
*Public Space, Legitimacy and Democracy*¹

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This essay seeks to bring the critical analysis of contemporary urban public space into relationship with the explorations of legitimacy put forward in Italo Pardo and Giuliana Prato's edited volume on that subject (Pardo and Prato eds 2019). The notion of 'democracy' is the bridge between those two discussions. As Pardo and Prato note, legitimacy plays a '*sine qua non* role...at all levels of democratic society' (Pardo and Prato 2019: 19). Without legitimacy, democracy can quickly devolve into a sham (albeit a 'clever' one, to use Pardo and Prato's terms: *Ibid.*:6), with ostensibly democratic arrangements serving to cloak a reality of authoritarianism. Legitimacy, as the essays in this book establish, is dynamic, contested, multiple, and open-ended, with everyday conceptions of legitimacy often working crosswise to law, political ideology, policy, and institutional norms; nonetheless, Pardo and Prato and the contributors to the volume argue in various ways, the provisional, messy, and collective work of establishing conceptions of legitimacy is crucial to the (itself shambolic and complex) project of democracy.

Both within the academy and without, public space is understood as having a similar function. Historically and contemporaneously, public space is often taken to represent nothing less than the physical expression of democracy, and the locale of democratic citizenship, as it provides material space in which citizens can encounter and converse with each other (Bickford 2000, Cranz 1982, Kohn 2004, Low et al. 2005, Smith and Low 2006, Staeheli and Mitchell 2008). Indeed, public space indexes a far broader set of democratic concerns than that of the physical arrangement of space alone: economic inequality and its effects on political life; the impact of gender, race, class, sexuality and other indices of difference on the realization of the promises of formal political equality; concerns about the quality, inclusiveness and civility of political discourse; and in urban settings, questions concerning both the 'right to the city' and the 'urban imaginary', that is, questions of which and upon what basis different social groups not only inhabit (or are displaced from) the physical city but determine the way in which the city is understood and envisioned in popular discourse. Thus, analysis of the contemporary 'making and remaking of public space' (Smith and Low 2006: 7) provides unique insights into the state of democracy, especially in urban settings.

It seems then that both public space and legitimacy are among democracy's preconditions. If, as Pardo and Prato argue (2019: 19), legitimacy is the keystone of the edifice of democracy, public space is a similarly crucial architectural element: to quite self-consciously strain the metaphor, perhaps it is a cornerstone, or a load-bearing column. This raises a number of

¹ This material is based upon work supported by the National Science Foundation under Award BCS-1424084, and by the National Endowment for the Humanities under Award FT-61979-14.

interesting questions. For instance, we might ask how public spaces serve as a *means* through which legitimacy is constructed and/or challenged. This is primarily what Nathalie Boucher (2019) does in her contribution to *Legitimacy*, as she explores how conflict over the redevelopment of Viger Square in Montreal served as a vehicle for ‘the establishment and maintenance of conflicting views of legitimacy’, as Pardo and Prato aptly put it (2019: 15). The value of art, aesthetic appreciation, commerce and real estate development, public order (as threatened by drug use and homelessness), social and political connections, expert knowledge and, interestingly, a stance of ‘detachment’: all of these serve as the bases for the legitimization of different actors engaged in this conflict. Here a particular public space solicits and channels conflictual processes through which the legitimacy of different actors, arrangements and projects is recognized, denied, or ignored, as in the case of Boucher’s status as an anthropologist, which despite her admirable self-interrogation, seems utterly beside the point to most people in the debate — ‘was there a valid reason for the anthropologist to be there? No one cared’ (Boucher 2019: 207).

We might also ask how public spaces themselves are legitimated in relation to democratic values and practices. What particular aspects of democracy are claimed to be manifest in particular public spaces (and which are not)? How are these claims made via the construction and operation of spaces themselves, as well as through the discourses that center on these spaces? In other words, how are public spaces made into the *object* of legitimization, rather than its vehicle? Boucher touches on this question when she writes of her ‘quest for the Square’s legitimacy in the eyes of the citizens’, in particular by highlighting its (potential) to allow ‘citizens to get together and to learn to live with another’ (2019: 206). For Boucher (in her role as advocate), Viger Square’s ‘sociability’ was key to its legitimacy as a democratic public space; another important element for her was the degree to which its redesign meaningfully incorporated members of the public. Others involved in the debate over the park saw it as legitimized in other ways: by its status as a locale for public art, the ability to the public to use the space without feeling threatened or insecure, or the novelty of its design and its keeping with emergent norms of public space in ‘global cities’ (Ibid.: 199-207). Whether or not Viger Square was a space worthy of consideration as ‘public’ (and assumedly, democratic in some way), was itself the subject of multiple and conflicting projects of legitimization.

Indeed, it is important to note that even such projects that Boucher, along with many other urban scholars, label as ‘neoliberal’ themselves are legitimized in relation to some conception of democracy or other, and (to draw obliquely on another of Boucher’s points) may have more complex political dynamics than the common couplet of dominance and resistance would suggest. For instance, the securitization of public spaces may in fact be premised on the exigencies of democracy. No less an ostensible avatar of urban democracy than Jane Jacobs argued that ‘the bedrock attribute of a successful city district is that a person must feel personally safe and secure on the street along all those strangers’ (Jacobs 1992: 30). While the kind of revanchist, exclusionary, and reactionary dynamics that many urbanists (including Boucher) see at play in a focus on securing public space are real (Smith 1996, Mitchell 2003),

they co-exist, and may even blur with, kinder and gentler approaches to the securing of public space that are premised on democratic values of accessibility and inclusion. Moreover, other approaches to public space that in their (neoliberal) focus on commodification and commerce have been seen as inherently inimicable to democracy — David Madden’s (2010) diagnosis of ‘publicity without democracy’ as represented by contemporary Bryant Park — may in fact signal a different conception of democracy, and therefore different grounds for the legitimization of public space. As Jeff Maskovsky (In Press) has pointed out, consumerism can become a vehicle for democratic claims. At issue is what ‘democracy’ means and who is entitled to prerogatives of democratic citizenship, and upon what basis.

This leaves us in a somewhat unsettled and perhaps unsatisfying place. On the one hand, public space can be a vehicle for claims of legitimacy for various actors and projects, but those actors and projects are multiple and not easily characterized as dominant or resistant, democratic or not. On the other hand, public space and its uses, meanings, and functions, must themselves be legitimized in relation to conceptions of democracy that are also multiple and not easily categorized. Legitimacy is a keystone of democracy, but can be expressed through debates over public space, which itself must be legitimized in relation to specific notions of democracy...our metaphorical edifice may still be solid, but it is looking a bit Escher-esque!

I want to make clear that this situation is not limited to the case of Viger Square. My own research on the High Line, the renowned elevated park running on a rehabilitated railroad trestle down Manhattan’s west side from 30th Street in Hell’s Kitchen to Gansevoort Street in the West Village has at times hit similar stumbling blocks. As readers likely know, since its opening a decade ago, the High Line has become one of the most celebrated public spaces in the world, touted as a new model for park building, a triumph of grassroots urbanism and bottom-up economic development, and an invitation to re-imagine radically not just public space, but the city itself (Filler 2011, Filler 2009, Kimmelman 2014, Loew 2009, Ouroussoff 2009, Sternberg 2007, Tate 2015: 37-47).

This discourse has itself served a legitimating function: advocates for the park often evoked its novelty and its service as a model for other public spaces in their justifications and defenses of its worthiness. Indeed, as with Viger Square, specific operations of the space served a legitimating function. The fact that the redesign of the High Line provided access to a formerly hard-to-reach space, the presence of sophisticated public art; the principles of its design, which stressed wildness and unstructured use; its open relationship to the street and the surrounding urban context; the diversity of its users and uses; the relative dearth of commerce in the park; its strong links to New York City’s LGBTQ community: all of these were used to legitimate the creation of the High Line and its public funding, as well as to defend it from delegitimizing critiques that portrayed the park as complicit in the hyper-gentrification of New York City. Indeed, after an initial honeymoon whose ending was marked by a 2012 *New York Times* op-ed piece that labelled it ‘Disneyworld on the Hudson’ (Moss 2012), critiques of the park multiplied. Journalists decried it as a symbol of the city’s increasing embourgeoisement (Powell 2013). For their part, academics took the High Line to task as a prop for real estate

development and the neoliberalization of public space, as well as for the lack of diversity among its users and supporters and its depoliticizing ecological presuppositions (Cataldi et al. 2011, Foster 2010, Gandy 2013, Loughran 2014, Patrick 2014, Reichl 2016). These celebrations and condemnations invoke democracy in various ways, casting the park as alternatively legitimate or illegitimate in relation to its requirements. For instance, the manner in which the park's design was inspired by existing 'conditions on the ground', art and social critic Hal Foster has written, made it 'rich with democratic potential' (2013: 32), whereas Alexander Reichl argues that the High Line is just 'failing as a democratic public space' but actively 'undermin[ing] democracy' in its unwelcomeness to diverse populations (2016: 904, 922).

For a long time, I saw my research on the High Line as trying to determine, in essence, which side of this debate was correct. Could an ethnographic analysis of the park, one that sought to gauge the meanings and functions of the park and then compare these to the (quite democratically ambitious) intentions of its advocates and designers contribute to answer the question of whether or not the High Line could be legitimated as a democratic public space? In other words, I primarily looked at the High Line as an *object* of legitimization. But the problem I kept running into was the multiple, conflicting, and variously-interpreted ideas of how this legitimization might work, and what aspects of urban democracy were (or were not) embodied in the park. One might say that answering the question of whether or not the High Line was in fact legitimate would require me to select a criterion or criteria for legitimization in a way that both troubled my instincts as an anthropologist and also did not do justice to the complexity and ambiguity of this debate. In short, my ethnographic data cut against a simple and neat interpretation.

As is often the case in anthropology, it was these very data that provided the key insight. The spark was a conversation with an advocate for so-called 'park equity', the notion that New York City park system needed to be understood and treated as unified system that belonged to all New Yorkers, and that park funding should be distributed on this principle rather than the (neoliberal) notion that individual parks should, in essence, demonstrate their legitimacy by competing for private support. The High Line, which had received extraordinary high levels of private and public funding while many other city parks went wanting, played an important, if ambiguous, role in the debate over park equity that emerged in the mid-2010s. It served as an exemplar of the profound and growing inequality within the city's park system, as well as the general growth of inequality in the city; as a model for ways in which communities (including much less well-off, white, and well-connected than those associated with the High Line) might be mobilized to advocate for park space, and as embodiment of the value of public space, one made especially potent by the years of neglect and denigration of common spaces that had accompanied the neoliberalization of the city's governance. When I asked my activist interlocutor about his opinion of the High Line, his response surprised me: 'It's the debate that makes [the High Line] public...even if people don't like it, they still feel like they own it. It feeds dialogue...What is fair? What should a park be?'

Elsewhere, I have argued that the promise that the democratic aspirations of the High Line, whether fulfilled or not, was a key condition for the emergence and impact of the park equity debate (Brash 2017). Here, I want to bring the words of my interlocutor in relation to the discussion of legitimacy set forth earlier. In particular, I want to note that both High Line and Viger Square served as means as well as objects of legitimization. In both cases a variety of actors used public space to make claims concerning the value and worthiness of their projects. We have seen how this worked in the case of Viger Square; I have outlined briefly how this played out in the context of the park equity debate, but it should be noted that the High Line was a vehicle for many other claims of legitimacy. Among them were the desire of the administration of Michael Bloomberg (and its advocates) to be recognized as practitioners of cutting edge urban policy; the class-based claims of professional, white collar urban élites to a position of leadership in the city's planning and development process; claims for inclusion in that process by LGBTQ people; and a broader claim on the part of many of those who supported and implemented the redesign of the High Line that the ill effects of the city's neoliberalization might be mitigated not through major changes to its political economy, but rather through interventions like the High Line that provided spatial 'time outs' from or 'antidotes' to rampant commercialization and consumerism (Brash 2018).

So, it seems that debates over public spaces often channel a bewildering array of claims to legitimacy. As we have seen, this is in line with one of the central aims of Pardo and Prato's edited volume: to document the multiple, dynamic, and contested nature of legitimacy. If one is searching for a case in which public spaces served to settle questions of what and who counts as legitimate, neither the High Line nor Viger Square fit the bill. How does the lack of such a settlement effect our evaluation of whether these spaces advance or undermine urban democracy? Can urban democracy be said to exist if there is such dissension over the terms of legitimacy?

I want to answer this question with an emphatic 'yes'. To do so, I draw on the words of Rosalyn Deutsche. In her masterly work *Evictions* (1996), Deutsche takes up, among many other things, questions concerning the relationships between legitimacy and public space, particularly through an analysis of the role that public art might play in urban democracy. Building on theorists such as Claude Lefort and Chantal Mouffe, who posit that democracy must be understood as profoundly agonistic and ultimately without grounding in any transcendental or external order, Deutsche argues for a similarly ungrounded approach to conceiving of public space, which she describes as not just a prop to democracy but 'its corollary' (1996: 274), and its relation to legitimacy. 'What is recognized in public space', she writes, 'is the legitimacy of debate about what is legitimate and what is illegitimate' (Ibid.). It is its role in serving as a discursive, ideological, and physical site for conflicts among legitimating projects, rather than its efficacy in resolving these conflicts, that makes public space democratic. This, I believe, pushes us to view the cases of the High Line and Viger Square, as well as those outlined in other essays in *Legitimacy* (Abraham 2019, Koechlin 2019), in a new way. In these cases, we find a surfeit of claims to legitimacy — and if Deutsche is

correct, this is (for advocates of democracy) a good thing. It seems to me that analyses like this can serve to diagnose the halting and forever incomplete project of fulfilling the promises of democracy: if what counts as legitimate is being vigorously debated and contested, we can recognize this is a positive sign and represent it to our various publics as such. Do not fear profound disagreement over the terms of legitimacy, we might say: embrace it, support it, clarify it, and recognize the democratic legitimacy of that disagreement.

But if dissensus is not to be feared, its absence should be. Like Pardo and Prato in their introductory essay in *Legitimacy*, Deutsche was concerned with the movement of (urban) democracy in authoritarian directions. For her the issue was the notion that certain occupations of public space were considered unproblematically legitimate (for example, public art) or illegitimate (for example, homeless people). In words that are as true now as they were nearly quarter of a century ago, Deutsche writes:

‘Today, discourse about the problems of public spaces in American cities is dominated by the articulation of democracy in authoritarian directions. This movement is engineered in two interlocking steps. First, urban public spaces are endowed with substantive sources of unity. Particular uses of space are deemed self-evident and uniformly beneficial because they are said to be based on some absolute foundation — eternal human needs, the organic configuration and evolution of cities, inevitable technological progress, natural social arrangements, or objective moral values. Second, it is claimed that the foundation authorizes the exercise of state power in these spaces’ (1996: 275).

For Deutsche, it was the attempt to fix and close debate over the legitimate functions and meanings of public space, that is, to provide a unified conception of legitimacy, that threatened democracy. Today, with authoritarian permutations of democracy rapidly taking hold in a variety of urban, regional, national, and global spaces, we can see clearly how unitary and foreclosed conceptions of legitimacy threaten democracy. It is the notion that state power serves a single legitimate role — aggressively protecting the nation from internal and external threats — that drives much contemporary authoritarian populism. It is also what facilitates actions that to many seems profoundly illegitimate in light of democratic norms (electoral manipulation, corruption, and violation of procedural norms, for instance) to continue with impunity: if there is a single standard of legitimacy, these actions do not matter. To return to the metaphor of legitimacy as keystone in the edifice of democracy: what I hope I have made clear here is that we should continue debating the shape of that keystone, its material, its color, its texture. For once that debate has been ended, and the keystone has been formed and laid into place, the edifice of democracy itself may indeed be said to be finished.

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