

## Reliance Structures: How Urban Public Policy Shapes Human Agency

Matthew Noah Smith  
Northeastern University

*Forthcoming in*  
*The Palgrave Handbook to Philosophy and Public Policy*, edited by David Boonin (NYC: Palgrave Macmillan)

### I. Introduction

During the early 20<sup>th</sup> Century, *avant-garde* architectural practice took the political potential of the built environment as the starting place for design. Nowhere was this more monumentally realized than in the early Soviet era. The Dom Narkomfin apartments, for example, were designed to reorder the most basic elements of social life: the family, parenthood, and gender roles. The architects explain their design decisions eloquently:

The individual bourgeois apartment is no longer appropriate for new dwelling relations, which are based on principles other than the unified patriarchal family with its petty individualistic conduct.

The economic routines of the worker's family (nutrition, cleaning, washing) as well as the education of children, their care and control and the fulfillment of the cultural and sport needs of workers and children, can and must be collectivized, that is, produced on a collective basis.

Therefore all those rooms that for their functional destination and their character must serve entire collectives and not only single individuals must be reshaped into corresponding highly collectivized premises: the canteen, common resting rooms, reading rooms and libraries, gyms, child care rooms

and nurseries, etc.; single individual rooms are the sleeping cabins, restrooms, rooms for individual use and for scientific work.<sup>1</sup>

Many apartments lacked kitchens so residents had to eat in the canteen. There wasn't space in the apartments for parents and their children, so children had to stay in dormitories. The combination of these two factors prevented women from being forced into housework and care work. Instead, cooking and childcare was handled by paid workers and delivered collectively to residents. The spatial layout of the apartment block realized a set of norms inconsistent with individualist principles and at the heart of the communist revolution of everyday life. Communist norms and values were rendered in concrete and steel.<sup>2</sup>

## 2. Background

This chapter aims to rehabilitate this view of the built environment for the sake of philosophical interventions into urban public policy.<sup>3</sup> It is also meant to be an intervention into the literature on the

---

<sup>1</sup> From Moisei Ginzburg, *Sovremennaya Arkhitektura* 4-5 (1927) translated by Ross Wolfe, "Dom Narkomfin in Moscow 1929." The Charnel House. <https://thecharnelhouse.org/2013/10/05/dom-narkomfin-in-moscow-1929/> (retrieved November 20, 2017).

<sup>2</sup> For a detailed case study supporting this claim, but in this case focusing not on communist norms but instead supposedly liberal norms, see James C. Scott's discussion of Brasilia, in James C. Scott, *Seeing Like a State* (New Haven, Yale University Press, 1998), pp. 117 – 132.

<sup>3</sup> This work has begun in legal scholarship. See, e.g., Neal Kumar Katyal, "Architecture as Crime Control," *Yale Law Journal* 111 (2002), 1039 – 1139; Lee Tien, "Architectural Regulation and the Evolution of Social Norms," *Yale Journal of Law and Technology* 7 (2004 – 2005), 1 – 22; Sarah Schindler, "Architectural Exclusion, Discrimination and

philosophy of social policy beyond questions of urban public policy. For, although the literature on philosophy and public policy is somewhat sophisticated and (as this volume indicates) is growing ever more so, there is limited contemporary work focused distinctively on *urban* public policy. For example, neither Jonathan Wolff's important *Ethics and Public Policy* nor Andrew Cohen's *Philosophy, Ethics, and Public Policy* deal explicitly with any urban-focused issues, sticking closely to more familiar topics such as vivisection, drug use, the limits of the free market, gambling, same-sex marriage, health care, and public safety.<sup>4</sup> Other recent philosophically informed work, such as Richard Thaler and Cass Sunstein's hugely influential book, *Nudge: Improving Decisions About Health, Wealth, and Happiness*, not only ignores urban-specific issues, they also apply psychologically sophisticated but nonetheless straightforward consequentialist – and often flat-footedly utilitarian – analyses of complex social policy questions.<sup>5</sup> In contrast, while Peter Singer, in his *Ethics in the Real World: 82 Brief Essays on Things That Matter*, applies a characteristically sophisticated utilitarian approach to a diverse and lengthy list of public policy questions, he explicitly ignores urban questions while arguing for an aggressively global perspective.<sup>6</sup> Finally, in sophisticated work on

---

Segregation Through Physical Design of the Built Environment," *Yale Law Journal* 124, no. 6 (2014 – 2015), 1934 – 2024.

<sup>4</sup> Jonathan Wolff, *Ethics and Public Policy: A Philosophical Inquiry* (New York City, Routledge, 2011); and Andrew Cohen, *Philosophy, Ethics, and Public Policy* (New York City, Routledge, 2015).

<sup>5</sup> Richard Thaler and Cass Sunstein, *Nudge: Improving Decisions About Health, Wealth, and Happiness* (New York City, Penguin, 2008). There is a chapter on school choice, but it does not contextualize that issue within a broader analysis of urban policy.

<sup>6</sup> Peter Singer, *Ethics in the Real World: 82 Brief Essays on Things That Matter* (Princeton, NJ, Princeton University Press, 2016).

environmental ethics developing pragmatist and pluralist approaches to a range of policy questions, many of which are relevant to urban public policy (insofar as urban public policy is focused on questions of adaptive management of the environment, for example), little effort is made to develop those questions from an urbanist's perspective. They instead frame questions around concepts such as ecosystems, nature, species, and so on.<sup>7</sup>

When it comes specifically to philosophical inquiry into urban public policy, the pickings are slim (although as of this writing in 2018 there is increased interest). Sharon Meagher's *Philosophy and the City* contains only a few contemporary philosophical essays on the city, and few specifically focus on urban public policy.<sup>8</sup> Often, philosophical work addressing questions of urban public policy receives little attention.<sup>9</sup> We must look outside the traditional disciplinary boundaries for recent philosophical engagement with questions of urban public policy. For example, four quite influential texts are Jane Jacobs' *The Death and Life of Great American Cities*, Henri Lefebvre's *The Urban Revolution*, David Harvey's *Social Justice and*

---

<sup>7</sup> See Bryan G. Norton, *Sustainability: A Philosophy of Adaptive Ecosystem Management* (Chicago, University of Chicago Press, 2005), and citations contained therein (especially chapters 7 and 8).

<sup>8</sup> Sharon Meagher, *Philosophy and the City* (Albany, SUNY Press, 2008). An important exception includes (but is not limited) to Susan Bickford, "Constructing Inequality, City Spaces and the Architecture of Citizenship" (210 – 218). Representative chapters by contemporary Anglophone philosophers such as Iris Marion Young's "City Life as a Normative Ideal" (163 – 174) and Andrew Light's "Elegy for a Garden" (291 – 297) are excellent, but perhaps are dissatisfying when cast against more sophisticated philosophically-informed work on public policy, such as the texts cited above.

<sup>9</sup> See, e.g., Shane Epting, "The Moral Dimensions of Infrastructure," *Science and Engineering Ethics* 22 (2016), 435.

*the City*, and Edward Soja's *Seeking Spatial Justice*.<sup>10</sup> These important texts are often deeply profound. But they require extensive interpretation to transform them into philosophically rigorous interventions into urban public policy. On the other hand, two recent critical interventions, Susan Fainstein's *The Just City* and Warren Magnusson's *Politics of Urbanism: Seeing Like a City*, are more analytically rigorous and so more immediately useful for urban public policy (Magnusson's book, in particular, significantly influenced the thinking behind this chapter).<sup>11</sup> But they have had limited impact on philosophical inquiry.

This essay is influenced by all the texts listed above, but it aims to make a novel contribution not found in any of those works. In particular, I argue that we should understand the built environment as realizing norms. I then argue that we can fruitfully think of urban spaces as systems that realize the capacity for human action in roughly the same way that the mind and the body realize human agency. Finally, I bring these two claims together to argue that we can critically assess the public policies producing urban spaces as realizing certain norms governing the allocation of agential capacities. That is, this chapter argues that urban public policy should attend to, amongst other important considerations, the ways in which the built environment facilitates the production and reproduction of human agency.

As is clear, I develop here only one metric for analysis of urban public policy. It can therefore be combined in a variety of ways with the philosophical interventions in public policy mentioned above which

---

<sup>10</sup> Jane Jacobs, *The Death and Life of Great American Cities* (Ithaca, Cornell University Press, 1961); Henri Lefebvre, *The Urban Revolution*, trans. Robert Bononno (Minneapolis, MN, University of Minnesota Press, 2003); David Harvey, *Social Justice and the City*, Revised Edition (Athens, GA, University of Georgia Press, 2009); Edward Soja, *Seeking Spatial Justice* (Minneapolis, MN, University of Minnesota Press, 2010).

<sup>11</sup> Susan Fainstein, *The Just City* (Ithaca, Cornell University Press, 2010); Warren Magnusson, *Politics of Urbanism: Seeing Like a City* (New York City, Routledge, 2011).

employ consequentialist reasoning, or that rely on familiar principles of justice such as the difference principle, or that appeal to individual rights, or that, like Wolff's *Ethics and Public Policy*, explicitly employ a pluralist approach. All of these approaches are distinctive and important. I do not argue that one should be privileged over all others, much less how they ought to be weighed against one another. Instead, this chapter aims only to articulate, develop, and defend one particular approach for assessing urban public policy.

### 3. Materiality and Norms

When Robert Moses commissioned the bridges over the Southern State Parkway on Long Island, he had them designed to have, on average, one foot less clearance than bridges on comparable parkways, namely, the Hutchinson, the Sawmill, and the Bronx River Parkways. These infamously lower clearances were, according to Moses's biographer Robert Caro, designed to be this low because it would keep busses from traveling on the Southern State Parkway. This, in turn, kept African Americans and Puerto Ricans, who at the time typically were too poor to purchase automobiles, from traveling to Moses's beloved Jones Beach.<sup>12</sup>

This famous story is so well-worn as to seem apocryphal. And, indeed, there is an element to it that is. For, *by law* busses and all other commercial traffic were prohibited from traveling on these parkways. This was not an *overtly* racist policy. Rather, the parkways were initially intended to be destinations themselves. Busses and other commercial traffic hurtling along these roads would have marred their country idyll. So, Moses did not need low clearances to keep busses off his parkway. He had a law

---

<sup>12</sup> Robert Caro, *The Master Builder* (New York, Alfred A. Knopf, 1974), p. 319.

doing that. Nonetheless, apparently when asked why he made the bridges especially low, Moses told his aide Sid Shapiro, “Legislation can always be changed; It’s very hard to tear down a bridge once it’s up.”<sup>13</sup>

Moses’s point brings out a key framing distinction for this chapter, which is the distinction between the institutional conception of norms and the material realization of norms. The institutional conception, which is what we find in most work by political philosophers, treats norms as abstractions and then ignores questions about whether they must be materially produced. If the question of the production of norms is addressed, the process of their material production is treated as a black box: the norms simply spring into action, applying to subjects and, where effective, shaping their lives.<sup>14</sup>

On the other hand, taking the materiality of norms seriously does not treat their production (and reproduction) as a black box. Rather, on this approach the conceptual characterization of a right (or some other norm) is incomplete in the absence of a characterization of the matter in which it is realized. Just stipulating that persons have the right to such-and-such underdescribes that right. Any complete account of a right spells the material conditions for the realization of that right.

For example, suppose there is a constitutional provision guaranteeing each citizen the right to vote. Suppose further that one’s preferred theory of political legitimacy and/or justice affirms this provision. On a purely institutionalist approach to political theory, the work is more or less done: a certain right has

---

<sup>13</sup> Thomas J. Campanella, “How Low Did He Go?” Citylab, accessed Sunday December 17, 2017,

<https://www.citylab.com/transportation/2017/07/how-low-did-he-go/533019/>

<sup>14</sup> But architects, legal theorists, and new media theorists do not do this. Respectively, see, e.g., Lawrence J. Vale, *Architecture, Power, and National Identity* (New Haven, Yale University Press, 1992); Lawrence Lessig, *Code and Other Laws of Cyberspace* (New York City, Basic Books, 1999); Alexander Galloway, *Protocol: How Control Exists After Decentralization* (Cambridge, MIT Press, 2004). See also the citations in note 3.

been identified, and the state has guaranteed that right. What is required in order to produce the conditions in which people can exercise that right is not, strictly speaking, a question of political philosophy. It should be left to the technocrats and, eventually, the judges. That most rights must be realized in the built environment if they are to be effective rights at all (and not, at very best, mere ideals)<sup>15</sup> is why the way rights are materially realized partially determines the character of the right itself. For example, that voting machines, paper ballots, etc., need to be designed, produced, disseminated, and then made available on election days is something the technocrats figure out how to accomplish. That spaces need to be rented and officials trained, assigned, and placed in voting locations seems too prosaic to be treated as critical to a philosophical understanding of the right to vote. These questions are all typically treated as, at best, secondary policy questions, outside the ambit of high political theory.<sup>16</sup>

But, as philosophers of technology,<sup>17</sup> disability theorists,<sup>18</sup> and architectural theorists<sup>19</sup> have taught us, ‘technical’ solutions are often deeply political. For example, the judgment that some technology used to

---

<sup>15</sup> For more on effective rights, see G. A. Cohen, “Are Disadvantaged Workers Who Take Hazardous Jobs Forced to Take Hazardous Jobs?” in G. A. Cohen, *History, Labour, and Freedom* (Oxford, Clarendon Press, 1988), 239–54.

<sup>16</sup> Katyal, “Architecture as Crime Control,” 1042, and Schindler, “Architectural Exclusion, Discrimination and Segregation Through Physical Design of the Built Environment,” 1975 – 1988, provide many further examples.

<sup>17</sup> Langdon Winner, “Do Artifacts Have Politics?” *Daedalus* 109, no. 1 (1980), 121.

<sup>18</sup> In general, see the essays collected in G. L. Albrecht, ed., *Handbook of Disability Studies* (Thousand Oaks, CA, Sage Publications, 2001), and especially David Wasserman, “Philosophical Issues in the Definition and Social Response to Disability,” *infra.* pp. 219–251, and Shelly Tremain “On The Government of Disability,” *Social Theory and Practice* 27 (2001), 617. More generally, see Elizabeth Anderson, “What is the Point of Equality?” 109 *Ethics* (1999), 287.

<sup>19</sup> See, e.g., Daniel M. Abramson, *Obsolescence: An Architectural History* (Chicago: University of Chicago Press, 2016).



realize a right (e.g., the lever voting machine) is obsolete and ought to be replaced is not ‘purely’ technical, if by that is meant ‘devoid of political considerations.’<sup>20</sup> Or, the judgment that some space is accessible is not purely technical. If, for example, the only way into the voting booth is via steep stairs, then someone in a wheelchair cannot vote (at least not without compromising their dignity by being carried into the voting booth).<sup>21</sup> This situation is similar to a poll tax, and most accept that a poll tax is a violation of a right to vote. To specify a right to vote in its fullest character, one must specify the material in which it is to be realized (whether ramps or steps, what sort of identification verification system to use, etc.). Rights are not abstractions to be cognized once and never again reinterpreted. Rather, they must be produced, reproduced, and, sometimes, torn down.

As a further example, consider the residents of the low-income community of East Palo Alto, who must cross a busy highway in order to access one of the wealthiest communities in the United States, West Palo Alto. There is no legal restriction against residents of East Palo Alto visiting West Palo Alto, but they are nonetheless effectively excluded from visiting. For, attempting to navigate the busy intersection is

---

<sup>20</sup> For more on this see Abramson, *Obsolescence*, chapter 2, for a discussion of how the concept of obsolescence was developed and then deployed as purely technical, but actually must properly be understood to be deeply political.

<sup>21</sup> A related point here is that the technologies available for producing a rights-realizing environment are not dictated by non-political, i.e., purely ‘technical’, considerations. Rather, the process by which a right is realized in the environment is itself a political process, and, crucially, the character of that process determines the material character of the right in question. For more, see Andrew Feenberg “Subversive Rationalization, Technology, Power and Democracy,” *Inquiry* 35 nos. 3 – 4 (Sept./Dec. 1992), 301.

highly risky, as this area has an extremely high rate of pedestrian-car collisions.<sup>22</sup> On the view of political theory put forward here, there is as much a norm excluding residents of West Palo Alto from East Palo Alto as there would be if the state required a toll for the privilege of transiting from West to East Palo Alto. The highway is the embodiment of a norm of exclusion authored by the state.

It may be tempting to characterize the exclusion here entirely in terms of the costliness of traversing the highway (or in the Jones Beach case, in terms of the costliness of traveling by private automobile as opposed to by bus) and not in deontic terms. But that invites viewing all statutes and regulations in the same fashion. For just as one risks serious injury by traversing a busy road, one risks fines or imprisonment (or both) when one violates a criminal statute. In the case of civil statutes, zoning regulations, and the like, the costs may merely be financial. In other words, if we simply employ consequentialist analyses focused on costs, then norm-imposition by the built environment is on a par with norm-imposition by legislation or regulation. For some legal theorists and economists, in fact, this is exactly the correct approach to thinking about laws and norms more generally.<sup>23</sup>

---

<sup>22</sup> Bryan Goebel, “Divided by a Highway, East Palo Alto Looks To Reconnect Its West Side,” *Streetsblog SF*, accessed Dec 17, 2017, <http://perma.cc/B8C2-LGHP>.

<sup>23</sup> The tradition of the economic analysis of the law employs this approach. See Ronald Coase, “The Problem of Social Cost,” *Journal of Law and Economics*, 3 (1960), 1 – 44; Guido Calabresi, *The Cost of Accidents* (New Haven, Yale University Press, 1970); Guido Calabresi and Douglas Melamed, “Property Rules, Liability Rules, and Inalienability, One View of the Cathedral,” *Harvard Law Review* 85 (1972), 1089 – 1128; and very generally Richard Posner, *Economic Analysis of Law*, 1<sup>st</sup> Edition (Boston, Little Brown, 1973). For discussions of the economic analysis of the criminal law, in particular, see the classic Gary S. Becker, “Crime and Punishment, An Economic Approach,” *Journal*

But this single-minded focus on prospective cost in analyzing the normative landscape is suspect. For, in the same way that we cannot capture the deontic character of the restrictions imposed by criminal law, or the bilateral character of claims in tort law simply by appeal to cost-benefit analyses, we cannot capture the deontic character of the restrictions imposed by this infrastructure if we appeal only to a cost-benefit analysis.<sup>24</sup> That is, if we are missing something normatively important from our analyses of criminal restrictions or tort law by focusing exclusively on consequentialist considerations, and on economic gains and losses in particular, associated with these legal regimes, then we are also missing something normatively important from our analyses of the built environment if we focus exclusively on the way in which it alters cost and benefit calculations of those who encounter that environment.

I will not here summarize (much less re-litigate) the debate surrounding consequentialist reductions of the deontic. It is sufficient to observe that there is a substantial tradition of viewing such analyses as deeply flawed because the deontic element is absent. This is especially the case once we leave behind exclusive inquiry into the law and consider political philosophy more generally. For, the dominant approach in political philosophy is to theorize constitutional formation, legal regulation, resource distribution, and so on, in deontic terms.<sup>25</sup> The characterization of candidate institutional forms, and in

---

*of Political Economy* 76, no. 2 (Mar. - Apr. 1968), 169-217; and the slightly more recent Richard A. Posner, “An Economic Theory of the Criminal Law,” *Columbia Law Review* 85, no. 6 (October 1985), 1193 – 1231.

<sup>24</sup> For extensive arguments along these lines, see Jules Coleman, *Risks and Wrongs* (New York, Cambridge University Press, 1992), Arthur Ripstein, *Equality, Responsibility, and the Law* (Cambridge, Cambridge University Press, 1998); and Arthur Ripstein, *Private Wrongs* (Cambridge, MA, Harvard University Press, 2016).

<sup>25</sup> In particular, the move towards thinking in terms of justice, which is a deontic concept, is in no small part due to the influence of John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap 1971).

particular the rules constituting an institution and the rules used by the institution to govern or regulate, is always in deontic terms. For this reason, we can say with some confidence that it would be (at the very least) a significant revision of practice to abandon deontic concepts in favor of cost-benefit analyses. So, by parity, we ought to understand the normative character of the built environment, such as the prohibitions realized in the highway separating East Palo Alto from West Palo Alto, in those terms as well.

One might, at last, insist that I am making a metaphysical error here. Normative concepts are necessary when it comes regulation by rules because rules just are properly characterized in deontic terms. But elements of the built environment are not rules. They are just assemblages of stuff. And stuff on its own is normatively inert. This, though, rests on a confusion. The rules governing us are produced through legislation. I claim that rules governing us are also produced through the production of the built environment. In particular, I have argued that this is an ineliminable step in the production of rules governing us. That is, I have argued that legislation and construction both are regulatory actions. Even if, then, the built environment is not *itself* a norm, but instead merely embodies a norm, this same point applies to laws, as both are produced by actions that, among other things, aim at regulating human life. The parity I am seeking between law-making and space-making, between laws and the built environment, remains.

Furthermore, we have independent reason to treat physical phenomena as embodying norms or rules and not merely as the sources of these norms or rules. We can see this when considering social norms. It is natural to characterize these social norms as realized in patterns of actual human behavior. The “stuff” of people almost always driving on the right hand side of the road, along with perhaps some other psychological requirements, is the material in which the norm requiring people to drive on the right

hand side of the road is realized. They are conceptually distinct but extensionally equivalent. The built environment ought to be viewed similarly.<sup>26</sup>

#### 4. Agency

The built environment is one of the primary determinants of what actions human beings can take. For the capacity to act is more than the mere capacity to form an intention. Intention without physical realization is either failure or fantasy. From turning on a light to building a house, our actions are materially realized. So, agency-realizing material is necessary for action. What, though, is that agency-realizing material? The most obvious form agency-realizing material takes is the human body. Our bodily movements realize our intentions. If we had no bodies, then we could not act, at least not in any characteristically human fashion, much less in an especially meaningful one. But is this all there is? When philosophers talk about action, it would seem that they think so. Most famously, Donald Davidson wrote: “We never do more than move our bodies: the rest is up to nature.”<sup>27</sup>

There are some complications. Even Davidson is not so utterly focused on the mind that no mention of the world beyond the body of the agent is admitted to accounts of action. Davidson famously argues that for an action to be considered *intentional*, it will almost always be described using language that describes features of the world beyond the body. But, he resists holding that this reveals anything about the

---

<sup>26</sup> For one contemporary canonical account of this phenomenon, see H. L. A. Hart, *The Concept of Law*, 2<sup>nd</sup> Edition (Oxford: Clarendon Press, 1994), especially chapters 5 & 6. See also Brian Skyrms, *Evolution of the Social Contract*, 2<sup>nd</sup> Edition (New York City: Oxford University Press, 2014).

<sup>27</sup> Donald Davidson, “Agency,” in Donald Davidson, *Essays on Actions and Events* (Oxford, Clarendon Press 1980), 59.

nature of agency. Rather, the possibility of multiple descriptions of an action which in turn allow us to refer to ever more of the world in the description of the action does not make the action any ‘larger’:

If an event is an action, then under some description(s) it is primitive, and under some description(s) it is intentional. This explains why we were frustrated in the attempt to assume a basic concept of agency as applied to primitive actions and extend it to further actions defined in terms of the consequences of primitive actions: *the attempt fails because there are no further actions, only further descriptions.* (emphasis added)<sup>28</sup>

It is not obvious, though, that a neutral description of action A can refer to X, Y, and Z, when A *necessarily* does not have X, Y, and Z as its parts. There are principles determining when it is apt to include X, or Y, or Z in the description of A, and when it’s not apt. A natural view here is to hold that the principles determining which descriptions are apt are moral principles. Joel Feinberg developed this view under the heading of the *accordion effect*, arguing that mentioning these consequences or those events in the description of an action allows us “to puff out an action to include an effect”<sup>29</sup> thereby holding the actor responsible for that effect. Thus, R.A. Duff resists the Davidsonian collapsing of agency to just the body, suggesting that there is no metaphysically ‘pure’ way to analyze human action:

---

<sup>28</sup> Davidson, “Agency,” 61.

<sup>29</sup> Joel Feinberg, “Action and Responsibility,” in Feinberg, *Doing and Deserving* (Princeton, NJ, Princeton University Press, 1970), 119 – 151.

Ascriptions of intentional agency do not describe neutral facts: they express normative judgments of responsibility, in which we may disagree. . . . We disagree on the proper description of my intentional action because we disagree on the normative relevance of this effect. . . .<sup>30</sup>

Duff's claim provides support for understanding agency as more than intention-directed bodily movement. For, it suggests that any description of an action someone takes answers a moral question ("Is X responsible for A?") and not merely a metaphysical question ("Did action A occur?").

We should accept Duff's recommendation that we move away from thinking of agency as a metaphysical engine – a capacity that produces events we call 'actions' – but move toward thinking of it as a normatively-drenched capacity through which agents become responsible for certain phenomena in the world. These phenomena occur within, through, and beyond the bodily movements. This normatively-drenched understanding of agency supports treating actions as the agent's own – in a normatively rich sense of the term – as opposed to being merely directly causally connected to the agent. This, in turn, makes those actions the components the agent's biography. For, what happens to a person does not (for the most part) constitute their life. Rather, what a person does is what makes for a biography. This, in turn, is what concerns us in moral or political theory, not what bodily movements were caused by certain mental states.

---

<sup>30</sup> R. A. Duff, *Intention, Agency, and Criminal Liability: Philosophy of Action and the Criminal Law* (Oxford, Blackwell, 1990), 84. Notice that Duff's claim that "we may disagree" about the proper description of my intentional action is ambiguous between it being permissible to disagree and it being merely a fact that people happen to disagree. Duff demurs on resolving this ambiguity since he merely needs the existence of disagreement, permissible or not, to motivate the claim that one function of the law (and in particular the criminal law and the law of torts) is to settle the question of what the proper description of intentional action is.

In other words, the default agential boundaries assumed by moral and political theory are those that trace intuitively attractive biography-constituting responsibility ascriptions. These (almost) always identify actions with more than just the mind and the body.<sup>31</sup> For example, we do not hold people responsible for moving their bodies in such a way that has the consequence of a car moving in some fashion, but instead we hold them responsible for driving the car. This is why we say that someone *drives to the store* instead of *moves their body in a way that has the consequence of an automobile moving towards the store*.

In sum, for the purposes of understanding human agency in a normatively rich context like political theory, actions are realized in bodily movement and beyond. From the perspective of moral and political theory, there is no privileged event-type (like bodily movement) in which agency manifests. So, those parts of the world beyond the body in which actions are realized are as much essential elements of that action as are the relevant bodily movements. For our purposes, actions are mind-matter hybrids and so processes in the material world beyond bodily movement partially constitute our actions.<sup>32</sup>

## 5. Reliance Structures

What materials partially constitute human actions? I argue here that they are the relatively stable processes in the environment we rely upon when we act. I call these *reliance structures*. As an initial illustration, consider driving a car. This action involves more than merely the movement of the body, the steering wheel, and the pedals. Driving a car involves the proper functioning of the car as a whole. For,

---

<sup>31</sup> For more, see my “Surfaces and Boundaries” (on file with author) and Anton Ford, “The Province of Human Agency,” *Noûs* doi,10.1111/nous.12178.

<sup>32</sup> Phenomenologically, tools often come to seem to be extensions of our bodies. The iconic statement is Maurice Merleau-Ponty, *Phenomenology of Perception*, translated by Colin Smith (NYC, Routledge Classics, 2002), 175 - 176.



there is no principled way to draw a line privileging movement of specific car parts over the overall functioning of the car, much less a principled way to draw a line privileging the movement of one bodily part (e.g., the top of the foot resting on the gas pedal) versus another (e.g., the ankle above the foot). This is why the *whole* of the car's functioning is a reliance structure partially constituting the action of driving a car.

With this example in hand, we can generate further examples. When someone writes with a pen, the functioning of the pen is a reliance structure partially constituting the writing. When someone cooks, their functioning of the stove is a reliance structure partially constituting the cooking. In this next passage, then, Sigmund Freud should be read literally:

With every tool man is perfecting his own organs, whether motor or sensory, or is removing the limits to their functioning. Motor power places gigantic forces at his disposal, which, like his muscles, he can employ in any direction; thanks to ships and aircraft neither water nor air can hinder his movements; by means of spectacles he corrects defects in the lens of his own eye; by means of the telescope he sees into the far distance; and by means of the microscope he overcomes the limits of visibility set by the structure of his retina.<sup>33</sup>

How is this related to urban policy? The operation of most aspects of the built urban environment, whose construction, maintenance, and destruction are subject to state regulation, are reliance structures. Any element of infrastructure one relies upon in order to act is a reliance structure. We can appreciate this point through a consideration of the limitations on human agency that follow from the

---

<sup>33</sup> Sigmund Freud, *Civilization and Its Discontents*, trans. James Strachey (NYC: W.W. Norton [1930] 1962), 42. For the extension of this point to architecture, see Mark Wigley, "The Disciplining of Architecture," *I5 Assemblage* (1991), 6 – 29, 8.

destruction or poor operation of infrastructure. For example, suppose one toasts some bread. The operation of the toaster is a reliance structure and so is a great deal more lurking behind the toaster: the electrical wiring in one's house, the local electricity supply, the electrical grid, and finally the entire energy production system.<sup>34</sup> So, as suggested by the Freud quote above, the tool is just a class of reliance structures. A stove is a reliance structure, as is a car, as is the gas line servicing the stove and the transport infrastructure through which the car drives. There are no principled grounds for distinguishing one system from another when it comes to their roles in realizing human agency. They all are the material through we act. Once we learn to see them, then, reliance structures appear ubiquitous. As a result, our understanding of human agency should begin to shift. An example of this might be Mark Seltzer's reflections on Henry Ford's characterization of the many different ways in which individual workers, including those without limbs or sight, physically mesh with his new assembly line system of production. Seltzer writes that Ford's account "projects a transcendence of the natural body and the extension of human agency through the forms of technology that supplement it."<sup>35</sup>

We can infer from this that reliance structures exist at multiple scales – some are handheld tools and others are global distributed networks, such as the Internet. But, the urban scale is the most practically urgent. For, while handheld, non-electrified tools are easy to use under many conditions, most of our tools function best – and sometimes only – when supported by infrastructural systems. On the other hand,

---

<sup>34</sup> For a biological take on the relationship between environment and agency, see Kim Sterelny, "Minds: Extended or Scaffolded?" *Phenomenology and the Cognitive Sciences* 9, no. 4 (2010), 465 – 481.

<sup>35</sup> Mark Seltzer, *Bodies and Machines* (NYC, Routledge, 1992), 157. The passage Seltzer is commenting on is from Henry Ford, *My Life and Work* (NYC, Doubleday, 1923), 108.

global level reliance structures like the Internet can only be accessed through local infrastructure. That ‘last mile’ of communications infrastructure – to say nothing of a functioning computer – is the key for engagement with an existing global system. For example, when Hurricane Sandy hit New York City in 2012, there was a pause in the global financial system because downtown Manhattan was underwater, power had been lost, and due to storm damage people could not travel to work. America’s financial center was shut down due to a failure in urban infrastructure. Just a dozen or so blocks uptown, Sandy had an almost negligible impact on internet access. Had there been an equivalent failure in one portion of the global network – e.g., had a key switching station gone down as occurred on September 11, 2001 – internet protocols would have just routed traffic around that failure and people would have still been able to get online.

Finally, reliance structures should not be understood as geared towards a single end. For example, roads needn’t be seen as facilitating only travel. They can also be recruited for other aims. A toll road can be a reliance structure for the action of producing revenue. (It is perhaps one of the signal features of a capitalist economy that all reliance structures appear to be amenable to this activity.) Spaces deliberately set aside for public use thus are fecund, when viewed as reliance structures. They can be recruited for any spatially located activity, from aimless play to public protest to organized events like food festivals. The material realizing agency is as mutable in *telos* as is human practical imagination and ingenuity. We should therefore distinguish between the material constitution of the structure, the activity or activities for which it was produced, the activity or activities for which it has been recruited, and the activity or activities for which it could be recruited. For example, there is a flat expanse of asphalt concrete, which was built to be a reliance structure for the activity of landing planes, but is now used as a reliance structure for the activities

associated with urban public parks, and which could be put to use by the state by enclosing it from public access and turning it into a military training ground.

Making these distinctions is important because we can often fail to see the potentialities within the material of a reliance structure. For, the way some material is either popularly imagined or the way it is most typically used can block us from imagining alternatives. We therefore must be careful when describing a reliance structure as, say, a transit system not to occlude the possibility that the material of a transit system is also a reliance structure for public engagement, a reliance structure for commerce, and reliance structures for many other activities (such as publicly performing music, as in the case of buskers).<sup>36</sup>

This suggests that reliance structures can, once produced, be transformed without being *materially* reconstituted. A simple example of this is the following: something built to be used as a hammer can come to be used as a doorstop. The object remains useful as a hammer, but it has been recruited into a new functional role. This trivial case is illuminating as an analogue for the more complex cases that concern us, namely, the built environment. In these instances, there may need to be transformations around the built environment in order to reorient its *telos*. But, the material structure itself may only require modest alterations. For example, ‘unused’ urban space can be repurposed into a park by adding access points, walkways, and landscaping. Or, streets exclusively used for automobile traffic can be repurposed simply by painting bicycle lanes on them.

## 6. The Re/Production of Agency

---

<sup>36</sup> One common activity of the state on the municipal level, then, is the policing of reliance structures so that they support only certain activities.

Our agential capacities depend upon access to reliance structures: what reliance structures are available to each person determines in large part that person's agential capacities. This applies as much to 'pure' bodily capacities as it does to more 'technological' capacities. For, the healthy body is itself a product of reliance structures. The most obvious cases are those in which technologies are used to make up for 'missing' elements. Well-functioning prostheses are reliance structures as much as are more typical limbs. These prostheses must be produced, distributed, and maintained. In exactly this sense, very basic agential capacities (e.g., the capacity to pick something up, the capacity to walk, and so on), are produced, maintained, and reproduced (e.g., in the form of new prosthetics replacing failing older ones).

But, the focus on prostheses obscures the deep way in which our agential capacities are produced in virtue of the need to produce reliance structures. From pre-natal and birthing technologies to spectacles and hearing aids, and everything in between and beyond, reliance structures play crucial roles in the production and reproduction of bodily capacities. The hospitals where babies are born, the machines used to monitor mothers in labor, the welter of tools used to sustain babies in the NICU, and even the tools used for home births must all be produced, maintained, and, when failing, reproduced.

As an illustration, consider baby formula. Many mothers have medical difficulties breastfeeding their newborns. In the absence of baby formula, these children would either die or develop with a variety of disabilities. The production and distribution of baby formula is a complex reliance structure supporting parents' efforts to produce for their children healthy human bodies. This applies to many medical interventions that shape infants' and children's bodies. From birth, human agency is produced and reproduced through the production and reproduction of reliance structures.

What does this have to do with urban policy? The urban is the spatial grain at which many of the most basic and widely-used reliance structures are produced. Urban planning policies directly impact the

production of housing, transport infrastructure, schools and libraries, open space, and, at the very least, the last mile of infrastructure for critical utilities such as water, power, and sewage. These reliance structures are among the most basic, in the sense that they are often foundational for reliance structures involved in other, more complex forms of agency. Whether one can travel from home to work depends, for example, at the very least upon both the transport and the housing infrastructure. If public housing is scarce, or if there are not rent controls, or if housing policy is driven by speculation and not by need, then adequate housing for many will be available only at the geographical margins. If the transport infrastructure is underdeveloped or not properly maintained and/or expanded, then even those closer to urban centers may face lengthy and taxing commutes.

When these *foundational reliance structures* are produced and/or reproduced unevenly across a population, then agential capacities are unevenly produced and/or reproduced across a population. Spending a lot of time and energy traveling dramatically affects one's capacities. As an illustration, consider the following, from a *New York Times* article, from James Turner. Because of the housing crisis in New York City, Turner was forced to find housing far out in the Bronx. As a result, he must travel two hours each way to work, taking two buses and two subway lines. He summarizes what this does to one's ability to do anything when not at work:

“You come back to work on Monday, everybody you talk to asks, ‘What you done on the weekend?’” Mr. Turner said. “Everyone says, ‘Sleep. Sleep.’”<sup>37</sup>

Mr. Turner's agency is compromised by extremely limited provision of foundational reliance systems at the urban level.

---

<sup>37</sup> Jim Dwyer, “Pushing New Yorkers Beyond the End of the Line,” *New York Times*, November 28, 2017.

In a justly famous article, Jeremy Waldron argues that property institutions thoroughly organized around private ownership risk condemning the homeless to having no legal space in which to perform basic, i.e., foundational, human functions. Waldron writes:

Since private places and public places between them exhaust all the places that there are, there is nowhere that these actions may be performed by the homeless person. And since freedom to perform a concrete action requires freedom to perform it at some place, it follows that the homeless person does not have the freedom to perform them. If sleeping is prohibited in public places, then sleeping is comprehensively prohibited to the homeless. If urinating is prohibited in public places (and if there are no public lavatories) then the homeless are simply unfree to urinate. These are not altogether comfortable conclusions, and they are certainly not comfortable for those who have to live with them.<sup>38</sup>

It may appear that the point just made about foundational reliance structures provisioned through urban policy is a kind of material parallel to Waldron's point. It is, at least to some degree. Waldron allows that the homeless may still perform basic functions, although at some legal risk. Is my point merely the additional observation that sometimes people are physically incapable of performing basic functions? No. For, it is false that only Waldron is concerned with the *moral* upshot, while I am just concerned with physical abilities.

The failure to produce and reproduce foundational reliance structures involves the production and reproduction of normatively fraught conditions. I've already argued that the built environment should be understood as embodying a norm just as legislation and a social practice can. For example, as much as a sexist social practice materially constitutes a sexist social norm, the built environment often materially

---

<sup>38</sup> Jeremy Waldron, "Homelessness and the Issue of Freedom," *UCLA Law Review* 39 (1991 – 1992), 295, 315.

constitutes exclusionary norms, norms governing the distribution of certain domestic activities, and so on. In this way, the foundational reliance structures embody norms, and the *distribution* of foundational reliance structures also embodies norms. Perhaps most importantly, the material provision of foundational reliance structures amounts to the embodiment of a principle governing allocation of agential capacities. We can, to a certain degree, read a normative order directly from a mapping of a city's infrastructure and architecture. This is, of course, just a return to Robert Moses's point that even if laws change, a regulatory order can persist, fashioned out of concrete and steel. The laws may change, but the norms governing that urban space have not.

## 7. Conclusion: Urban Public Policy and the Re/Production of Agency

This essay assumes that human agency as such is profoundly valuable, even if conditionally so. Furthermore, it assumes that human agency's value lies at least in its fecundity, which is to say, in the way it can be realized in unimaginably rich ways. With this in mind, we can conclude that policies affecting the material in which agency is realized merit attention *qua* the material of human agency. This material, which I call reliance structures, is best understood at the urban grain and not, e.g., at the national, transnational, or global grain (although policies at these levels have significant effects on reliance structures). In particular, at the urban level, we find foundational reliance structures – the built environment, infrastructure, etc. – that play essential roles in the realization of a vast array of human actions. Thus, the urban space ought to be seen not only as a collection of streets, dwellings, workplaces, and so on. It should also be seen as interlocking systems of foundational reliance structures partially realizing human agency. Furthermore, how these foundational reliance structures are arrayed amounts to a specific normative order governing the



distribution of agential capacities across a population. An important metric of urban policy, then, is the extent to which it critically engages with this normative order.

For example, policies creating incentives to treat residential property as an investment or as a store of wealth ought to be seen as threatening the domiciles functioning as foundational reliance structures facilitating basic activities such as resting, bathing, familial and fraternal communal life, and so on.<sup>39</sup> It is important to characterize the wrong of financialization of real estate in this fashion. For, it highlights a failure of properly recognizing the fecundity of certain foundational reliance structures in favor of a fetishization of wealth accumulation. The upshot of this criticism is that it cannot be resolved simply by *both* financializing housing *and* building middle- and low-income public housing. That is, it cannot be resolved simply by providing housing to those who cannot access it due to a profit-driven transformation of the housing market. For, the wrong in the policy is that it fails to properly respond to the heterogeneous value of residential real estate. These spaces are arguably as complexly valuable as is human life, albeit instrumentally so, for they are the spaces in which that life occurs.<sup>40</sup> Furthermore, a central element of urban public policy must be the recognition that, unlike laws and other rules, the built environment, as Robert Moses noted, is typically quite durable. It cannot simply be legislated away, nor can it be transformed by fiat. The elements of the built environment – from buildings to infrastructure to the availability of a range of tools and so on – usually must be taken as they are. We cannot tear

---

<sup>39</sup> On the public policy supporting financialization of housing, see Raquel Rolnik, “Late Neoliberalism: The Financialization of Homeownership and Housing Rights,” *International Journal of Urban and Regional Research* 37, no 3 (May 2013), 1058 – 1066. See also Manuel B. Albers, *The Financialization of Housing* (Oxford: Routledge, 2016).

<sup>40</sup> For more on the threat that financialization poses to multiple forms of life, see David J. Madden and Peter Marcuse, *In Defense of Housing* (London: Verso, 2016).

everything down with every new law that is passed. We must often reimagine them as novel foundational reliance structures – they must be repurposed to new ends.

This essay is just a first step in articulating one additional approach to thinking about the urban. More focused work needs to be done analyzing the different ways in which particular elements of the urban environment function as reliance structures. More expansive work should develop broader normative theories for assessing the normative orders realized in the built environment. So, this essay does not offer a general theory of the just city that spells out some ideal city form, or some non-ideal theory for responding to unjust city forms. Rather, it simply offers certain diagnostic tools. Hopefully, that is enough to get the conversation started.