.S. cities shifted and were negotiated through controls and interventions, how different claims to sidewalks were justified, and how primary uses were defined.

This is complemented by case-study research and collection of information from interviews, archival research, and data and statistics from five cities—Boston, Los Angeles, New York, Miami, and Seattle. These cities represent different geographic regions and different population sizes. New

York has been the largest city in the United States since the late eighteenth century. Los Angeles grew rapidly in the twentieth century and became the second largest city in the 1990 census. Boston (twentieth in the 2000 census) and Seattle (twenty-fourth in the 2000 census) have held more or less similar rankings throughout the last three decades. Miami (ranked forty-seventh in the 2000 census) has always been the smallest of the five in population. All five cities are heterogeneous urban environments, which is a growing trend as well as a source of tension.

Despite these differences, municipal responses are similar as they draw on limited tools and the examples of other cities. Municipal governments in these five cities have instigated regulations seeking to intervene, react, and respond to sidewalk issues and conflicts, and business associations have spearheaded attempts to control sidewalks. In 1993, Seattle prohibited sitting on sidewalks, which led to a sit-in by homeless groups and their advocates and a court challenge. Boston introduced aggressive panhandling legislation. Other cities nationwide also addressed panhandling as well as sleeping and sitting in public. Both New York and Los Angeles had early experiences with street peddling and have proclaimed “vending wars” at different times. Other cities have also witnessed an increase in street vending. Florida cities have actively enacted prostitution-abatement zones, such as Miami’s “prostitution mapping” project. Other cities nationwide have also experimented with drug-abatement, gang-abatement, and prostitution-abatement zones. The streets and sidewalks of all five cities have hosted parades, public protests, and overlapping everyday interactions.

Finally, our focus is on urban rather than suburban sidewalks. Our examination of mixed-use urban areas reflects our emphasis on diversity, conflict, and negotiation over sidewalk uses. With their emphasis on separating uses, many suburban subdivisions have little sidewalk activity, and many commercial districts are malls. Suburban sidewalks, when present, have been typically devoid of social activity, with the exception of the occasional pedestrian or jogger. Increasingly, however, the distinction between “the urban” and “the suburban” is blurring as suburbs develop mixed-use districts and destination points. Suburban commercial corridors now have compet-

ing sidewalk uses as recent controversies over day-labor sites, street prostitution, and homelessness attest.

A GUIDE TO THE CHAPTERS THAT FOLLOW

Part I of this book outlines the history and evolution of urban sidewalks. Following this introductory chapter, chapter 2 briefly discusses international examples of early sidewalks and uses Los Angeles as a case study to examine the provision of sidewalks and negotiations over sidewalk obstructions in the late nineteenth and early twentieth centuries. At this time, the pedestrian was defined as the primary user of sidewalks, an assumption that operates today. Chapter 2 draws from an article that we previously published in the *Journal of Historical Geography* (Ehrenfeucht and Loukaitou-Sideris 2007) and a book chapter that originally appeared in *Regulating Place*, coauthored with Evelyn Blumenberg (Loukaitou-Sideris, Blumenberg, and Ehrenfeucht 2005).

Part II considers sidewalks as spaces where people display individual and group identities and observe others. Sidewalks allow for open interactions and accidental encounters with different urbanites, and chapter 3 explores the possibilities that arise from interacting with others and from performing ritualized activities (such as promenading) that strengthen intra-group cohesion and intergroup differences. Chapter 4 explores parading as a way for people to insert collective identities into a broader public and for groups to negotiate their social position.

Social encounters can also be disruptive to daily activities or social expectations. Part III explores both small and large political actions on the sidewalks and the ways that they become visible expressions of dissent and claim to the city. Chapter 5 focuses on everyday politics, examining three ways that relative status was established and challenged among different groups of participants—engaging in micropolitics, challenging exclusion from the public realm, and creating a dangerous, adult public realm. Chapter 6 turns to ephemeral protest events that use the visibility of sidewalks to capture national or global audiences.

In part IV, we turn to competing uses and meanings of sidewalks and look at three topics—street vending, homelessness, and urban forestry. Chapter 7 examines the sidewalk as a space of economic survival for street vendors and the conflicts between vendors and established businesses. Chapter 8 examines the public-space debates over sidewalk activities that are associated with homelessness. Efforts to remove people from streets and sidewalks or reduce their impact are simultaneously about confronting poverty, defining sidewalk uses and users, minimizing discomfort, and evaluating rights to choice and access. This chapter ponders some of the ensuing dilemmas. Chapter 9 looks at a seemingly noncontroversial issue—the greening of sidewalks—to show how it can still result in disagreement and conflict. Street trees are generally desirable, but they elicit varied responses from different urbanites who want different things from public space. Competing priorities for urban infrastructure often lead to a neglect of the sidewalk as landscape, particularly in poor neighborhoods.

In part V, we examine the complex regulatory frameworks that manage street life and investigate their tools and effectiveness. In chapter 10, we argue that the process of justifying controls and defining problems might heighten fears and work against making public spaces vibrant. We focus on prostitution-mapping ordinances to discuss larger issues of control, access to the city, and the equation of disorder with danger. In chapter 11, we examine the regulatory role that is played by municipal governments and the ways that administrative bodies negotiate among competing uses and as institutions with their own purposes—to maintain public infrastructure, accommodate diverse residents, and create and promote a city’s image. Chapter 11 is drawn from the chapter in *Regulating Place* (Loukaitou-Sideris, Blumenberg, and Ehrenfeucht 2005).

Finally, in the concluding chapter, we ponder about the role that is being played by urban sidewalks in the early twenty-first century—what we want from sidewalk life, who should count as the public, how we can balance competing interests, what design features and policies are fair, and how we can facilitate social encounters and vibrancy.